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THE PRISONS ACT

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CHAPTER 97

An Act to provide for the establishment of prisons, for a prison service, for the discipline of prison officers, for the management and control of prisons and prisoners lodged therein; to provide for youth corrective training centres and extra-mural penal employment; to provide for compulsory after care orders; and to provide for matters incidental to or connected with the foregoing.

Statutory

instrument 48 of

1974

14 of 2000

[31st October, 1966]

PART I

PRELIMINARY

1. This Act may be cited as the Prisons (Amendment) Act, 2000, and shall be read as one with the Prisons Act, in this Act referred to as the principal Act.

Short title

Cap.97

(As amended by Act 14 of 2000)

2. In this Act, unless the context otherwise requires-

Interpretation

"appellant prisoner" means any convicted criminal prisoner who is detained in prison as a result of a conviction which is the subject-matter of an appeal, notice of which has been accepted but the decision in regard to which has not been given;

"approved school" has the meaning assigned to it in the Juveniles Act;

Cap. 53

"Assistant Commissioner" means an assistant Commissioner of Prisons;

"civil prisoner" means a prisoner other than a criminal prisoner;

"Commissioner" means the Commissioner of Prisons;

"Convicted criminal prisoner" means any criminal prisoner under sentence of a court or court-martial;

"court" means any court or authority entitled to pass a sentence in a criminal case or to order a person to be detained in custody in any case;

"criminal prisoner" means any person duly committed into custody under writ, warrant or order of any court exercising criminal jurisdiction or by order of a court-martial;

"Deputy Commissioner" means the Deputy Commissioner of Prisons;

"district messenger" has the meaning assigned to it in section *two* of the Cap. 288 District Messengers Act;

"junior officer" means a prison officer of one of the ranks of junior officers set out in the Schedule;

"juvenile" means a person under the apparent age of nineteen years;

"major prison offence" means an offence declared to be a major prison offence under section *ninety-one*;

"mechanical restraint" means restraint by the use of handcuffs, leg irons, straight jacket, or any other form of restraint approved by the Minister;

"medical officer" means a person appointed or nominated or engaged as medical officer of a prison under section *sixteen*;

"minor prison offence" means an offence declared to be a minor prison offence under section *ninety*;

"officer in charge" means the person appointed to be in charge of a prison in pursuance of the provisions of section *five*;

"official visitor" means a person appointed as such under section *one hundred and twenty-eight*;

"penal diet" means such penal diet as may be prescribed in rules made under section *one hundred and forty-six*;

"prison" means any building, enclosure or place or part thereof, declared to be a prison under section *three*, or deemed to have been so established as provided in section *one hundred and forty-seven* and includes a temporary prison established under section *four* and a youth corrective centre deemed to be a prison under section *one hundred and*

thirty-three;

"prison offence" means a minor prison offence or a major prison offence;

"prison officer" means any member of the Service and includes any public officer seconded to the Service;

"prisoner" means any person, whether convicted or not, under detention in any prison;

"probation officer" means a probation officer appointed under the Probation of Offenders Act; Cap. 93

"prohibited article" means any article which is not issued to any prisoner by authority of the officer in charge, with the approval of the Commissioner, or an article the introduction or removal of which into or out of a prison is prohibited by this Act or by any rule made thereunder;

"receiving centre" has the meaning assigned to it in the Juveniles Act; Cap. 53

"reduced diet" means such punishment diet as may be prescribed in rules made under section *one hundred and forty-six*;

"reformatory" has the meaning assigned to it in the Juveniles Act; Cap. 53

"senior officer" means a prison officer of one of the ranks of senior officers set out in the Schedule;

"the Service" means the Zambia Prison Service established under section *eight*;

"subordinate officer" means a prison officer of one of the ranks of subordinate officers set out in the Schedule and includes any person into whose custody prisoners are given under subsection (5) of section *seventy-one*;

"unconvicted prisoner" means any person, not being a convicted prisoner, duly committed to custody under a writ, warrant, or order of any court or any order of detention issued by any person authorised

thereto by any law, or by order of a court-martial;

"visiting justice" means a visiting justice specified in section *one hundred and twenty-four* or *one hundred and twenty-five*;

"weapon" means any firearm, baton, tear smoke, or such other instrument as may be prescribed;

"young prisoner" means a prisoner under the apparent age of twenty years;

"youth corrective centre" means any building, enclosure or place, or any part thereof declared to be a youth corrective centre under section *one hundred and thirty-three*.

PART II

ESTABLISHMENT AND CONTROL OF PRISONS

3. (1) The Minister may, by Gazette notice, declare any building, enclosure or place, or any part thereof, to be a prison, and may, in a like manner, declare that any prison shall cease to be a prison. Declaration of
prisons

(2) Every prison shall include the grounds and buildings within the prison enclosure and also any other grounds or buildings belonging or attached thereto and used by prisoners or the staff of the prison.

(3) In any writ, warrant or other legal instrument in which it may be necessary to describe a particular prison, any description designating a prison by reference to the name of the place or town where it is situated, or other definite description, shall be valid and sufficient for all purposes.

4. (1) Whenever-

Temporary
prisons

(a) it appears to the Commissioner that the number of prisoners in any prison is greater than can be conveniently kept therein and that it is not convenient to transfer the excess number to some other prison; or

(b) owing to the outbreak of epidemic disease within a prison or for any other reason, it is desirable to provide for the temporary shelter or safe custody of any prisoners; the Commissioner may establish a temporary prison in any building, enclosure or place, or part thereof.

(2) Such provision shall be made as the Commissioner, with the approval of the Minister, may direct for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

(3) The Commissioner may cancel the establishment of a temporary prison.

5. (1) Subject to the provisions of section *thirteen*, in every prison there shall be an officer in charge of the prison who shall be designated "the officer in charge" and who shall be appointed by the Commissioner.

(2) Every officer in charge shall supervise and control all matters in connection with the prison to which he is appointed, and shall keep or cause to be kept such records as the Commissioner may from time to time direct and shall be responsible to the Commissioner for the conduct and treatment of prison officers and prisoners under his control, and for the due observance by such officers and prisoners of the provisions of this Act and of all rules, directions and orders made or given thereunder.

(3) Every officer in charge shall be responsible for the safe custody of arms, accoutrements, ammunition, clothing and all other public stores and foodstuffs issued and delivered for the use of the prison, the prison officers and the prisoners under his control, and all public money for which he may be held accountable, and also, subject to the provisions of this Act and of any rules made thereunder, for all valuables, money, articles of clothing and other property entrusted to his keeping as being the property of prisoners, and shall account for the same in the event of their being lost or damaged otherwise than by unavoidable accident, theft, robbery or lawful use.

6. (1) Where in any prison the number of prison officers detailed for duty therein is insufficient to secure the good management and

Police officers may act as prison officers

government thereof, it shall be lawful for the officer in charge of such prison, with the consent of the Commissioner of Police, to employ temporarily such number of police officers as he may consider necessary to secure the good management and government of the prison.

(2) A police officer temporarily employed in pursuance of the provisions of subsection (1) shall exercise and perform in the prison concerned the functions of a prison officer of the rank specified by the officer in charge and shall, for the purposes of this Act, be deemed to be a prison officer of that rank:

Provided that no such police officer shall by reason of this section be a member of the Service.

(3) A police officer to whom a prisoner is delivered under any provision of this Act shall, while the prisoner is in his charge or custody have the same powers and be subject to the same responsibilities, discipline and penalties and to the same authorities as a prison officer would have and be subject to in like circumstances.

7. In every prison in which women prisoners are imprisoned there shall be women prison officers who shall have the care and the superintendence of the women prisoners, and who shall be responsible for their discipline. Women prison officers and women prisoners

PART III

CONSTITUTION AND ADMINISTRATION

8. There is hereby established a police force to be known as the Zambia Prison Service for the management and control of prisons and prisoners lodged therein. Zambia Prison Service

9. (1) The Service shall consist of persons appointed to or deemed under this Act to have been appointed to any of the ranks set out in the Schedule. Membership of Service

(2) The Minister may, by statutory instrument, amend the Schedule.

10. (1) There shall be a Commissioner of Prisons who shall be a public officer.

Commissioner of Prisons

(2) The administration of the Service and the control and supervision of all prisoners shall be vested in the Commissioner, subject to the direction of the Minister.

11. The Commissioner may, subject to the provisions of this Act, make standing orders and give administrative directions for observance by all prison officers.

Commissioner empowered to make standing orders

12. (1) The person holding the office of Deputy Commissioner of Prisons may, subject to any orders or directions of the Commissioner, exercise and perform all or any of the functions of the Commissioner.

Functions of Deputy Commissioner and delegation to Assistant Commissioner

(2) The Commissioner may, unless a contrary intention appears in this Act or any other written law, delegate any of his functions to any person holding the office of an Assistant Commissioner.

13. (1) Where an officer in charge has not been appointed for a prison, the prison shall, until a prison officer is appointed to be officer in charge thereof, be in the charge of such public officer as the Minister may designate and the person so designated shall, in matters relating to the prison and prisoners, be subject to the orders and directions of the Commissioner and shall be deemed to be the officer in charge of the prison and shall for that purpose have all the functions conferred and imposed by this Act upon an officer in charge, subject to any express limitations of those functions imposed by the Commissioner.

Charge of prison in which no officer in charge appointed

(2) The Commissioner may authorise the employment of district messengers in any such prison as is mentioned in subsection (1) as prison officers for the purpose of this Act and, when employed in such capacity, such district messengers shall be deemed, in matters relating to the prison and prisoners, to be prison officers of such rank as the Commissioner may specify for the purpose of this Act and shall for that purpose have all the functions conferred and imposed by this Act upon a prison officer of that rank:

Provided that no such district messenger shall by reason of this section be a member of the Service.

14. A sum due to a prison officer or other person employed in prisons or to his estate by way of salary, refund of pension contributions, pension or any other benefit whatsoever may be set off against a sum payable to the Government by the prison officer or other person employed in prisons on or at the time of his retirement, resignation, loss of office, death, discharge or other termination of service, as the case may be.

Payments due to prison officers and other persons employed in prisons leaving the prison service may be set off

15. (1) The Minister may, whenever he deems it necessary or desirable, appoint a committee of two or more persons of whom-

Minister may appoint committee of inquiry

(a) one shall be the Commissioner or the Deputy Commissioner or an Assistant Commissioner;

(b) the other or others shall be an officer or officers of the public service;

to inquire into and report to him on the conduct, management or administration of any prison or any matter connected therewith or incidental thereto.

(2) For the purposes of any such inquiry as aforesaid, a committee appointed under subsection (1) shall have the powers, rights and privileges conferred upon commissioners by the Inquiries Act, and the provisions of that Act shall *mutatis mutandis* apply to any inquiry by a committee under this section and to any person summoned to give evidence or giving evidence before it.

Cap. 41

PART IV

APPOINTMENT AND DUTIES OF MEDICAL OFFICERS

16. (1) The Minister may appoint as medical officer of a prison any medical practitioner.

Medical officers

(2) In default of any appointment under subsection (1), a Government

medical officer in the district in which a prison is situated and nominated for duty as medical officer of the prison by the Director of Medical Services shall be the medical officer of the prison.

(3) During any period the medical officer appointed or nominated as medical officer of a prison is absent or is not available for duty, the officer in charge of the prison may engage temporarily any medical practitioner as medical officer and the medical practitioner so engaged shall exercise and perform in the prison the functions of a medical officer and shall, for the purposes of this Act, be deemed to be the medical officer.

17. (1) Subject to the provisions of this Act, the medical officer shall have the general care of the health of prisoners and shall visit the prison daily where practicable or when called upon by the officer in charge. Duties of medical officers

(2) The medical officer shall report to the officer in charge any circumstances connected with the prison or the treatment of prisoners which appear to him to require consideration on medical or health grounds.

18. (1) The medical officer shall, where practicable, ensure that every prisoner is medically examined on admission to and before discharge from a prison, and shall perform such other duties as may be prescribed, and shall ensure that a record is kept of the state of health of every prisoner. Medical inspection

(2) Until he has been examined by the medical officer, every prisoner on admission shall, so far as practicable, be kept apart from other prisoners.

