



The Sikkim Prohibition of Beggary Act, 2004

Act 4 of 2004

Keyword(s):

Alms, Beggar, Certified Institution, Child, Court, Juvenile Justice Board, Probation Officer, Public Place, Superintendent, Receiving Centre

Amendment appended: 3 of 2019

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SIKKIM

GOVERNMENT GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangto **Tuesday,** **26th October,** **2004** **No. 410**

**GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK**

No. 4/LD/2004

Dated: 15.10.2004

NOTIFICATION

The following Act of the Sikkim Legislative Assembly having received the assent of the Governor on 4th day of October, 2004 is published for general information:-

**THE SIKKIM PROHIBITION OF BEGGARY ACT, 2004
(ACT NO. 4 OF 2004)
AN
ACT**

to prohibit persons from resorting to begging and to provide for the detention, training and employment of beggar and offenders, their custody, trial and punishment of beggar and offenders
and for the relief and rehabilitation of such persons in the State of Sikkim.

Whereas it is deemed necessary and expedient to prohibit persons from resorting to begging
and to provide for the detention, training and employment of beggars and offenders their custody,
trial and punishment of beggar and offenders and for the relief and rehabilitation of such persons in
the State of Sikkim.

BE it enacted by the Legislature of Sikkim in the Fifty-fifth Year of the Republic of India as follows: -

CHAPTER I
PRELIMINARY

- Short title** (1) This Act may be called the Sikkim Prohibition of Beggary Act, 2004.
- extent and commencement** (2) It extends to the whole of Sikkim.
Government may. (3) It shall come into force on such date as the State Government may.
- by Notification in the Official Gazette, appoint.

CHAPTER II

- Definitions.** 2. (1) In this Act, unless the context otherwise requires;
- (a) "alms" means anything given gratuitously to a beggar such as money, cooked or uncooked food, grains or clothing or any other things of value.
 - (b) "beggar" means any person other than a child who-
 - (i) solicits or receives alms in a public place, whether or not under any pretence such as singing, dancing, fortune-telling, performing or offering any article for sale;
 - (ii) enters on any private premises for the purpose of soliciting or receiving alms;
 - (iii) exposes or exhibits, with the object of obtaining or extorting alms, any sore, wound, injury, deformity or disease whether of a human being or animal;
 - (iv) having no visible means of subsistence and wandering about or remaining in any public place in such condition or manner, as makes it likely that the person doing so exists by soliciting or receiving alms;
 - (v) allows oneself to be used as an exhibit for the purpose of soliciting or receiving alms;

Provided that a person shall not be deemed to be a beggar if he:-

- (i) is a religious mendicant licensed by the competent authority as may be designated by the State Government to solicit alms in the prescribed manner; or
- (ii) in the performance of any religious vow or obligations as sanctioned by custom or religion collects alms in a private or public place, without being a nuisance; or
- (iii) is permitted in writing by the competent authority as may be designated by the State Government to collect contribution in cash or kind from the public for any public institution, whether religious or secular or for the furtherance of any object for the good of the public; or
- (iv) is a student collecting alms for the prosecution of his studies.
- (c) "Certified Institution" means any institution which the State Government provides and maintains for the detention, training and employment of beggar and offenders and their dependants, and includes an institution certified to be such under sub-section (1) of Section 13;
- (d) "child" means the child dependent under the Juvenile Justice (Care and Protection) Act, 2000;

(e) "Court" means the Court of a Judicial Magistrate of 1st and 2nd class, or any other Court exercising criminal jurisdiction in the State of Sikkim;

(f) "Juvenile Justice Board" means the Board constituted under the Juvenile Justice (Care & Protection) Act, 2000;

(g) "prescribed" means prescribed by rules made under this Act;

(h) "Probation Officer" means an officer appointed to be a Probation Officer under sub-section (1) of Section 16;

(i) "public place" means any place intended for use of or accessible to the public and includes any public conveyance;

(j) "Superintendent" means the person appointed to be the Superintendent of Certified Institution under sub-section (1) of Section 16;

(k) "Receiving Centre" means an institution for the reception and temporary detention of beggars and offenders provided by the State Government or certified to be such under sub-section (1) of Section 12.