19. The medical officer shall observe the mental condition of all prisoners under sentence of death or charged with a capital offence and, for this purpose, shall personally examine those prisoners on every day on which he visits the prison, and shall furnish reports on those prisoners to the officer in charge in such form and at such times as may be prescribed. Observation of prisoners charged with capital offence

20. The medical officer shall ensure that every prisoner under sentence of death, or charged with a capital offence, or in separate Examination of prisoners in separate

confinement, or in hospital in prison, is medically examined every day on which the medical officer visits the prison. confinement or in hospital

21. An officer in charge may order a prisoner to submit himself to medical examination and treatment as often as such officer thinks necessary. Powers of officer in charge to order prisoners to be examined

22. The medical officer shall, on the death of any prisoner, otherwise than by lawful execution, record in a register to be kept for such purpose the following particulars, so far as they can be ascertained: Death of prisoner

- (a) the day on which the deceased was sentenced;
- (b) the day on which he was admitted to prison;
- (c) the day on which he first complained of illness, or was observed to be ill, and the labour, if any, on which he was engaged on that day and the scale of his diet on that day;
- (d) whether, and if so the day on which, he was admitted to hospital;
- (e) the day on which the medical officer or his subordinate was first informed of the illness;
- (f) the nature of the disease;
- (g) when the deceased was last seen before death by the medical officer or his subordinate;
- (h) when the prisoner died and, in cases where a postmortem examination is made, an account of the appearance after death, together with any special remarks that may appear to the medical officer to be required; and
- (i) his opinion as to the cause of death.

23. Upon the death of a prisoner, the officer in charge shall at once notify a magistrate or coroner, and the medical officer of the prison and shall arrange for compliance with the appropriate provisions of the Inquests Act. Notification of death of prisoner
Cap. 36

PART V

POWERS, DUTIES AND PRIVILEGES OF PRISON OFFICERS

24. Every prison officer shall exercise and perform such functions as are by law conferred or imposed on prison officers of his rank and shall obey all lawful directions in respect of the execution of the duties of his office which he may from time to time receive from officers senior in rank to him.

General powers and duties of prison officers

25. Subject to the provisions of this Act, every prison officer while acting as such shall have all the powers, authority, protection and privileges of a police officer

Prison officer to have powers of police officer

26. (1) Every prison officer shall be deemed to be available for duty at all times and may at any time be detailed for duty in any part of Zambia.

Duties of prison officers

(2) No prison officer shall be concerned in any employment other than the duties assigned to him in accordance with the provisions of this Act.

27. (1) A prison officer may examine anything within, or being brought into or taken out of, a prison, and may stop and search or cause to be stopped and searched any vehicle or person within a prison, or going into or out of a prison, or, whether within or without a prison, any person who, or any vehicle which, is without authority close to a prisoner or prisoners if he has reason to suspect that such person or vehicle is carrying a prohibited article or any property belonging to the Government in use in a prison.

Power to examine persons or vehicles

(2) The senior officer on duty in a prison may refuse admission to the prison to any person who is not willing to be searched.

(3) The senior officer on duty in a prison may order any person within a prison who refuses to be searched to leave the prison and, if such person refuses to leave, may cause him to be removed from the prison and for that purpose may use such force as may be necessary.

(4) If, on the stopping and searching of any vehicle or person under the provisions of subsection (1), a prison officer finds any prohibited article or any property belonging to the Government in use in a prison, he may arrest that person or the person on the vehicle who appears to have charge of the article or property and shall as soon as practicable

cause any such person to be made over to a police officer, or, in the absence of a police officer, to be taken to the nearest police station.

(5) Any search of a woman under this section shall be made by another woman officer and with due regard to decency.

28. No subordinate officer shall punish a prisoner unless lawfully ordered so to do by the Commissioner or by an officer in charge. Punishment by subordinate officers

29. (1) Subject to the provisions of this section, a prison officer may use a weapon against- Use of weapons by prison officers

(a) a prisoner who is-

(i) escaping or attempting to escape; or

(ii) engaged in a combined outbreak or in an attempt to force, break open or scale the outside door, gate, fence or enclosure wall of the prison; or

(iii) using violence to him or another prison officer or another prisoner or other person; and

(b) a person who-

(i) whilst assisting a prisoner to escape, is using violence to the prison officer or another prison officer or other person; or

(ii) is engaged in a combined break-in or in an attempt to force, break open or scale the outside door, gate, fence or enclosure wall of the prison or an inside door, gate, fence or wall of the prison; or

(iii) whilst engaged in any activity mentioned in sub-paragraph (ii), is using violence to the prison officer or another prison officer or other person.

(2) Resort shall not be had to the use of a weapon-

(a) as in sub-paragraph (i) of paragraph (a) of subsection (1) is authorised, unless-

(i) the prison officer has reasonable grounds to believe that he cannot otherwise prevent the escape; and

(ii) the prison officer gives warning to the prisoner that he is about to use the weapon against him; and

(iii) the warning given by the prison officer is unheeded;

(b) as in sub-paragraph (iii) of paragraph (a) and subparagraphs (i) and (iii) of paragraph (b) of subsection (1) is authorised, unless the prison officer has reasonable grounds to believe that he or the other prison officer or other person, as the case may be, is in danger of suffering grievous bodily harm.

(3) No prison officer shall in the presence of a prison officer senior to himself make use of a weapon as in subsection (1) is authorised, except on the orders of the senior prison officer.

(4) In every case when force is used a prison officer shall use the minimum force necessary in the circumstances and the use of weapons, in pursuance of the provisions of this section, shall be as far as possible to disable and not to kill.

30. For the purpose of apprehending any person who may have escaped from lawful custody, a prison officer shall have power to arrest such person and to convey him to a prison and in the case of a juvenile to a receiving centre.

Prison officer's
power to arrest

31. An officer in charge may cause photographs, measurements, footprints and casts thereof, palm prints and fingerprints to be taken of any prisoner by any prison officer or other person authorised by the Commissioner in that behalf, and where any prisoner refuses to permit his photographs, measurements, footprints or casts thereof, palm prints or fingerprints to be taken, the officer in charge may use or may cause to be used such force as may be necessary to secure them:

Power to take
photographs,
fingerprints, etc., of a
prisoner

Provided that the photographs, measurements, footprints and casts thereof, palm prints and fingerprints of an unconvicted prisoner who is not subsequently convicted shall be destroyed upon the prisoner's release by the court.

32. (1) Where the defence to any suit instituted against a prison officer is that the act complained of was done in obedience to a warrant purporting to be issued by a Judge, magistrate or other competent authority, the court shall, upon production of the warrant containing the signature of the Judge or magistrate and upon proof that the act

Non-liability for act
done under authority
of warrant

complained of was done in obedience to such warrant, enter judgment in favour of the prison officer.

(2) No proof of the signature of such Judge or magistrate as aforesaid shall be required unless the court has reason to doubt the genuineness thereof and, where it is proved that the signature is not genuine, any act done by the prison officer under or in pursuance of the warrant shall nevertheless be lawful and judgment shall be given in favour of the prison officer if it is proved that, at the time when the act complained of was committed, he believed on reasonable grounds that the signature was genuine.

PART VI

OFFENCES BY AND IN RELATION TO PRISON OFFICERS

33. Any prison officer who mutinies and any prison officer or other person who, directly or indirectly, instigates, commands, counsels, or solicits any mutiny or sedition amongst any prison officers or prisoners or disobedience to any lawful command given by any prison officer, or who attempts to seduce any prison officer from his allegiance or duty, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding two years, or both, and in addition to any such punishment shall be liable to a sentence of corporal punishment of such number, not exceeding twelve strokes with a cane, as the court specifies.

Mutiny or sedition

(As amended by Act No. 13 of 1994)

34. (1) No prison officer shall withdraw himself from duty unless expressly permitted to do so by the Commissioner or by some other prison officer authorised to grant permission.

Absence from duty and desertion by prison officers

(2) Any prison officer who withdraws himself from duty contrary to subsection (1) or deserts shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

(3) Any prison officer who absents himself from duty without reasonable cause for a period of twenty-one days shall be deemed to be a deserter.

(4) Any prison officer or police officer may without warrant apprehend any prison officer whom he has reason to believe is a deserter from the Service and shall take him forthwith to a police station and lay a charge against him.

(As amended by Act No. 13 of 1994)

35. Any person who by any means, directly or indirectly, procures or persuades, or attempts to procure or persuade, any prison officer to desert, or who aids, abets, or is accessory to the desertion of any prison officer or who harbours such deserter, or aids him in concealing himself or assists in his rescue, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

Inciting prison officer to desert

(As amended by Act No. 13 of 1994)

36. Any prison officer who shall assault, threaten or insult any officer senior to him in the Service, when such senior officer is on duty or when such assault, threat or insult shall relate or be consequent upon the discharge of duty by the officer assaulted, threatened or insulted, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

Assault on officer senior in rank

(As amended by Act No. 13 of 1994)

37. Every prison officer who without lawful authority-

Miscellaneous offences by prison officers

(a) knowingly suffers any intoxicating liquor, tobacco, dagga or hemp, drug, opiate, money, clothing, provisions, letter, document or other article to be sold or received from or used by or on behalf of any prisoner; or

(b) lends or gives to any prisoner any intoxicating liquor, tobacco, dagga or hemp, opiate, money, clothing, provisions, letter, document or other article; or

(c) knowingly suffers any letter, document or other article to be brought out of any prison, or to be conveyed from any prisoner; or

(d) without the permission of the Commissioner, informs the press or any other person of any matter concerning a prison or a prisoner or any matter derived from official sources connected with or related to the Service;

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding one year, or to both.

(As amended by Act No. 13 of 1994)

38. (1) No prison officer or any person with any duty with prisoners shall sell or supply, or receive directly or indirectly any benefit or advantage from the sale or supply of, any article to or for the use of any prisoner or for the use of any prison nor shall any such officer or person, directly or indirectly, have any interest in any contract or agreement for the sale or supply of any such article. Other offences

(2) No prison officer or any person with any duty with prisoners shall, directly or indirectly, have any pecuniary interest in the purchase of any prison supplies or receive any discount, gift or other consideration from any contractor for or seller of such supplies, or have any pecuniary dealing with any prisoner or with any friend of any prisoner with regard to him, or on behalf of any prisoner hold any unauthorised communication with any person.

(3) Any prison officer or person who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

(As amended by Act No. 13 of 1994)

39. (1) It shall not be lawful for any prison officer to be or to become a member of- Prison officers not to be members of trade unions

(a) any trade union or any body or association affiliated to a trade union;

(b) any body or association the objects or one of the objects of which is to control or influence conditions of employment in any trade or profession; or

(c) any body or association the object or one of the objects of which is to control or influence the pay, pensions, or conditions of service of the Service.

(2) Nothing in subsection (1) shall be deemed to prohibit prison officers becoming members of any prison officers staff association established or constituted pursuant to rules made under this Act.

(3) Any prison officer who contravenes the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding seven hundred and fifty penalty units or to imprisonment for a period not exceeding three months, or to both.

(4) A prison officer convicted of an offence under this section shall be liable to be dismissed from the Service.

(5) If any question arises as to whether any body is a trade union or a body or association affiliated to a trade union within the meaning of this section, the question shall be decided by the Minister whose decision thereon shall be final and conclusive and shall not be questioned in any proceedings.

(6) For the purposes of this section, "trade union" has the same meaning as it has in the Industrial and Labour Relations Act.

Cap. 269

(As amended by Act No. 13 of 1994)

40. (1) No prison officer shall accept any fee, gratuity or reward from, or knowingly have any business dealings with prisoners or discharged persons or with friends of visitors or with visitors to the prison.

Prison officers not to engage in dealings with prisoners

(2) No prison officer shall correspond with or hold any dealings with friends of any prisoner, unless expressly authorised to do so by the officer in charge.

(3) No prison officer shall, save in accordance with orders or directions issued by the Commissioner, communicate with or convey

any communication or article to or from any prisoner.

(4) A prison officer who contravenes a provision of sub-section (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

(As amended by Act No. 13 of 1994)

PART VII

DISCIPLINE OF PRISON OFFICERS

41. (1) Disciplinary control over prison officers of or above the rank of Superintendent shall be exercised as is provided in the Constitution. Methods of dealing with disciplinary matters.
Cap. 1

(2) Disciplinary control over prison officers below the rank of Superintendent shall be exercised as is provided in this Part.

42. (1) The Commissioner may reduce in rank or may dismiss any prison officer below the rank of Superintendent who has been sentenced to imprisonment, whether with or without the option of a fine and whether or not the sentence has been suspended by any court in respect of any offence whether under this Act or otherwise, unless such sentence is quashed on appeal and no other sentence of imprisonment is substituted therefor. Dismissal and reduction in rank of prison officer sentenced to imprisonment

(2) A prison officer who is reduced in rank or dismissed under this section may appeal against the reduction in rank or dismissal in the manner provided in section *forty-eight* to the President and that section shall, subject to the provisions of this section, apply accordingly.

(3) Upon the consideration of an appeal under this section, the Board shall advise the President either to allow the appeal or to dismiss the appeal if the Board considers that there is not sufficient ground for interfering with the decision of the Commissioner.

43. Any junior or subordinate officer commits an offence against discipline if he is guilty of-

Offences against discipline by junior or subordinate officers

(a) disobedience to orders, that is to say, if he disobeys, or without good and sufficient cause omits or neglects to carry out any lawful order, written or otherwise;

(b) insubordinate or oppressive conduct, that is to say, if he-

(i) is disrespectful in word, act or demeanour to a prison officer superior to him in rank;

(ii) is oppressive or tyrannical in conduct towards a prison officer inferior to him in rank;

(iii) uses obscene, abusive or insulting language to any other prison officer or to any prisoner;

(iv) assaults any other prison officer;

(v) offers or uses unwarranted personal violence on any person in his custody;

(vi) wilfully or negligently makes any false complaint against any other prison officer, or prisoner, or wilfully suppresses any material facts, or makes or joins in making any anonymous complaints;

(vii) talks or is inattentive or otherwise misbehaves himself on parade;

(viii) being under arrest or confinement, leaves or escapes from his arrest or confinement before he is set at liberty by proper authority;

(ix) resists an escort whose duty it is to apprehend him or to have him in charge;

(c) neglect of duty, that is to say, if he-

(i) neglects, or without good and sufficient cause omits, promptly and diligently to attend to or carry out anything which it is his duty to attend to or carry out;

- (ii) idles or gossips or sits or lies down without reasonable cause when on duty;
- (iii) sleeps when on duty;
- (iv) leaves his post before being lawfully relieved, except in fresh pursuit of any offender whom it is his duty to apprehend;
- (v) by his neglect or default allows, or contributes to, the escape of any prisoner;
- (vi) fails to make or send a report or return which it is his duty to make or send;
- (vii) assists or connives with any prisoner in having or obtaining any prohibited article;
- (viii) neglects or refuses to assist in the apprehension of any prison officer whom he has been ordered to arrest;
- (ix) without reasonable cause omits to make any necessary entry in any official document, book or paper;
- (d) discreditable conduct, that is to say, if he-
 - (i) acts in a disorderly manner, or in any manner prejudicial to discipline or likely to bring discredit on the reputation of the Service;
 - (ii) lends money to any prison officer superior in rank to him or borrows money from or accepts any present from any prison officer inferior in rank to him;
 - (iii) incurs debt in or out of the Service without any reasonable prospect, or intention, of paying the same, or, having incurred any debt, makes no reasonable effort to pay the same;
 - (iv) if called upon by the Commissioner to furnish a full and true statement of his financial position, fails to do so;
- (e) absence without leave or being late for duty, that is to say, if he-
 - (i) without reasonable cause or excuse is absent without leave from or is late for parade, or for any other duty;

- (ii) leaves without right or permission or lawful reason any prison quarters or place to which he has been assigned;
- (f) falsehood or prevarication, that is to say, if he-
 - (i) knowingly makes any false statement in any official book or document;
 - (ii) wilfully or negligently makes any false, misleading or inaccurate statement;
 - (iii) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein;
 - (iv) prevaricates before any committee of inquiry or at any proceedings where inquiry is being made into a disciplinary charge against any prison officer or prisoner;
- (g) breach of confidence, that is to say, if he-
 - (i) divulges any matter which it is his duty to keep secret;
 - (ii) without proper authority communicates to the public, press, or to any unauthorised person any matter concerning the Service;
 - (iii) without proper authority shows to any person outside the Service any book or written or printed document the property of the Service;
 - (iv) makes any frivolous or vexatious complaint or makes a complaint in an irregular manner;
 - (v) signs or circulates any petition or statement with regard to any matter concerning the Service, except through the proper channels of correspondence to the Commissioner;
 - (vi) calls or attends any unauthorised meeting to discuss any matter concerning the Service;
- (h) unlawful or unnecessary exercise of authority, that is to say, if he uses any unnecessary violence to any prisoner or other person with whom he may be brought into contact in the execution of his duty;

- (i) malingering, that is to say, if he-

- (i) feigns or exaggerates any sickness or injury with a view to evading duty;

- (ii) while absent from duty on account of sickness neglects, or without good and sufficient cause omits, to carry out any instruction of a medical officer or of a member of the hospital staff, or acts or conducts himself in a manner calculated to retard his return to duty;

- (j) uncleanness, that is to say, if he while on duty, or while off duty in uniform in a public place, is without reasonable cause improperly dressed or dirty or untidy in his clothing or accoutrements;

- (k) damage to property, that is to say, if he-

- (i) wilfully or by carelessness causes any waste, loss or damage to any article of clothing, or accoutrements, or to any book, document or other property of the Service, served out to him or entrusted to his care;

- (ii) fails to report any such damage or loss as aforesaid, however caused;

- (l) drunkenness, that is to say, if he-

- (i) while on duty or off duty, is unfit for duty through the consumption of intoxicating liquor or drugs;

- (ii) habitually uses to excess intoxicating beverages or habit forming drugs;

- (m) entering licensed premises, that is to say, if he enters any public bar licensed for the sale of intoxicating liquor when on duty except when his presence is required in the execution of his duty;

- (n) engaging in any employment or office other than his prison duties;

- (o) uses any weapon without orders or just cause;

- (p) neglecting or failing to report the fact that he is suffering from venereal or other contagious disease;

- (q) shows cowardice in the course of his duty;

- (r) any other act, conduct, disorder, or neglect to the prejudice of good order and discipline not herein specified;

- (s) conniving at or knowingly being an accessory to any offence

against discipline under this Act.

44. (1) Any prison officer may arrest without warrant any junior or subordinate officer, not being an officer of his own or of senior rank, whom he suspects on reasonable grounds of having committed an offence against discipline.

Arrest and confinement of junior or subordinate officers for disciplinary offence

(2) A prison officer effecting an arrest under this section shall forthwith bring the officer arrested before the officer in charge, who shall cause the case to be heard without undue delay and may order the remand of the officer arrested in custody for so long as may reasonably be necessary.

(3) Until such time as his case is heard in accordance with the provisions of this Act, any junior or subordinate officer arrested under such provisions may be confined in any prison quarters allocated for prison or guardroom purposes, or, if no other suitable quarters are available, in any prison quarters set apart for the detention of prisoners awaiting trial.

45. (1) The Commissioner, or a senior officer authorised by the Commissioner, may inquire into any alleged offence against discipline by a junior officer who shall be present at such inquiry and thereupon, if satisfied that such offence has been committed, may impose any of the following punishments:

Power to try junior officers

(a) admonition;

(b) reprimand;

(c) fine not exceeding one month's pay;

(d) severe reprimand;

(e) stoppage of pay where there has been loss by neglect of or injury to public property;

(f) stoppage, deferment or withholding of any increment of salary for which the junior officer may be eligible;

- (g) reduction in rank;
- (h) termination of service;
- (i) the punishment set out in paragraph (a) or (b) and the punishment set out in paragraph (e);
- (j) any two or more of the punishments set out in paragraphs (c) to (f);
- (k) any one or more of the punishments set out in paragraphs (c) to (f) and the punishment set out in paragraph (g);
- (l) any two or more of the punishments set out in paragraphs (c), (e) and (h).

(2) Where the Commissioner or a senior officer imposes any punishment on a junior officer in respect of an offence against discipline, he may order that such punishment be suspended for a period not exceeding six months and if during such period of suspension the offender commits no further offence against discipline such punishment shall not be carried into execution.

(3) Where any punishment has been suspended under the provisions of subsection (2) and the offender is found guilty of any further offence against discipline committed during the period of suspension, the suspended punishment shall forthwith be carried into effect.

(4) Every punishment imposed by a senior officer other than the Commissioner under the provisions of this section shall be subject to confirmation by the Commissioner, and any such punishment shall remain in abeyance until the Commissioner has signified his decision thereon.

46. (1) The Commissioner, a senior officer or officer in charge may inquire into any alleged offence against discipline by a subordinate officer who shall be present at such inquiry and thereupon, if satisfied that such offence has been committed, may impose any of the following punishments: Power to try subordinate officers

- (a) admonition;
- (b) extra drill or extra duty for a period not exceeding seven days;
- (c) reprimand;
- (d) fine not exceeding one-half of one month's pay;
- (e) severe reprimand;
- (f) forfeiture of one or more efficiency badges;
- (g) stoppage, deferment or withholding of any increment of salary for which the subordinate officer may be eligible;
- (h) stoppage of pay where there has been loss by neglect of or injury to public property;
- (i) reduction in rank;
- (j) termination of service;
- (k) the punishment set out in paragraph (a) or (c) and the punishment set out in paragraph (g);
- (l) any two or more of the punishments set out in paragraphs (d) to (i);
- (m) any two or more of the punishments set out in paragraphs (d), (h) and (j).

(2) Where the Commissioner or a senior officer or an officer in charge imposes any punishment on a subordinate officer in respect of an offence against discipline, he may order that such punishment be suspended for a period not exceeding six months and if during such period of suspension the offender commits no further offence against discipline such punishment shall not be carried into execution.

(3) Where any punishment has been suspended under the provisions

of subsection (2) and the offender is found guilty of any further offence against discipline committed during the period of suspension, the suspended punishment shall forthwith be carried into effect.

(4) Any punishment of a fine exceeding thirty penalty units, reduction in rank, stoppage, deferment or withholding increments of salary, forfeiture of efficiency badges or termination of service imposed by an officer in charge or a senior officer other than the Commissioner and any stoppage of pay imposed by an officer in charge where the stoppage exceeds one-half of one month's pay of the offender under the provisions of this section shall be subject to confirmation by the Commissioner, and any such punishment shall remain in abeyance until the Commissioner has signified his decision thereon.

(As amended by Act No. 13 of 1994)

47. (1) The Commissioner may confirm or enhance, vary or remit any punishment referred to him for confirmation under the provisions of section *forty-five* or *forty-six*.

Procedure after
imposition of
punishment

(2) Any prison officer upon whom a punishment of a fine exceeding five days' pay or stoppage of pay exceeding five days' pay or stoppage, deferment or withholding of increment of salary or reduction in rank or termination of service has been imposed under section *forty-five* or *forty-six* shall be entitled to appeal to the President in the manner provided by section *forty-eight* against either the conviction or the punishment or both.

(3) No punishment shall be enhanced under the provisions of subsection (1) unless the offender has been given an opportunity of being heard.

48. (1) There is hereby established a Prisons Advisory Board (in this Act referred to as the Board) consisting of a chairman and such other persons not exceeding four in number as may be appointed by the President.

Prisons Advisory
Board

(2) It shall be the duty of the Board to consider and advise the President on all appeals submitted to it under this Act.

(3) Every appeal under section *forty-two* or subsection (2) of section

forty-seven shall be submitted by the appellant to the Board within twenty-one days of the notification to the appellant of the decision of the Commissioner, senior officer or officer in charge, as the case may be.

(4) The Board shall consider all appeals summarily unless it sees fit to direct that the appellant be heard either personally, or, with the permission of the Board, either by a friend who shall be an officer in the public service, or by a barrister or solicitor.

(5) Upon the consideration of an appeal, the Board may, in its discretion, hear any evidence not given before the prison officer or the visiting justice who conducted the inquiry.