CHAPTER III PROCEDURE FOR DEALING WITH BEGGARS AND BEGGAR OFFENDERS

***Powers of
Courts.***

3. (1) The powers conferred on Courts by this Act shall be only by a Court of Magistrate of the First Class, a Juvenile Court or any other Court exercising criminal jurisdiction in the area and may be exercised by such Courts whether the case comes before them originally or on appeal or revision.

***Powers to
require person
found begging to
appear before
Court.***

4. (1) Any police officer or other person authorized in this behalf in accordance with rules made by the State Government, may arrest without a warrant any person who is found begging:

Provided that, no person entering on any private premises for the purpose of soliciting or receiving alms shall be so arrested or shall be liable to any proceedings under this Act except upon a complaint by the occupier of the premises.

(2) Such police officer or other person shall take or send the person so arrested to a Court.

(3) The provisions of Section 57 of the Code of Criminal Procedure,

1973, shall apply to every arrest under this section and the officer in charge

of the police station or section shall cause the arrested person to be kept in the prescribed manner until he can be brought before a Court.

***Summary inquiry
in respect of persons
found begging.***

5. (1) Where a person who is brought before the Court under the last preceding section is not proved to have previously been detained in a Certified Institution under the provisions of this Act, the Court shall make a summary inquiry in the prescribed manner as regards

the allegation that he was found begging .

(2) If the inquiry referred to in sub-section (1) cannot be completed forthwith, the Court may adjourn it from time to time and order the person to be remanded to such place and custody as may be convenient.

(3) If, on making the inquiry referred to in sub-section (1), the Court is not satisfied that the person was found begging, it shall order that such person be released forthwith.

(4) If, on making the inquiry referred to in sub-section (1), the Court is satisfied that such person was found begging, it shall record a finding that the person is a beggar and offenders.

(5) The Court shall order the person found to be a beggar and offenders under the last preceding sub-section to be detained in a Certified Institution for a period of not less than one year but not more than three years:

Provided that, if the Court is satisfied from the circumstances of the case that the person found to be a beggar and offenders as aforesaid is not likely to beg again, it may after due admonition release the beggar and offenders on a bond for the beggar and offenders abstaining from begging and being of good behaviour being executed with or without sureties as the Court may require by the beggar and offenders or any other person whom the Court considers suitable.

(6) In passing any order under the provisions of this Act, the Court shall have regard to the following considerations, that is to say -

- (a) the age and character of the beggar and offenders,
- (b) the circumstances and conditions in which the beggar and offenders was living,
- (c) reports made by the Probation Officer, and
- (d) such other matters as may, in the opinion of the Court, required to be taken into consideration in the interest of the beggar and offenders.

(7) The report of the Probation Officer or any other report considered by the Court under clause (c) of sub-section (6) of Section 5 immediately preceding, shall be treated as confidential:

Provided that if such report relates to the character, health or conduct of or the circumstances and conditions in which the beggar and offenders is living, the Court may, if it thinks expedient, communicate the substance thereof to the beggar and offenders or in case of dependants to the guardian concerned and may give the beggar and offenders or the guardian, as the case may be, an opportunity of producing evidence which may be relevant to the matters stated in the report.

(8) A copy of the order made under sub-section (5) of Section 5 shall be sent forthwith to the Superintendent

(9) Notwithstanding anything in this section, when the person found to be a beggar and offenders as aforesaid is a child, being a child who is not under the age of five years, the Court shall forward him to a Juvenile Court and shall not make any order under sub-section (5).

The Juvenile Court shall deal with the child as per Juvenile Justice (Care & Protection) Act, 2000. For the purpose of ascertaining the age of the person, the Court may, if necessary, cause the beggar and offenders to be examined by a Medical officer.

***Penalty for
punished as
begging.***

6. (1) Whoever, having been previously detained in a
Certified Institution
under this Act is found begging shall on conviction be
hereinafter provided.