(6) Upon the consideration of an appeal, the Board shall advise the President either-

(a) to dismiss the appeal if the Board considers that there is not sufficient ground for interfering with the decision from which the appeal is brought; or

(b) on an appeal against conviction-

(i) to reverse the finding and sentence and acquit or discharge the appellant or order him to be re-tried by a prison officer of competent jurisdiction; or

(ii) to alter the finding, maintaining the sentence, or, with or without altering the finding, to reduce or increase the sentence; or

(iii) with or without such reduction or increase, and with or without altering the finding, to alter the nature of the sentence; or

(c) on an appeal against sentence, to quash the sentence and pass such other sentence (whether more or less severe) which the prison officer who inquired into the offence might lawfully have passed.

(7) The President, having considered the advice given by the Board, may exercise any of the powers set out in subsection (6).

(8) The powers conferred by subsection (6) shall be exercised by the Board to the prejudice of the appellant only if he has had an opportunity of being heard either personally or by a friend or by a barrister or solicitor in accordance with the provisions of subsection

(4).

(9) Section *fifty* shall apply *mutatis mutandis* to the consideration of an appeal by the Board as it applies to an inquiry by a prison officer into a disciplinary offence.

49. (1) A fine imposed on a prison officer by way of punishment for an offence against discipline under this Act may be recovered by stoppage of the offender's pay due at the time of committing the offence and thereafter accruing due. Recovery of fines
and stoppage of pay

(2) The amount of pay which may be stopped in any one month whether by way of recovery of a fine or by way of satisfaction of a punishment imposed under this Act or for any other cause authorised by this Act or by rules made thereunder shall be in the discretion of the prison officer or officer in charge by whom the punishment was imposed or, in any other case, of the officer in charge of the prison where the prison officer concerned is stationed, but shall not exceed one-half of the monthly pay of the offender and wherever more than one order of stoppage of pay is in force against a prison officer so much only of his monthly pay may be stopped as shall leave him a residue of at least one-half of his pay.

(3) Where more than one order of stoppage of pay is made against a prison officer, the enforcement of the orders later in date shall be postponed, if necessary, until the earlier orders are discharged.

50. (1) A prison officer inquiring, under powers conferred on him by this Part, into a disciplinary offence alleged to have been committed by any other prison officer shall have power to summon and examine witnesses on oath or affirmation, to require the production of all documents relevant to such inquiry and to adjourn the inquiry from time to time, and for the purposes of the inquiry may administer oaths. Powers of officers
holding disciplinary
inquiries

(2) Any person summoned as a witness under subsection (1) who fails to attend an inquiry at the time and place mentioned in the summons or on any adjournment thereof, or refuses to answer any questions lawfully put to him at the inquiry, shall be guilty of an offence and shall be liable to a fine not exceeding one hundred and fifty penalty units or to imprisonment for a period not exceeding one month:

Provided that no witness shall be asked or be obliged to answer any question which may tend to incriminate him or render him liable to any forfeiture or penalty.

(As amended by Act No. 13 of 1994)

51. (1) In any case where it appears to the Commissioner, the senior officer or the officer in charge who is inquiring into an alleged offence against discipline that the offence alleged to have been committed would not, by reason of its gravity or by reason of previous offences or for any other reason, be adequately punished by any of the punishments provided in section *forty-five* or *forty-six*, the Commissioner or senior officer or officer in charge, as the case may be, shall, without recording a finding, stay the proceedings and, in the case of an inquiry being held by a senior officer or an officer in charge, that officer shall transmit the proceedings to the Commissioner.

Offence against discipline may be tried by subordinate court

(2) Where under subsection (1) any proceedings have been stayed by the Commissioner or by a senior officer or an officer in charge, the Commissioner may order the accused to be taken before a subordinate court.

(3) Where under subsection (1) proceedings have been stayed and transmitted to the Commissioner, the Commissioner may, instead of ordering the accused to be dealt with by a subordinate court, himself hear and determine the case, or direct the case to be dealt with by the senior officer or the officer in charge who transmitted it or by any other prison officer.

(4) Where an accused person is taken before a subordinate court under subsection (2), he shall be liable on conviction for an offence against discipline to a fine not exceeding three months' pay or to imprisonment for a period not exceeding six months, or to both.

52. (1) A prison officer may at any time while within a prison be searched on the orders of a prison officer senior in rank to him.

Search of prison officer and his quarters

(2) The officer in charge may at any time order the living quarters

occupied by another prison officer under his control to be searched by a prison officer senior in rank to that other prison officer.

53. (1) When any prison officer below the rank of Superintendent is accused of any offence against any law or under this Act, the Commissioner may interdict that officer from the exercise of the powers, functions and duties vested in him as a prison officer pending the result of the proceedings taken against that officer.

Interdiction of prison officer below rank of Superintendent

(2) A prison officer who has been interdicted shall be allowed to receive such allowance equal to not less than one-half of the officer's pay as the Commissioner shall think fit.

(3) If the proceedings against a prison officer who has been interdicted do not result in his dismissal, such officer shall be entitled, subject to the provisions of this Act, to the full amount of the pay which he would have received if he had not been interdicted.

(4) A prison officer shall not by reason of being interdicted cease to be a prison officer and accordingly he shall continue to be subject to the same responsibilities, discipline and penalties, and to the same authorities, as if he had not been interdicted.

(5) The Commissioner may delegate all or any of the powers vested in him by this section to any other senior officer either by rank or name.

54. No pay shall accrue to any prison officer below the rank of Superintendent in respect of any period during which he is absent from duty without leave, or is undergoing any sentence of imprisonment:

Pay not to accrue during absence without leave or imprisonment

Provided that-

- (i) in any case, the Commissioner or any other prison officer not below the rank of Assistant Commissioner may in his discretion authorise the payment of such allowances, equal to not more than one-half of the officer's pay, as he may think fit;
- (ii) where a prison officer below the rank of Superintendent receives a free pardon or his conviction is quashed on appeal, pay shall accrue for any period when he was undergoing any sentence of

imprisonment.

PART VIII

ADMISSION AND CONTROL OF PRISONERS

55. (1) No person shall be admitted into a prison unless under the authority of and accompanied by- Admission of prisoners

(a) a remand warrant, order of detention, warrant of conviction or of committal under the hand of any person authorised to sign or countersign any such warrant or order under the provisions of any law;

(b) an order of a court-martial;

(c) a warrant of an immigration officer issued under the provisions of the Immigration and Deportation Act; or Cap. 123

(d) an order in writing signed by a police officer of or above the rank of Sergeant.

(2) An order under paragraph (d) of subsection (1) shall be valid only for such period as is necessary to obtain a warrant or order referred to in paragraph (a) of that subsection and for no longer.

(3) The officer in charge shall satisfy himself before the admission of a prisoner that the prisoner is the person named in the warrant or order of detention or order accompanying him, and that the warrant or order bears the signature of the proper authority lawfully authorised to issue it, and that it is in all other respects in order.

(4) The officer in charge shall not refuse to accept any prisoner merely on the ground that there is an error on the face of any warrant or order of detention or order accompanying such prisoner, but shall take steps as soon as practicable to have the error corrected.

56. Subject to such conditions as may be specified by the Commissioner, the infant child of a woman prisoner may be received into the prison with its mother and may be supplied with clothing and Admission of infant child with woman prisoner

necessaries at the public expense:

Provided that, when the child has attained the age of four years, the officer in charge, on being satisfied that there are relatives or friends of the child able and willing to support it, shall cause the child to be handed over to the relatives or friends, or, if he is not satisfied, shall, subject to any other written law, hand the child over to the care of such welfare authority as may be approved for the purpose by the Commissioner.

57. Upon the admission to prison of any person, the officer in charge shall cause to be recorded such particulars regarding that person as may be prescribed. Particulars of prisoner to be recorded

58. Every prisoner shall be searched on admission, and at such time subsequently as may be prescribed, by a prison officer of his or her own sex, but not in the presence of a person of the opposite sex, and all prohibited articles shall be taken from him or her. Search of prisoners

59. (1) All money, clothes or other effects brought into a prison by any prisoner, or sent to a prison for his use, which he is not permitted to retain shall be placed in the custody of the officer in charge, who shall keep an inventory of the same, and all such money, clothes or other effects shall be returned to the prisoner when he is released or discharged. Custody and disposal of money and other effects of prisoners

(2) Where any clothes of a prisoner are so old, worn out or dirty as to be unsuitable for further use, the officer in charge may order the same to be destroyed, and in that case, on the release or discharge of the prisoner, the officer in charge may, at the public expense, provide him with suitable clothing.

(3) The officer in charge may refuse to take into prison any property of a prisoner which by reason of its bulk, nature or excessive quantity cannot be conveniently stored in the prison.

(4) The Commissioner shall cause to be recorded the name or names of the person or persons to whom in the event of the death in prison of a prisoner without having made a valid will any money or movable property of the prisoner within the prison should be paid or delivered.

(5) If, within six months after the release or discharge of a prisoner from prison or the death in prison of a prisoner, any money or movable property has not for any reason been paid or returned or delivered to the prisoner or to his personal representatives or to the person or persons whose name or names are recorded in his personal record pursuant to subsection (4), the officer in charge shall furnish an inventory or description of such money or property to a subordinate court.

(6) Where an inventory or description of money or property is furnished to a subordinate court under the provisions of subsection (5), the court shall detain or give orders for the detention of the money or property and shall cause a notice to be posted in a conspicuous place at the court and at such other places as it deems fit specifying the money or property and calling on any person who may have any claim thereto to appear before the court and establish his claim within fourteen days of the date of the notice.

(7) If no person shall, within fourteen days of the date of the notice mentioned in subsection (6), claim the money or property specified in the notice, the court shall order that such of the property as does not consist of money may be sold or destroyed and that notice of any sale shall be displayed prominently at the court for a period of not less than fourteen days before the date fixed for the sale.

(8) The proceeds of the sale of property sold under subsection (7) and any money specified in the notice mentioned in subsection (6) which is not paid to a claimant shall be paid into the general revenues of the Republic.

PART IX

CLASSIFICATION, CUSTODY AND REMOVAL OF PRISONERS

60. (1) Male and female prisoners shall be kept apart and confined in separate prisons or in separate parts of the same prison in such manner as to prevent, as far as is practicable, their seeing or communicating with each other. Separation of prisoners

(2) Subject to the provisions of subsection (1), convicted and unconvicted prisoners of each sex shall be divided into the following classes:

- (a) young prisoners;
- (b) adults;
- (c) first offenders;
- (d) prisoners with previous convictions;
- (e) prisoners suspected or certified as being of unsound mind;
- (f) such other classes as the Commissioner may determine;

and, as far as the prison accommodation renders it practicable, each such class shall be kept apart from the other classes.

61. (1) Every prisoner shall be in the lawful custody of the officer in charge and, subject to the provisions of this Act, shall remain in such lawful custody and be subject to prison discipline and to the provisions of this Act during the whole period of his imprisonment, whether he is or is not within the precincts of a prison. Prisoners in custody of officer in charge

(2) Every officer in charge shall keep and detain all persons duly committed to his custody by any court or other competent authority according to the provisions of the warrant or order by which such person has been committed, or until such person is discharged by due process of law.

(3) A prisoner who is being removed or transferred from a prison to another prison or to any other place shall, while outside the prison, be kept in the custody of the prison officer or police officer or probation officer authorised under this Act or any other written law to remove or convey him and shall, subject to the provisions of this Act or any other written law, be deemed to be in the lawful custody of the officer in charge of the prison from which such prisoner is being removed or transferred.

62. A probation officer may be authorised by a court to remove from prison any prisoner on remand in the prison, for the purpose of making inquiries at the direction of the court, and it shall be lawful for a prison officer to hand over custody of any such remand prisoner to a probation officer so authorised to remove him.

Probation officer
may have custody of
prisoner

63. (1) Subject to subsection (2), the Minister may, by order, direct the removal from prison to a reformatory of any juvenile who is serving a sentence of imprisonment and in that event the remainder of his sentence of imprisonment shall be deemed to be cancelled.

Removal of juvenile
to reformatory

(2) A juvenile shall not be removed under this section to a reformatory if the unexpired period of the term of his imprisonment is less than nine months.

(3) Where a juvenile is removed under this section to a reformatory, he shall thereafter be treated as if he had been ordered to be detained in a reformatory and sections *ninety-eight to one hundred and seven* of the Juveniles Act shall apply accordingly in relation to the juvenile except that his liability to be detained under section *one hundred and two* of that Act shall continue until the expiration of his term of imprisonment and shall then determine.

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(4) An order made by the Minister under subsection (1) shall be sufficient authority for the reception and detention of the juvenile named therein in a reformatory and shall, for the purposes of the aforesaid sections of the Juveniles Act, be deemed to be a reformatory order made under that Act.

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64. (1) Where the attendance before a court of a person who is a prisoner is necessary for the purpose of giving evidence in any civil proceedings, the court may issue an order directed to the officer in charge of the prison where the prisoner is serving a sentence, requiring him to produce the prisoner at the time and place specified in the order, and the officer in charge shall arrange for compliance with such order.

Production of
prisoners in court

(2) The court before which any person is produced in accordance with an order issued in terms of subsection (1) may give such directions as to the costs of compliance with the order as the court may deem fit.

65. (1) Prisoners on remand or committed for trial, who are required to attend any court, may be taken for that purpose into police custody at the prison to which they have been committed and shall remain under police supervision and guard until returned to the prison or discharged by the court. Prisoners under police escort

(2) Where on the removal of any prisoner from any prison the number of prison officers is insufficient to provide escort for such prisoner, the officer in charge of the prison from which the prisoner is to be removed may, with the general or special permission of the Commissioner of Police, deliver the prisoner to any police officer detailed for such duty.

(3) While a prisoner is in the custody of a police officer in accordance with the provisions of this Act, he shall be deemed to be in lawful custody, and escape from the custody of the police officer shall be deemed to be escape from lawful custody for the purposes of any law.

66. (1) Subject to the provisions of subsection (2), a police officer, with the approval of the officer in charge of a prison and on production of an order in writing from a police officer in charge of a police station or other police officer of or above the rank of Sub-Inspector, may, in the sight and hearing of a prison officer, interview within a prison any prisoner for purposes connected with the investigation of any offence whatsoever. Statements to police officers

(2) If the officer in charge of a prison is satisfied that a prisoner is willing to be interviewed by police officers out of the sight and hearing of a prison officer, then the officer in charge may permit that prisoner to be interviewed by not less than two police officers within the prison and out of the sight and hearing of a prison officer.

67. An officer in charge may deliver a prisoner into police custody in the interests of justice or in connection with the investigation of a crime on the production of an order in writing which shall, in the case of an unconvicted prisoner, be signed by a police officer in charge of a police station or a police officer of or above the rank of Sub-Inspector, and, in the case of a convicted prisoner, by a police officer of or above the rank of Chief Inspector. Release of prisoners for investigations, etc.

68. The Commissioner may, by any general or special order, direct that any prisoner shall be removed to any prison other than that in which he is confined or to which he had been committed.

Removal of prisoners from one prison to another

69. Whenever an officer in charge considers it necessary for the safe custody of a prisoner that he should be confined by means of mechanical restraint, he may cause him to be so confined in accordance with rules made under this Act.

Certain prisoners may be restrained

70. (1) Any convicted prisoner adjudged according to law to be a mentally disordered or defective person shall remain in the place named in the order providing for his detention as such until the prisoner has been discharged from that place according to law, whereupon, if the prisoner has not completed the sentence in respect of which he was committed, the Minister shall order that he be delivered into the custody of the officer in charge of a prison for the completion of such sentence or, if the prisoner has completed the sentence in respect of which he was committed, he shall forthwith be released.

Mentally disordered or defective prisoners

(2) If any prisoner mentioned in subsection (1) was sentenced to death before being adjudged to be a mentally disordered or defective person and the sentence of death has not, at the time when he is certified to be of sound mind, been commuted to a term of imprisonment then the Commissioner shall report the matter to the Minister who shall inform the President.

71. (1) In the case of the serious illness of a prisoner, an officer in charge, on the advice of the medical officer, may make an order for the removal of the prisoner to hospital:

Removal of sick prisoners to hospital

Provided that in cases of emergency, or in the absence of the medical officer, the removal of the prisoner may be ordered by the officer in charge without being so advised by the medical officer.

(2) The medical authority in charge of a hospital shall, on the admission thereto of a sick prisoner, transmit to the officer in charge of the prison whence the prisoner was removed a certificate signed by him, stating his opinion as to the necessity for the prisoner to remain in hospital and, when possible, stating the period for which the prisoner should so remain.

(3) When, in the opinion of the medical authority in charge of a hospital, it is no longer necessary that a prisoner should remain therein, he shall notify the officer in charge of the prison whence the prisoner was removed, and thereupon, if the prisoner has not completed the sentence in respect of which he was committed, the officer in charge shall forthwith cause him to be returned to the prison or, if the prisoner has completed the sentence in respect of which he was committed, he shall forthwith be released.

(4) Every reasonable precaution shall be taken by the medical and other officers of a hospital to prevent the escape of a prisoner at any time under treatment therein, and it shall be lawful for those officers to take such measures for preventing the escape of a prisoner as are reasonably necessary:

Provided that the medical authority in charge of a hospital may refuse to take or permit any action authorised under this section if, in his opinion, such action would be prejudicial to the health of the prisoner or impracticable for any good and sufficient reason.

(5) Where, on account of the gravity of the offence for which a prisoner is in custody, or for any other reason, an officer in charge considers it to be desirable to take special measures for the security of that prisoner while he is undergoing treatment in hospital, it shall be lawful for him to give that prisoner into the custody of fit and proper persons, being not less than two in number, one of whom at least shall always be with such prisoner by day and night, and those persons are hereby vested with authority to do all things reasonably necessary to prevent that prisoner from escaping and shall be answerable for his safe custody until such time as he is handed over to an officer in charge on his discharge from hospital, or until such time as his sentence expires, whichever may first occur.

72. (1) Where a medical officer reports to the Commissioner that a prisoner is suffering from leprosy, the Commissioner may, by order in writing, direct the removal of that prisoner to a leprosarium, there to be kept and treated until cured of his leprosy or until such time as he ceases to be liable to confinement in prison, whichever may first occur.

Removal of prisoner
to leprosarium

(2) So long as a prisoner who has been removed to a leprosarium

under the provisions of this section remains therein and remains liable to confinement in prison, the person in charge of the leprosarium shall from time to time transmit to the officer in charge of the prison whence the prisoner was removed, a certificate signed by him that it is in his opinion necessary that the prisoner should remain in the leprosarium.

(3) As soon as, in the opinion of the person in charge of a leprosarium, it is no longer necessary that a prisoner should remain therein, he shall notify the officer in charge of the prison whence the prisoner was removed that the necessity has ceased, and thereupon, if the prisoner has not completed the sentence in respect of which he was committed, the officer in charge shall forthwith cause him to be returned to the prison or, if the prisoner has completed the sentence in respect of which he was committed, he shall forthwith be released.

(4) Every reasonable precaution shall be taken by the person in charge of a leprosarium and the other persons employed therein to prevent the escape of a prisoner who is under treatment therein, and it shall be lawful for those persons to take such measures as may be necessary for preventing the escape of the prisoner:

Provided that nothing shall be done under the authority of this section which, in the opinion of the person in charge of the leprosarium, is likely to be prejudicial to the health of a prisoner.

73. (1) While any prisoner is in a hospital, mental hospital or leprosarium under the provisions of this Act, he shall be deemed to be in lawful custody for the purposes of any law.

Liability for escape from hospital or leprosarium

(2) If a prisoner shall escape during such time as he is in a hospital, mental hospital or leprosarium, no prison officer shall be held answerable therefor unless the prisoner was at the time of the escape in the personal custody of that officer, and no medical officer, person in charge of a leprosarium or other person shall be held answerable therefor unless it is shown that he helped such prisoner to escape.

74. The period during which a prisoner is detained in any hospital, leprosarium or institution under section *seventy*, *seventy-one* or *seventy-two* shall be reckoned as part of his period of imprisonment.

Serving sentence while in hospital, etc.

PART X

EMPLOYMENT OF PRISONERS

75. (1) Every criminal prisoner shall be engaged in such work within General requirement or without the precincts of any prison, as may be directed by the officer to work in charge, and as far as is practicable such work shall take place in association or outside cells with other criminal prisoners:

Provided that the medical officer may excuse a prisoner from work or order that he perform light work, on medical grounds.

(2) Women prisoners shall not be employed outside a prison except on the recommendation of the medical officer on medical grounds and then only on such work as may be prescribed.

(3) A civil prisoner and an unconvicted prisoner may elect to work and, if he so elects, shall receive payment at such rates as may be prescribed.

76. (1) Civil prisoners and unconvicted prisoners shall be required to Employment of unconvicted criminal prisoners keep their cells, the precincts thereof and the furniture, clothing and utensils therein, clean.

(2) Appellant prisoners shall be required to keep their cells, the precincts thereof and the furniture, clothing and utensils therein, clean and to perform such labour as the officer in charge, with the approval of the Commissioner, may direct.

PART XI

ESCAPES, PROHIBITED ARTICLES AND AREAS

77. Any person who, save as is provided in this Act- Penalty for introduction or removal of prohibited articles into and from prison and for unauthorised communication with

(a) removes from or introduces into or throws from or into or attempts by any means whatsoever to remove from or introduce into a prison or takes from or gives to any prisoner any article whatsoever; or

(b) communicates with any prisoner;

shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding one thousand five hundred penalty units or to imprisonment for a period not exceeding six months, or to both. prisoners

(As amended by Act No. 13 of 1994)

78. A prison officer may arrest without a warrant any person who- Power of arrest

- (a) commits or attempts to commit any offence against the provisions of section *seventy-seven*;
- (b) when suspected by him of committing any offence against the provisions of section *seventy-seven*, refuses on demand made by such prison officer to give his name and address; or
- (c) on demand made by himself or any other prison officer, gives a name or an address which such prison officer knows or has reason to believe to be false or which subsequently proves to be false;

and shall deliver the arrested person into the custody of a police officer, and thereupon the police officer shall proceed as if the offence has been committed in his presence.

79. (1) Every letter or document, except as may be prescribed, written in a prison by or on behalf of a prisoner shall be delivered to the officer in charge who shall, before the letter or document is removed from the prison, clearly endorse or cause to be endorsed thereon- Unauthorised communications

- (a) the name of the prison;
- (b) a statement to the effect that its removal from the prison is authorised; and
- (c) the signature or initials of the prison officer making the endorsement.

(2) Every person who comes into possession of a letter or document which he has reasonable cause to believe was written in a prison by or on behalf of a prisoner and which is not endorsed in accordance with the provisions of subsection (1) shall report that fact as soon as possible to the Commissioner or the officer in charge of the nearest prison and shall deliver the letter or document or cause it to be delivered to the Commissioner or such officer in charge.

(3) No person shall, without the authority of the Minister, publish or cause to be published or transmit to any person for publication or otherwise the whole or any part of a letter or document which he has reasonable cause to believe was written in a prison by or on behalf of a prisoner and which is not endorsed in accordance with the provisions of subsection (1).

(4) Any person who contravenes or fails to comply with the provisions of this section shall be guilty of an offence and shall be liable on conviction to a fine not exceeding seven hundred and fifty penalty units or to imprisonment for a period not exceeding six months, or to both.

(As amended by Act No. 13 of 1994)

80. Any person who-

Offences in respect
of prisons and
prisoners

(a) is found loitering within ninety one metres of any prison, or other place where prisoners may be, for the purpose of imprisonment or work, and who fails to depart therefrom upon being requested to do so by any prison officer or by a police officer; or

(b) in any manner wilfully interferes with any prisoner or gang of prisoners;

shall be guilty of an offence and be liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

(As amended by Act No. 13 of 1994)

81. Any person who is found committing an offence against the provisions of section *eighty* may be removed from the place where he is committing the offence by a prison officer or a police officer and, if the offence is repeated by that person after he has once been removed in accordance with this section, that person may be arrested without warrant by a prison officer, who, if he makes such an arrest, shall hand the offender over to a police officer.