(2) When a person is convicted for the first time under
sub-section (1), the Court shall order him to be detained in
a Certified Institution for a period of not less than two
years and not more than three years.

**Offences to be
tried summarily.
Contribution of
parents.**

**Court may order
detention of persons
wholly dependent on
beggars.**

- (3) When a person is convicted for the second or subsequent time sub-section (1), the Court shall order him to be detained for a period of ten years in a Certified Institution and may convert any period of such detention (not exceeding two years) into a sentence of imprisonment extending to a like period.
7. All offences under this Act except those under Section 11 shall be tried summarily.
8. (1) The Court, which makes an order for the detention of any person in a Certified Institution under Section 5 or section 6, may make an order on the parent or other person liable to maintain him, to contribute to his maintenance, if able to do so, in the manner prescribed.
- (2) Before making any such order, the Court shall inquire into the circumstances of the parent or other person liable to maintain him and shall record evidence, if any, in the presence of the parent or such other person, as the case may be.
- (3) Any order made under this section may on an application, made by the party liable, or otherwise, be varied by the Court.
- (4) Any order made under this section may be enforced in the same manner as an order under Section 125 of the Code of Criminal Procedure, 1973.
9. (1) When the Court has ordered the detention of person in a Certified Institution under section 5 or section 6, it may, after making such inquiry as it thinks fit, order any other person who is wholly dependent on such person to be detained in a Certified Institution. Provided that before such order is made, such dependent person shall be given an opportunity of show cause as to why such order should not be made.
- (2) Where the dependent person is a child the Court shall forward him to a Juvenile Court which shall deal with him according to the Juvenile Justice (Care and Protection) Act, 2000:
- Provided that where the dependent person is the beggar and offenders own child, being a child who is under the age of five years and the beggar and offenders is an able bodied mother, not being a contagious leper or a lunatic, the child may be ordered to be detained in a Certified Institution without being separated from the mother as regards the place of detention, until it attains the age of five years and thereafter dealt with as provided in this sub-section.
- (3) For the purpose of this section, the Court may if necessary, cause the dependent person to be arrested and brought before itself and caused to be examined by a Medical Officer. The provisions of section 57 of the Code of Criminal Procedure, 1973 shall apply to every arrest under this sub-section and the Officer-in-Charge of the Police Station or section shall cause the arrested person to be kept in the prescribed manner until he can be brought before a Court.

Penalty for employing or causing persons to beg or Using them for purposes of begging.

Power of State Government to order further detention of incurably helpless beggars.

Receiving Centres.

Certified Institutions.

Visiting Committees.

Advisory Committees.

Penalty for begging.

10. When any person who is detained in a Certified Institution under section 5 or Section 6 or Section 9, is considered, whether on an application made by him to the State Government or otherwise by the State Government to be blind, a cripple, or otherwise incurably helpless, the State Government may order that he shall, after the expiry of the period of his detention, be further detained indefinitely in a Certified Institution:

Provided that the State Government may release any such inmate if any person whom the State Government considers suitable executes a bond, with or without sureties as the State Government may require, making himself responsible for the housing and maintenance of such inmates and for preventing him from begging or being used for the purpose of begging.

11. Whoever employs or causes, any person to solicit or receive alms, or whoever having the custody, charge or care of a child, connives at or encourages the employment or the causing of a child to solicit or receive alms or whoever uses another person as an exhibit for the purpose of begging shall on conviction, be punished with imprisonment for a term which may extend to three years but which shall not be less than one year.

CHAPTER IV

RECEIVING CENTRES AND CERTIFIED INSTITUTIONS

12. (1) The State Government may provide and maintain one or more Receiving Centres at such place or places as it thinks fit and may certify any institution to be a Receiving Centre for the purposes of this Act.

(2) Every such Receiving Centre shall be under the control of a Superintendent.

13. (1) The State Government may provide and maintain one or more Certified Institutions at such place or places as it thinks fit and may certify any institution to be a Certified Institution for the purposes of this Act. Any such Certified Institution may include provision for the teaching of agricultural, industrial and other pursuits and for the general education and medical care of the inmates.

(2) Every such Certified Institution shall be under the charge of a Superintendent.

14. For every Receiving Centre and every Certified Institution, the State Government shall appoint a Visiting Committee in such manner as may be prescribed.

15.(1) The State Government may constitute for any area in which this Act was brought into force in the manner provided in sub-section (3) of Section 1, an Advisory Committee consisting of such persons not exceeding 6 (six) in number.

(2) The Advisory Committee constituted under sub-section (1) or any member thereof, may visit at all reasonable times and after due notice to the Superintendent any Certified Institution in which beggars and offenders are detained.

(3) The Advisory Committee may also –

(a) tender advice as regards management to any Certified Institution through Superintendent or such other officer as the State Government may specify;

Offences to be tried summarily.

(b) advise the State Government through the Superintendent as regards the certification of any Institution as a Certified Institution or the decertification of any Certified Institution;

Contribution of parents.

(c) advise the State Government generally on the working of this Act in that area and particularly on any point referred to it by the her officer specified by the State Government.

Appointment of Superintendent, Inspectors and Probation Officers.

16. (1) For carrying out the purposes of this Act, the State may appoint a Superintendent of a receiving centre and an and a Probation Officer as it thinks advisable to assist the Superintendent and every person so appointed to assist Superintendent shall have such powers and perform such duties of the Superintendent as the State Government shall act under the direction of the Superintendent.

(2) Every Receiving Centre and Certified Institution shall, in every six months, be inspected by the Visiting Committee.

Search in receiving Centres and Certified Institutions.

17. The Superintendent of a Receiving Centre or a Certified may order that any person received in the Receiving Centre or Certified Institution shall be searched, that he shall be cleansed, that his personal effects shall be inspected and that any money or valuables found with or on the person shall be kept in the custody the Superintendent, and that any effects other than money or valuables so found shall be disposed of in the prescribed manner. Where an order of detention is passed by the Court against any such person, the Superintendent may order that any money or valuables found with or on the person shall be disposed of in the prescribed manner. Where the Court passes an order other than order of detention with regard to any such person, his money and valuables shall be returned to him, and if his clothing has been destroyed, he shall be provided with fresh clothing. The expenses of providing such clothing shall be paid out of moneys provided the concerned Department:

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

Management and discipline.

18. The persons remanded to, or detained in, Receiving Certified Institutions under this Act shall be subject to such rules management and discipline, including the imposition of manual other work and the awarding of punishment for breach of any rules, as may, from time to time, be prescribed.

Disciplinary imprisonment.

19. (1) Without prejudice to any disciplinary action that may be this section immediately preceding, the Superintendent or the Inspector may report to the Court the case of any person in a Certified Institution who habitually and wilfully neglects to comply with any rule referred to in that section and the Court may thereupon, if satisfied that the person has wilfully

convert the

disobeyed or neglected to comply with any such rule,

Transfer from one Receiving Centre or Certified Institution to another.

ct

balance of the period of his detention in a Certified Institution or part thereof into a term of imprisonment.

(2) The sentence of imprisonment ordered as aforesaid in the same manner as a sentence passed under

20. (1) Subject to the conditions prescribed, the

any person detained in a Receiving Centre or

be transferred there from to another Receiving Centre or Certified Institution in the State;

Provided that the total period of detention of

shall in no case be increased by such transfer.

(2) In directing such transfer, the Superintendent

Release on licence.

the medical certificate and the directions, if any, made by the State

Government or Court under Section 25.

21. (1) Subject to such conditions as are prescribed

(a) the Superintendent of the Certified Institution may at any time grant

Institution to

permission to a person detained in a Certified

absent himself for short periods and

(b) the Superintendent may at any time release such

and issue him a licence there for.

(2) Any such licence shall be in force until the expiry of

which the person was ordered to be detained in a Certified Institution

unless sooner revoked.