Removal of certain
offenders

82. Any person, other than a prison officer, who is found in possession of any article which has been supplied to any prison officer for the purposes of his duty, or of any other prison property, and who fails to account satisfactorily for his possession thereof, or who, without lawful authority, purchases or receives any such article or property from any prison officer, or who aids or abets any prison

Unlawful possession
of articles supplied to
prison officers

officer in selling or disposing of any such article or property, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

(As amended by Act No. 13 of 1994)

83. Subject to the provisions of this Act, any person, other than a prisoner, who- Assisting prisoner to escape

(a) aids a prisoner in escaping or attempting to escape, conspires with a person to procure the escape of a prisoner or incites a prisoner to escape from the prison in which he is detained or from a conveyance, hospital, leprosarium or other place whatsoever where or in which he may be or whilst in course of removal in custody from one place to another or from any other lawful custody; or

(b) with intent to facilitate the escape of a prisoner-

(i) conveys anything to a prisoner, or into a conveyance, prison, hospital, leprosarium or other place whatsoever where or in which a prisoner may be; or

(ii) places anything outside a conveyance, prison, hospital or other place whatsoever where or in which a prisoner may be so that it may come into the possession or use of a prisoner;

shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding seven years.

84. Any person harbouring or employing a prisoner whom he knows to be unlawfully at large shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both. Harbouring prisoners

(As amended by Act No. 13 of 1994)

85. (1) Any person who wears or uses without due authority any uniform or decoration supplied to or authorised for use by any member of the Service or any uniform or decoration so nearly resembling the same as to be calculated to deceive shall be guilty of an offence. Offences in connection with uniforms and decorations

(2) Any person who falsely represents himself by act or words to be a

person who is or has been entitled to use or wear any uniform or decoration referred to in subsection (1) shall be guilty of an offence.

(3) Any person convicted of an offence under this section shall be liable on conviction to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

(As amended by Act No. 13 of 1994)

86. The officer in charge shall cause to be affixed in a conspicuous place outside the prison a notice setting forth the acts prohibited under sections *seventy-seven*, *eighty* and *eighty-two* and the penalties which may be incurred by their commission.

Notice to be displayed stating offences in respect of prisons and prisoners

PART XII

CIVIL AND UNCONVICTED PRISONERS

87. A civil prisoner or an unconvicted prisoner may be permitted to maintain himself and to arrange for the purchase of, or receive from private sources at proper hours, such food, clothing, or other necessaries as the Commissioner may from time to time determine.

Maintenance of unconvicted prisoners from private sources

88. No food, clothing, or other necessaries permitted under the provisions of section *eighty-seven* shall be given, hired, or sold to any other prisoner, and any prisoner who contravenes any provision of this section shall be liable to lose all privileges permitted under the provisions of that section for such time as the officer in charge may determine.

Food, etc., not to be transferred to other prisoners

89. If a civil prisoner or an unconvicted prisoner does not provide himself with food and clothing, he shall receive the normal prison food, clothing and other necessaries.

Food, clothing and equipment for unconvicted prisoners

PART XIII

DISCIPLINE OF PRISONERS

90. The following acts and omissions shall be minor prison offences

Minor prison

when committed by a prisoner:

offences

- (i) disobeying any order of the officer in charge or of any other prison officer or any rule or order made under this Act;
- (ii) treating with disrespect any prison officer or person authorised to visit the prison;
- (iii) being idle, careless or negligent at work or refusing to work;
- (iv) using any abusive, threatening, insolent or other improper language;
- (v) being indecent in language, act or gesture;
- (vi) committing any assault or act of violence;
- (vii) communicating with another prisoner, or any other person without authority;
- (viii) leaving his cell or ward or place of work or other appointed place, without permission;
- (ix) disfiguring, damaging or interfering with any part or fitting of the prison or any property which is not his own;
- (x) committing any nuisance in any part of the prison;
- (xi) receiving or having in his possession any prohibited article or attempting to obtain such article;
- (xii) making repeated and groundless complaints or malingering;
- (xiii) quarrelling with other prisoners;
- (xiv) wilfully bringing a false accusation against any prison officer or other prisoner;
- (xv) doing any act calculated to create unnecessary alarm among prison officers or prisoners;

- (xvi) committing any act of insubordination;
- (xvii) refusing to wear the clothing issued to him or exchanging, losing, discarding, damaging, altering or defacing any part of it;
- (xviii) offending in any way against good order and discipline;
- (xix) attempting to commit any of the foregoing minor prison offences;
- (xx) aiding or abetting the commission of any of the foregoing minor prison offences.

91. The following acts and omissions shall be major prison offences when committed by a prisoner:

Major prison offences

- (i) mutiny or incitement to mutiny;
- (ii) committing or taking part in an aggravated or repeated assault on another prisoner;
- (iii) committing or taking part in an assault or attack on a prison officer;
- (iv) committing a minor prison offence after having twice previously been found guilty of the same minor prison offence;
- (v) escaping, conspiring with a person to procure the escape of a prisoner or assisting another prisoner to escape from the prison in which he is detained or from a conveyance, hospital or other place whatsoever where or in which he may be or whilst in course of removal in custody from one place to another or from any other lawful custody;
- (vi) possessing any instrument or other thing with intent to procure his own escape or that of another prisoner;
- (vii) omitting or refusing to help any prison officer to prevent an escape, an attempted escape or an attack upon that officer or upon another prisoner;

(viii) committing any act of gross misconduct or insubordination;

(ix) attempting to commit any of the foregoing major prison offences;

(x) aiding or abetting the commission of any of the foregoing major prison offences.

92. (1) An officer in charge may order a prisoner charged with a prison offence to be kept apart from other prisoners pending the hearing and determination of the charge. Separation of
prisoner charged
with offence

(2) Whenever it appears to the officer in charge that it is desirable for the good order and discipline of the prison for a prisoner to be segregated and not to work nor to be associated with other prisoners, it shall be lawful for the officer in charge to order the segregation of that prisoner for such period as may be considered necessary.

93. (1) A charge against a prisoner in respect of a prison offence may, subject to the provisions of this section, be heard and determined- Hearing of prison
offences

(a) before a subordinate court where the Commissioner, owing to the gravity of the prison offence or other sufficient cause, so decides; or

(b) within a prison, by the Commissioner or, at the request of the Commissioner, a senior officer or the officer in charge, by a visiting justice who is a magistrate.

(2) A prisoner charged with a prison offence which is heard and determined under the provisions of paragraph (b) of subsection (1) shall be informed of the nature of the charge and shall be given an opportunity of hearing the facts alleged against him and of being heard in his defence.

(3) The Commissioner may delegate his power of hearing and determining a charge under the provisions of paragraph (b) of subsection (1) to a senior officer or an officer in charge and, in so doing, may limit the officer's power to impose punishments conferred by section *ninety-seven* to punishments less stringent than those specified in that section:

Provided that the Commissioner shall not delegate to an officer in charge who is not a senior officer the power of hearing and determining a charge in respect of a major prison offence.

(4) Section *fifty* shall apply *mutatis mutandis* to the hearing within a prison of a charge against a prisoner by the Commissioner, a senior officer, officer in charge or a visiting justice as it applies to an inquiry by a prison officer into a disciplinary offence.

94. (1) A prisoner found guilty of a minor prison offence by a subordinate court shall be liable to-

Punishments that may be imposed by subordinate court

(a) imprisonment for a period not exceeding six months;

(b) additionally or alternatively any one or more of the punishments specified in section *ninety-seven*.

(2) A prisoner found guilty of a major prison offence by a subordinate court shall, subject to the provisions of subsection (3), be liable to -

(a) imprisonment for a period not exceeding two years;

(b) additionally or alternatively any one or more of the punishments specified in section *ninety-eight*.

(3) Where a sentence of corporal punishment is imposed by a subordinate court-

(a) section *ninety-nine* shall not apply in relation to that sentence;

(b) if the sentence is not carried out for medical reasons, the subordinate court which imposed the sentence on receipt of a medical certificate that the prisoner is not physically fit to undergo the sentence may substitute for that sentence any other punishment which may be imposed in respect of a major prison offence.

(4) A sentence of imprisonment imposed for a prison offence on a

prisoner-

(a) who is a convicted criminal prisoner shall commence on the date of expiry of the sentence of imprisonment being served by him at the time of the offence;

(b) who is not a convicted criminal prisoner shall commence on the date the sentence of imprisonment is imposed.

95. Where an officer in charge, who is a junior officer or subordinate officer, finds a prisoner guilty of a minor prison offence, he may impose one or more of the following punishments: Punishment or minor prison offences by junior or subordinate officers

(a) confinement in a separate cell for a period not exceeding three days;

(b) confinement in a separate cell with penal diet for a period not exceeding three days;

(c) reduced diet with or without confinement in a separate cell for a period not exceeding seven days;

(d) forfeiture of remission of sentence not exceeding three days of the total remission earned;

(e) extra work for a period not exceeding three days.

96. Whenever a prisoner is charged before an officer in charge who is not a senior officer with a minor prison offence which owing to the circumstances of the case the officer in charge considers the powers of punishment he possesses are inadequate to deal with, he shall stay the proceedings and transfer the case with a report thereon to a senior officer or to a visiting justice who is a magistrate. Transfer of case

97. (1) Where an officer in charge, who is a senior officer, or a visiting justice, finds a prisoner guilty of a minor prison offence, he may impose one or more of the following punishments: Punishment of minor prison offence by senior officer or visiting justice

(a) confinement in a separate cell for a period not exceeding fourteen days;

(b) confinement in a separate cell with penal diet for a period not exceeding seven days;

- (c) reduced diet, with or without confinement in a separate cell, for a period not exceeding fourteen days;
- (d) forfeiture of remission of sentence not exceeding thirty days of the total remission earned;
- (e) extra work for a period not exceeding seven days;
- (f) reduction in stage, or postponement of promotion in stage, or forfeiture of privileges;
- (g) forfeiture of earnings not exceeding one-half of the amount earned; or removal from any prescribed earnings scheme for a period not exceeding three months or reduction in earnings grade until such time as the prisoner is considered fit for restoration to his original grade by virtue of his good conduct and skill at his trade or effort at his work:

Provided that no prisoner shall be reduced from the highest grade in any prescribed earnings scheme without the approval of the Commissioner.

(2) In this section and in section *ninety-eight*, "reduction in stage" and "postponement of promotion in stage" mean the removal of a prisoner to a lower stage and the postponement of promotion to a higher stage, respectively, in the prescribed progressive stage system.

98. Where the Commissioner, a senior officer, or a visiting justice finds a prisoner guilty of a major prison offence, he may impose one or more of the following punishments: Punishment of major prison offence by senior officer or visiting justice

- (a) confinement in a separate cell for a period not exceeding twenty-five days;
- (b) confinement in a separate cell with penal diet for a period not exceeding fifteen days;
- (c) reduced diet, with or without confinement in a separate cell, for a period not exceeding twenty-five days;
- (d) forfeiture of remission of sentence not exceeding sixty days of the total remission earned;
- (e) extra work for a period not exceeding ten days;
- (f) reduction in stage or postponement of promotion in stage or

forfeiture of privileges;

(g) forfeiture of earnings not exceeding three-quarters of the amount earned; or removal from any prescribed earnings scheme for a period not exceeding six months or reduction in earnings grade until such time as the prisoner is considered fit for restoration to his original grade by virtue of his good conduct and skill at his trade or effort at his work:

Provided that no prisoner shall be reduced from the highest grade in any prescribed earnings scheme without the approval of the Commissioner;

(h) subject to the provisions of section *ninety-nine*, corporal punishment in accordance with the provisions of sections *one hundred* to *one hundred and two*.

99. The following provisions shall apply in relation to the imposition of a sentence of corporal punishment under paragraph (h) of section *ninety-eight*: Confirmation of sentence of corporal punishment

(a) the Commissioner, senior officer or visiting justice, as the case may be, shall, when he proposes to impose a sentence of corporal punishment, adjourn the hearing without announcing the sentence and submit the proposed sentence-

(i) where the charge is heard by the Commissioner, to the Minister for confirmation; or

(ii) where the charge is heard by a visiting justice or senior officer, to the Commissioner for his approval;

(b) if the Commissioner approves a proposed sentence of corporal punishment submitted to him under subparagraph (ii) of paragraph (a), he shall submit the case to the Minister for confirmation;

(c) if a proposed sentence of corporal punishment is confirmed by the Minister, the Commissioner, visiting justice or senior officer, as the case may be, shall announce the sentence;

(d) if a sentence of corporal punishment is not carried out for medical reasons or a proposed sentence of corporal punishment is not approved or confirmed, as the case may be, the Commissioner, visiting justice or senior officer, as the case may be, may substitute for the sentence or proposed sentence any other punishment which he is authorised to impose under section *ninety-eight*.