(3) The period during which such person is absent from

Institution by permission or by licence as aforesaid

purpose of computing his term of detention in a

be deemed to be part of his detention.

22. (1) Subject to such conditions as are prescribed, the

may, at any time revoke a licence issued under

and thereupon the released person shall be detained in a Certified

Institution until the expiry of the date for which he had been

ordered to be detained.

(2) For the purpose of this section, the Superintendent

Unconditional release.

shall for the

Certified Institution,

Superintendent

Section 21

may, if

and sent
copy of the order
section
apply.
the

necessary, cause the released person to be arrested
to the nearest Receiving Centre together with a
of detention, and thereupon the provisions of sub-
(1) of Section 24 shall as far as may be practicable

23. At any time after the expiration of three months from
commencement of the release on licence of any
person under section 21, the Superintendent may, if
he is satisfied that there is a probability that such
person will abstain from begging and collecting
donation recommend to the State Government his
unconditional release. The State Government may,
on such recommendation, release such person
unconditionally, and thereupon the term for which
such person had been ordered to be detained in a
Certified Institution shall be deemed
to have expired.

***Procedure on
order of detention
or sentence of
imprisonment.***

***Medical
examination and
detention of
leprosy patients
and mentally
retarded persons.***

CHAPTER V
MISCELLANEOUS

24. (1) Subject to the provisions of sub-section (2), when a person has been ordered to be detained in a Certified Institution under Section 5 or Section 6 or Section 9, the Court which ordered the detention shall forthwith forward him to the nearest Receiving Centre with a copy of the order of detention. The person shall thereupon be handed over into the custody of the Superintendent of the Receiving Centre and shall be detained in the Receiving Centre until he is sent there from to a Certified Institution.

(2) When any such person has also been sentenced to imprisonment, the Court passing the sentence of imprisonment shall forthwith forward a warrant to a jail in which he is to be confined and shall forward him to such jail with the warrant together with a copy of the order of detention. After the sentence of imprisonment is fully executed, the Officer executing it shall, if detention in a Certified Institution for any period remains to be undergone by such person, forward him forthwith together with the copy of the order of detention to the nearest Receiving Centre and thereupon the provisions of sub-section (1) shall as far as may be practicable, apply,

(3) In computing the period for which a person is ordered to be detained in a Certified Institution, there shall be included the period for which he is detained in a Receiving Centre under this section.

25. (1) Where it appears to the State Government that any beggar and offenders detained in a Certified Institution under any order of a Court is of unsound mind or a leper, the State Government may by an order setting forth the grounds of belief that the beggar and offenders is of unsound mind or a leper, order his removal to a mental hospital or leper asylum or other place of safe custody, to be kept and treated as the State Government may direct during the remainder of the term for which he has been ordered to be detained or, if on the expiration of that term it is certified by a Medical Officer that it is necessary for the safety of the beggar and offenders or of others that he should be further detained under medical care or treatment, then until he is discharged according to law,

(2) Where it appears to the State Government that the beggar and offenders has ceased to be of unsound mind, or is cured of leprosy,

the State-Government shall, by an order directed to the person having charge of the beggar and offenders if still liable to be kept in custody send him to the Certified Institution from which he was removed or if the beggar and offender is no longer liable to be kept in custody, order him to be discharged,

(3) The provisions of Section 40 of the Mental Health Act, 1987, and the provisions of Section 14 of the Lepers Act, 1898, shall apply to every beggar and offenders confined in a mental hospital or leper asylum under sub-section (1) after the expiration of the period for which he was ordered to be detained and the time during which a beggar and offenders

Provided that where the removal of a beggar and offenders due to unsoundness of mind or leprosy is immediately necessary, it shall be open to the authorities of the Institution in which the beggar and offenders is detained to apply to a Court having jurisdiction under the Mental Health Act, 1987 or the Lepers Act, 1898, as the case may be, for as immediate order of committal to a mental hospital or a lepers asylum until such time and the orders of the State Government can be obtained in the matter.

***Arrest of person
escaping from
Receiving Centre
or Certified
Institution.***

26. Any person who leaves a Receiving Centre or a Certified Institution without the permission of the Superintendent thereof or fails to return thereto after the expiry of the period of absence permitted under sub-section (1) of Section 21, may be arrested by any police officer without warrant or by an officer of the Receiving Centre or Certified Institution authorized in this behalf by the State Government and sent back to the Receiving Centre or Certified Institution, as the case may be.

***Transfers
between Certified
Institution and
Institution of like
nature in
different parts of
India.***

27. (1) The State Government may direct any person detained in a Certified Institution to be transferred therefrom to any Institution of a like nature in any other part of India:

Provided that no person shall be transferred under this section to any other State without the consent of the Government of that other State.

(2) The State Government may, in consultation with the Superintendent of any Certified Institution, consent to the transfer to that Institution of any person in respect of whom an order of detention has been made by a competent authority in any other part of India of the nature of an order under this Act directing him to be detained in a Certified Institution or institution of a like nature and upon such transfer, the provisions of this Act shall apply to such person.

***Power to take
finger prints.***

28. (1) Every person ordered to be detained in a Certified Institution under this Act shall at any time allow his finger prints to be taken by the Superintendent of Police or any officer empowered by him in this behalf in any area for which a Superintendent of Police has been appointed and by the District Magistrate or any Officer empowered by him in this behalf elsewhere.

(2) Whoever refuses to allow his finger prints to be taken under sub-Section (1) shall on conviction be liable to have his period of detention in a Certified Institution not exceeding three months converted into a term of imprisonment extending to a like period. (3) The sentence of imprisonment ordered under sub-section (2) of section 28 shall be executed in the same manner as a sentence passed under Section 6.

***Seizure and
disposal of
animals exposed or
exhibited for
obtaining or
extorting alms.***

9. (1) Any police officer or other person effecting arrest under subsection (1) of Section 4, the arrest of a person who was found begging may seize any animal with the sore, wound, injury, deformity or disease of which was exposed or exhibited by such person with the object of obtaining or extorting alms

(2) The police officer or other person affecting the arrest may remove such animal to any infirmary for detention therein pending its production before a Court.

(3) The Court before which the person found begging is brought may direct that the animal shall be treated and cared for in such infirmary until it is fit for discharge or that it shall be sent to a pinjrapole, or, if the veterinary officer in charge of the area in which the animal is found or such other veterinary officer as has been authorised by the rules made under Section 15 of the Prevention of Cruelty to Animal Act, 1960, certifies that it is incurable or cannot be removed without cruelty, that it shall be destroyed and the Court may also order that after release from the infirmary, the animal may be confiscated. (4) An animal sent for care and treatment to an infirmary shall not, unless the Court directs that it shall be sent to a pinjrapole or that it shall be destroyed, be released from such place except upon a certificate of its fitness for discharge issued by the veterinary officer in charge of the area in which the infirmary is

Offences to be cognizable and non-bailable, Persons deemed to be public servants.

30. The offences under Sections 6 and 11 of this Act shall be committed by any person situated or such other veterinary officer as has been

Bonds .

31. All persons empowered to perform any function by this Act shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code (1860).

Appeal.

32. The provisions of Chapter XXXIII of the Code of Criminal Procedure, 1973. shall so far as may be, apply to appeals from orders made under this Act, (2 of 1974).

33. For the purpose of appeal and revision under the Code of Criminal

Power to Make Rules.

Procedure, 1973. an order of detention under this Act including an appeal shall be deemed to be a sentence of imprisonment for the same period.