100. No sentence of corporal punishment for a prison offence shall be imposed under the provisions of section *ninety-eight* unless the prison offence is one specified in paragraph (i), (ii) or (iii) of section *ninety-one*.

Prison offences for which corporal punishment may be awarded

101. No sentence of corporal punishment for a prison offence shall be imposed under the provisions of section *ninety-eight* on a prisoner who is-

Certain prisoners not liable to corporal punishment

- (a) a woman;
- (b) under sentence of death; or
- (c) a male over the apparent age of forty-five years.

102. (1) Whenever a sentence of corporal punishment for a major prison offence is imposed under the provisions of section *ninety-eight*, the number of strokes with a cane shall be specified.

Restrictions in respect of corporal punishment

(2) A sentence of corporal punishment shall not exceed-

(a) twelve strokes with a cane in the case of an adult male who is over the apparent age of sixteen years and under the apparent age of forty-five years;

(b) six strokes with a cane in the case of a male under the apparent age of sixteen years.

(3) Where a number of punishments for a number of offences is imposed on a prisoner on one occasion, not more than one of such punishments shall be of corporal punishment.

(4) Corporal punishment shall not be inflicted by instalments.

(5) Corporal punishment shall be inflicted with a cane of a type and in a manner approved by the Minister.

103. Where any written law provides for confirmation of any sentence of corporal punishment imposed by a court, no such sentence

Execution of sentence of corporal

shall be carried out until it has been confirmed in accordance with that punishment written law.

104. (1) A sentence of corporal punishment shall not be carried out unless-
Medical practitioner and officer in charge to be present while corporal punishment is being inflicted

(a) a medical officer has, after examination, certified in writing that in his opinion the prisoner is physically fit to undergo the sentence of corporal punishment about to be inflicted on him; and

(b) a medical practitioner and the officer in charge are present while the corporal punishment is being inflicted on the prisoner.

(2) If a medical officer is of the opinion, after examination, that a prisoner is not physically fit to undergo the sentence of corporal punishment about to be inflicted on him, he shall certify that fact in writing and transmit the certificate to the subordinate court or the person who imposed the sentence.

105. The medical practitioner or officer in charge mentioned in section *one hundred and four* may at any time during the carrying out of the sentence of corporal punishment intervene and prohibit the remainder of the sentence from being carried out if he considers that the prisoner is not in a fit state of health to undergo the remainder of the sentence.
Sentence of corporal punishment may be stayed

106. (1) A prisoner undergoing a punishment of confinement in a separate cell with penal diet shall receive full diet every fourth day.
Special provisions relating to punishments of separate confinement with penal diet and of reduced diet

(2) No prisoner undergoing a punishment of confinement in a separate cell with penal diet shall be put to any form of manual labour until the sentence is completed.

(3) A prisoner undergoing a punishment of reduced diet with or without confinement in a separate cell shall receive full diet on every

ninth day.

107. (1) No prisoner shall be sentenced to be confined in a separate cell for an aggregate of more than ninety days in one year. Confinement in separate cell

(2) In any case where a prisoner is sentenced to two periods of confinement in a separate cell, the two sentences shall be separated by a period not less than the longer of the two periods.

108. Any punishments lawfully imposed, other than corporal punishment, may be carried out partly in one prison and partly in another. Punishment in different prisons

PART XIV

REMISSION OF SENTENCE

109. (1) Convicted criminal prisoners sentenced to imprisonment, whether by one sentence or consecutive sentences, for a period exceeding one month, may by industry and good conduct earn a remission of one-third of their sentence or sentences: Remission of part of sentence of prisoners

Provided that in no case shall-

- (i) any remission granted, result in the release of a prisoner until he has served one calendar month;
- (ii) any remission be granted to a prisoner sentenced to imprisonment for life or to be detained during the President's pleasure.

(2) Upon the recommendation of the Commissioner, a convicted criminal prisoner may by reason of meritorious conduct or of his mental or physical state of health be granted remission of the whole or part of his sentence.

(3) For the purpose of giving effect to the provisions of subsection (1), each prisoner, on admission, shall be credited with the full amount of remission to which he would be entitled at the end of his sentence if he lost no remission of sentence.

(4) A prisoner may lose remission of sentence as a result of its forfeiture as a punishment for a prison offence, and shall not earn any remission in respect of any period-

(a) spent in hospital through his own fault or while malingering; or

(b) while undergoing confinement in a separate cell as punishment.

110. (1) Any convicted criminal prisoner other than-

Remission of part of
sentence of certain
prisoners

(a) a prisoner sentenced to imprisonment for life; or

(b) a prisoner referred to in subsection (2); or

(c) the holder of a licence to be at large granted under the Prisons Act, 1955;

who, immediately before the commencement of this Act, was serving a sentence of imprisonment may earn by satisfactory industry and good conduct remission of one-third of his sentence.

(2) Any convicted prisoner who, immediately before the commencement of this Act, was being detained in prison in consequence of the cancellation of a licence to be at large, granted to him under the Prisons Act, 1955, may earn by satisfactory industry and good conduct remission of one-third of the sentence of imprisonment which was imposed on him and which had not expired at the date his detention commenced following the cancellation of his licence, and any remission credited to such prisoner on the said date shall be disregarded.

(3) For the purpose of giving effect to the provisions of subsection (1) and (2), every prisoner referred to in those subsections shall-

(a) in the case of a prisoner entitled to remission under subsection (1), on his admission to prison;

(b) in the case of a prisoner referred to in subsection (2), on the commencement of this Act;

be credited with the full amount of remission he can earn, from which shall be deducted any loss of remission imposed on him as punishment for a prison offence under the provisions of section *ninety-four*, *ninety-five*, *ninety-seven* or *ninety-eight*.

(4) The commissioner may restore in whole or in part any remission forfeited or lost under the provisions of this Act including any remission forfeited or lost before the commencement of this Act.

PART XV

DISCHARGE AND PAROLE

111. (1) Subject to the provisions of this section, every officer in charge shall be responsible for the due discharge from prison of all prisoners under his control immediately upon their becoming entitled thereto.

Officer in charge to be responsible for discharge of prisoners

(2) No prisoner under treatment by the medical officer shall be discharged from prison except at his own request, made in writing, until, in the opinion of the medical officer, his discharge can be effected without danger to the health of the prisoner.

(3) Where by or under any law a prisoner becomes entitled to discharge from a prison otherwise than by the expiration of his sentence, the officer in charge shall not discharge him otherwise than in accordance with the terms of an order, warrant or instruction issued in writing under the hand of a person authorised to do so under the provisions of such law or in due course of law.

112. All criminal prisoners shall be discharged by noon on the day on which they are entitled to be discharged, but, should that day fall on a Sunday or public holiday, they shall be discharged by noon on the next preceding day not being a Sunday or public holiday.

Day of discharge of prisoners

113. A prisoner on discharge from prison shall be entitled to travelling expenses to such place as the Commissioner may determine.

Travelling expenses of prisoner on discharge

114. (1) A prisoner serving a sentence of imprisonment for a period of four years or more may, within three months of the date he is due for release for reasons approved by the Commissioner, be permitted by the Commissioner, on such conditions as he may specify, to be temporarily absent on parole for a period of time, which shall not exceed fourteen days, specified by the Commissioner. Release on parole

(2) The Commissioner or an officer in charge may at any time recall a prisoner released on parole in accordance with the provisions of subsection (1).

(3) Any prisoner when released on parole who contravenes or fails to comply with the conditions imposed upon him under this section shall be guilty of an offence and shall be liable upon conviction to imprisonment for a period not exceeding six months.

115. (1) The Minister may, on the recommendation of the Commissioner, permit any young prisoner to be temporarily absent from prison for such period and on such conditions as to supervision or otherwise as he may determine. Minister may permit absence of young prisoners from prison

(2) If any prisoner fails to perform and observe any condition imposed under the provisions of this section, he may be arrested and recommitted to any prison by warrant under the hand of a magistrate and shall be detained in a prison as if he had not been so absent from prison for a period equal to the portion of the sentence which was unexpired at the date of his release.

(3) If a prisoner does not contravene during the period of his absence from prison under the provisions of this section any condition attached to his absence, he shall no longer be liable for any punishment in respect of the conviction upon which he was sentenced.

116. (1) The President may at any time release on licence a prisoner serving a term of imprisonment for life subject to such conditions as may be specified in the licence and may at any time vary, modify or cancel any such condition. Release on licence of prisoners serving life imprisonment

(2) The President may at any time by order recall to prison a prisoner

released on licence under this section but without prejudice to the power of the President to release him on licence again and when any prisoner is so recalled his licence shall cease to have effect and he shall, if at large, be deemed to be unlawfully at large.

(3) An order made under subsection (2) shall be sufficient authority for the arrest of the prisoner to whom it relates as if it were a warrant of arrest issued by a magistrate.

PART XVI

COMPULSORY AFTER CARE ORDERS

117. (1) The Commissioner-

Compulsory after
care orders

(a) shall, in the case of a prisoner who, having been sentenced to imprisonment on not less than two previous occasions, is serving a sentence of imprisonment for a period of or exceeding three years; and

(b) may, in the case of any other prisoner where he considers it necessary or desirable in the interests of the rehabilitation of that prisoner so to do;

make an order, to be known as a "Compulsory After Care Order", providing for the compulsory care of the prisoner for a period not exceeding one year after his discharge from prison.

(2) Every compulsory after care order shall be made on or prior to the discharge of the prisoner in respect of whom it is made and shall be in such form and subject to such terms and conditions as may be prescribed.

118. (1) If any person in respect of whom a compulsory after care order is in force-

Failure to comply
with compulsory
after care order and
commission of
further offence
during currency of
order

(a) is convicted of an offence; or

(b) contravenes or fails to comply with any term or condition of the order;

he shall be guilty of an offence and shall on conviction be sentenced to imprisonment for a period of three months or for the period of remission of sentence earned by that person while he was a prisoner under section *one hundred and nine* immediately prior to the making of the order, whichever is the greater.

(2) A sentence of imprisonment imposed on a person under subsection (1) shall commence on the expiration of any other sentence of imprisonment which that person is liable to serve.

(3) A certificate issued by the Commissioner stating the amount of remission of sentence earned by a person while he was a prisoner under section *one hundred and nine* immediately prior to the making of the compulsory after care order made in respect of him shall be conclusive evidence of its contents.

(4) Upon the conviction of a person of an offence against subsection (1), the compulsory after care order made in respect of him shall cease to have effect.

(5) Notwithstanding the provisions of subsection (1) of section *one hundred and seventeen*, the Commissioner may at any time make a further compulsory after care order in respect of a prisoner where a prior compulsory after care order made in respect of that prisoner has ceased to have effect under subsection (4).

PART XVII

REPORT ON LONG TERM PRISONERS

119. (1) The Commissioner shall forward, in accordance with this section, a report on every prisoner who has during the previous month-

Report on long term
prisoners

(a) in the case of prisoners sentenced to be detained during the President's pleasure and those sentenced to imprisonment for life, completed two years' imprisonment from the date of admission, and thereafter at intervals of one year from the date of sentence;

(b) in the case of all other prisoners sentenced to imprisonment for a period of or exceeding seven years, completed four years' imprisonment from the date of sentence and at intervals of two years thereafter;

(c) completed seven or more years of his sentence and has attained, or is believed to have attained, the age of sixty years.

(2) Each report shall include-

(a) a statement by the officer in charge on the work and conduct of each prisoner; and

(b) a statement by the medical officer on the mental and bodily condition of each prisoner, with particular reference to the effect of imprisonment on his health.

(3) A report in respect of a prisoner detained during the President's pleasure shall be forwarded to the President through the Minister.