34, (1) The State Government may, by notification in the Official Gazette and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

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

Section 2;

- (a) the manner of authorizing a purpose under clause (a) of section 2;
- (b) the manner of keeping persons arrested under sub-section (3) of section 4 or Section 9;
- (c) the manner of making summary inquiry under sub-section (1) of section 5;
- (d) the manner in which contribution for the maintenance of a person detained in a Certified Institution may be ordered to be paid under sub-section (1) of Section 8;
- (e) the manner of appointing a Visiting Committee under Section 14;
- (f) the conduct of business by Advisory Committees;

- (g) the manner in which the effects and the money and valuables referred to in Section 17 shall be disposed of;
- (h) the management and discipline of persons detained in a Receiving Centre or Certified Institution including the imposition of manual or other work and the awarding of punishment for breach of any rule made under this clause;
- (i) the conditions subject to which Superintendent may direct transfers under Section 20;
- (j) the conditions subject to which a person may be released on licence under Section 21;
- (k) the conditions subject to which a licence may be revoked under Section 22;
- (l) the manner of medical examination of beggar and offenders;
- (m) any other matter which is required to be, or may be prescribed.

(3) Every rule made under this section shall, immediately after it is made be laid before the State Legislature if it is in session and if it is not in session, in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the House agrees in making any modification in the rule or in the annulment of the rule, the rule shall, thereafter, have effect only in such modified form or shall stand annulled as the case may be. so, however, that any such modification or annulment shall be without prejudice to the validity of any thing previously done under that rule.

***Removal of
of this Act,
difficulties.***

it to be

35. If any difficulty arises in giving effect to the provisions the State Government may by order published in the Official Gazette make such provision or give such direction as appears to necessary for removing the difficulty.

By Order of the Governor.

**Tashi Wangdi, SSJS
Legal Remembrancer-cum-Secretary Law.
File No. 16(82)LD/97-2004**

SIKKIM



GOVERNMENT

GAZETTE

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Gangtok

Wednesday 20th March, 2019

No. 107

GOVERNMENT OF SIKKIM
LAW DEPARTMENT
GANGTOK

No. 3/LD/19

Date: 12.03.2019

NOTIFICATION

The following Act passed by the Sikkim Legislative Assembly and having received the assent of the Governor on 28th day of February, 2019 is hereby published for general information:-

THE SIKKIM PROHIBITION OF BEGGARY (AMENDMENT) ACT, 2019 (ACT NO. 3 OF 2019)

AN
ACT

to amend the Sikkim Prohibition of Beggary Act, 2004.

BE it enacted by the Legislature of Sikkim in the Seventieth Year of the Republic of India, as follows:-

Short title and commencement

- (1) This Act may be called The Sikkim Prohibition of Beggary (Amendment) Act, 2019.
- (2) It shall come into force on the date of its publication in the Official Gazette.

Amendment of section 25

- In the Sikkim Prohibition of Beggary Act, 2004, for section 25 and the entries relating thereto, the following shall be substituted, namely:-

"Medical examination and detention of mentally retarded person

25 (1) Where it appears to the State Government that any beggar and offenders detained in a Certified Institution under any order of a Court is of unsound mind, the State Government may by an order setting forth the grounds of belief that the beggar and offenders is of unsound mind, order his removal to a mental hospital or other place of safe custody, to be kept and treated as the State Government may direct during the remainder of the term for which he has been ordered to be

detained or, if on the expiration of that term it is certified by a Medical Officer that it is necessary for the safety of the Beggar and Offenders or of others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the State Government that the beggar and offenders has ceased to be of unsound mind, the State Government shall, by an order directed to the person having charge of the beggar and offenders if still liable to be kept in custody and send him to the Certified Institution from which he was removed or if the beggar and offender is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of section 40 of the Mental Health Act, 1987, shall apply to every beggar and offenders confined in mental hospital under sub-section (1) after the expiration of the period for which he was ordered to be detained and the time during which a beggar and offenders is confined in a mental hospital under that sub-section shall be reckoned as part of the period for which he may have been ordered by the Court to be detained:

Provided that where the removal of a beggar and offenders due to unsoundness of mind is immediately necessary, it shall be open to the authorities of the Institution in which the beggar and offenders is detained to apply to a Court having jurisdiction under the Mental Health Act, 1987, for as immediate order of committal to a mental hospital until such time and the orders of the State Government can be obtained in the matter.”

**K. C. Barphungpa (SSJS),
L.R-cum-Secretary,
Law Department.**