(4) A report in respect of any prisoner other than a prisoner detained during the President's pleasure shall be forwarded to the Minister.

PART XVIII

PRISONERS UNDER SENTENCE OF DEATH

120. Every prisoner sentenced to death shall be confined in some safe place within a prison, and, if possible, shall be kept apart from other prisoners and shall be placed under constant observation both by day and by night.

Confinement of
condemned prisoners

121. No person other than a prison officer, medical officer, a visiting justice, a minister of religion, or person authorised by the Commissioner shall have access to a prisoner under sentence of death:

Persons who may
have access to
condemned prisoner

Provided that such a prisoner may, with the consent of and subject to any reasonable conditions which may be imposed by the Commissioner or the officer in charge, be visited by his legal advisers and such of his

relatives and friends as he may express a wish to see.

122. (1) Executions shall be carried out at such prisons as the Commissioner may specify and shall be attended by the officer in charge and such other prison officers as the Commissioner or officer in charge may direct, and may be attended by the Sheriff or Deputy Sheriff, by a minister of religion and such other persons as the Minister may authorise.

Attendance at
execution by
officials

(2) Executions shall be carried into effect by a public executioner appointed by the Minister and in accordance with instructions issued from time to time by the Commissioner.

(3) The officer in charge and the public executioner shall make themselves familiar with the instructions issued by the Commissioner and shall satisfy themselves that every precaution is taken to ensure efficiency and despatch and that all appliances are maintained in good condition.

(4) As soon as may be after a sentence of death has been executed on a prisoner, the medical officer shall examine the body and shall ascertain the fact of death and shall sign a certificate thereof and deliver such certificate to the officer in charge, who shall also sign such certificate and transmit it to the registrar of the court which imposed the sentence.

PART XIX

VISITING JUSTICES, OFFICIAL VISITORS, MINISTERS OF RELIGION AND PRISONERS' AID SOCIETIES

123. Any Justice of Appeal or Judge may visit and inspect any prison at any time, and, while so doing, may inquire into any complaint or request made by a prisoner.

Judges may visit
prisons

124. (1) The Minister and the Deputy Minister shall be visiting justices of all prisons.

Minister and
Ministers in charge
of Provinces to be
visiting justices

(2) The Minister in charge of a Province shall be a visiting justice of all prisons in his Province.

125. Magistrates shall be visiting justices of the prisons situated in the area in which they normally exercise jurisdiction. Magistrates to be visiting justices in own areas

126. Any visiting justice may at any time visit a prison in respect of which he is a visiting justice, and may- Powers of visiting justices

- (a) call for all books, papers and records relating to the management and discipline of the prison;
- (b) visit every part of the prison and see every prisoner in confinement;
- (c) inspect and test the quality and quantity of prisoners' food;
- (d) ascertain, so far as possible, that the standing orders and rules are observed;
- (e) inquire into any complaint or request made by a prisoner; and
- (f) perform such other functions as may be prescribed.

127. On completion of each visit, a visiting justice shall enter in a book to be kept for such purpose such remarks, suggestions or recommendations for the information of the Commissioner as he may deem fit. Visiting justice to record visit in prescribed book

128. The Minister may appoint official visitors to any prison. Appointment of official visitors

129. An official visitor shall- Duties of official visitors

- (a) at least once in every two months visit the prison to which he is appointed between such hours as may be prescribed;
- (b) visit all parts of the prison and see every prisoner in confinement, save that women official visitors may visit only those parts of each prison set aside for the detention of women prisoners;
- (c) inspect and test the quality and quantity of prisoners' food;
- (d) ascertain, so far as possible, that the standing orders and rules are observed;
- (e) inquire into any complaint or request made by a prisoner; and

(f) perform such other functions as may be prescribed.

130. On completion of each visit, an official visitor shall enter in a book to be kept for the purpose such remarks, suggestions or recommendations for the information of the Commissioner as he may deem fit.

Official visitors to record visit in prescribed book

131. Ministers of religion, or other accredited representatives of any religious body recognised by the Minister whose visits are approved by the Commissioner may at such hours and in such place as may be prescribed or as the officer in charge may permit-

Ministers of religion may visit prison

(a) be admitted to the prison to visit prisoners who may be desirous of their services; and

(b) be permitted to hold religious services.

132. A probation officer or a representative of a prisoners' aid society who has obtained the written permission of the Commissioner may be admitted to any prison at times to be arranged by the officer in charge.

Visits of probation officers and representatives of prisoners' aid societies

PART XX

YOUTH CORRECTIVE CENTRES

133. (1) The Minister may, by Gazette notice, declare any building, enclosure or place, or any part thereof, to be a youth corrective centre for the purposes of this Act, and may, in like manner, declare that any youth corrective centre shall cease to be a youth corrective centre for the purposes of this Act.

Establishment of youth corrective centres

(2) No prisoner other than a person sentenced to corrective training in a youth corrective centre under section *one hundred and thirty-four* shall be detained in such centre.

(3) Subject to the provisions of subsection (2), every youth corrective centre shall be deemed to be a prison for the purposes of this Act.

134. (1) Notwithstanding the provisions of any other written law,

Corrective training

where a person who has attained the age of sixteen years but has not attained the apparent age of twenty-one years, is found guilty or convicted of an offence not punishable with death, the court may order or sentence such person to undergo corrective training in a youth corrective centre for a period of six months:

may be ordered in certain circumstances

Provided that-

- (i) no person shall be ordered or sentenced to undergo corrective training in a youth corrective centre-
 - (a) if he has previously been detained in prison, an approved school or a reformatory; or
 - (b) if he has previously been sentenced to undergo corrective training at a youth corrective centre;
 - (ii) no person shall be ordered or sentenced to undergo corrective training in a youth corrective centre unless the Commissioner has confirmed that accommodation for that person is available in a youth corrective centre.
- (2) Every person ordered or sentenced to undergo corrective training in a youth corrective centre shall be deemed to be a prisoner for the purposes of this Act, including remission of sentence.

PART XXI

EXTRA-MURAL PENAL EMPLOYMENT

135. (1) Where in any declared area a male prisoner is committed to imprisonment for non-payment of any fine, compensation, costs or other sum adjudged to be paid under any written law, the court so sentencing or committing that person may, with the prisoners consent, order that the prisoner shall perform public work, in accordance with this Part outside a prison for the duration of such imprisonment.

(2) Upon making an order under subsection (1), the court shall order the person in respect of whom the order is made to report forthwith to an authorised officer of the District in which it is sitting or to any other specified officer under the control of such authorised officer.

(3) Any officer to whom a person reports in pursuance of subsection (2) shall notify that person or cause him to be notified of the hours,

place, nature and any other necessary details of the public work to be performed by him.

(4) Any person who, having been ordered to perform public work as aforesaid, is found by a medical officer to be medically unfit to perform the public work shall be removed to prison and shall there undergo the imprisonment to which he is liable, subject nevertheless to a deduction of the number of days, if any, for which he has completed his daily task.

(5) Any person who has been ordered to perform public work as aforesaid may by industry and good conduct earn a remission of one-third of the term of imprisonment to which he had been sentenced or for which he had been committed:

Provided that in no case shall any remission granted result in the release of a prisoner until he has served one calendar month.

(6) If an authorised officer in any District is satisfied that any person in respect of whom an order under this section has been made during the term of imprisonment to which he had been sentenced or for which he had been committed-

(a) has failed without reasonable cause or excuse to present himself for work at the appointed place and hour; or

(b) absents himself without reasonable cause or excuse from his task; or

(c) fails to accomplish without reasonable cause or excuse a day's task; or

(d) is otherwise found to be unsatisfactory in his conduct;

he may cause that person to be removed to prison and that person shall there undergo the imprisonment to which he is liable, subject nevertheless to a deduction of the number of days for which he has completed his daily task.

(7) For the purposes of this section-

"authorised officer" means a person appointed by the Minister for the purposes of this Part;

"declared area" means an area declared by the Minister, by Gazette notice, to be an area to which this Part shall apply;

"public work" means work performed in any department of the Government or any service administered by it, or any local authority.

(8) Any person in respect of whom an order to perform public work is made under subsection (1) and who-

(a) fails without reasonable cause or excuse to report as ordered under subsection (2); or

(b) fails without cause or excuse to present himself for work at the appointed place and hour; or

(c) absents himself without reasonable cause or excuse from his task; or

(d) fails to accomplish without reasonable cause or excuse a day's task; or

(e) is otherwise found by the court to have been unsatisfactory in his conduct;

shall be guilty of an offence and, notwithstanding that he is undergoing the imprisonment to which he is liable in accordance with subsection (6), shall be liable to a fine not exceeding one thousand and five hundred penalty units or to imprisonment for a period not exceeding six months, or to both.

135A (1) Where a court makes an order for community service in accordance with the Penal Code and Criminal Procedure Code, the authorised officer to whom the offender reports shall notify the offender or cause the offender to be notified of the hours, place, nature and any other necessary details of the community service to be performed by the offender.

Insertion of new
sections 135A and
135B

(2) Where an offender, who has been ordered to perform community service, is found by a medical officer to be medically unfit to perform community service the authorised officer shall report to the court which

shall-

- (a) vary the order to suit the circumstances of the case;
- (b) impose on the offender a fine not exceeding three hundred penalty units, or
- (c) send the offender to prison for the period the offender is

liable,

subject nevertheless to a reduction of the number of days, if any, for which community service has already been performed. Serving prisoner's right to apply for community service

135B (1) Any prisoner serving punishment for imprisonment in respect of a misdemeanor who has been convicted within the last six months before the coming into force of the provisions for community service may apply to court for community service. Regulations

(2) The Minister shall, by statutory instrument, make regulations for the process of applying to the court for community service.

(As amended by Act No. 13 of 1994 and No. 14 of 2000)

PART XXII

MISCELLANEOUS

136. Every officer in charge within the area for which any session of the High Court is held for the trial of criminal cases shall deliver to the High Court at the commencement of each session a list of the unconvicted prisoners then within his prison, and that list shall specify in the case of each such prisoner the date of admission and the authority for detention, and shall deliver also a list of detained witnesses. List of prisoners detained to be delivered to High Court

137. (1) The Commissioner may offer rewards to persons who give information leading to the apprehension of prisoners who have escaped from custody and any person giving any such information, whether or not any offer of reward has previously been made, and any person who apprehends, secures, and hands over or causes to be handed over to any officer in charge any prisoner who has escaped may be paid his just and reasonable expenses and in addition, such sum by way of reward as the Commissioner may determine. Rewards for apprehension of escaped prisoners

(2) No payment of any sum as a reward shall be made under the authority of this section to any prison officer or police officer unless, in

the opinion of the Commissioner, such exceptional circumstances exist as to justify such a payment being made.

138. (1) It shall be lawful for the Commissioner, either on his own initiative, or on the recommendation of a Judge or of a magistrate, to grant monetary rewards and gratuities to members of the Service for or in respect of-

Rewards and gratuities

(a) wounds or injuries suffered on service or otherwise in the course of duty;

(b) special acts of bravery, such as-

(i) saving or attempting to save life;

(ii) saving or attempting to save property from loss by fire, theft, or in other circumstances attended by danger:

(c) valuable intelligence acquired by personal risk, hardship, or unusual skill;

(d) any other special or meritorious service:

Provided that no monetary reward or gratuity exceeding twenty kwacha shall be granted without the sanction of the Minister.

(2) All monetary rewards and gratuities that may from time to time be granted under subsection (1) shall be paid from moneys appropriated by Parliament for the purpose.

(As amended by Act No. 13 of 1994)

139. Where the President pardons any person who has been sentenced to death on condition that he serves a period of imprisonment, that person shall be deemed to have been sentenced to such period by the court before which he was convicted.

Commutation of death sentence to sentence of imprisonment

140. (1) Subject to the provisions of any other written law, a person who has been sentenced by a competent court within any country to which the Minister may declare this section to apply may be sent to, imprisoned, and detained in Zambia until the expiration of such sentence, or during such portion thereof as may be deemed necessary,

Detention of prisoners from other countries

and shall be treated and be subject to the provisions of this Act as if he were undergoing the sentence of a competent court of Zambia.

(2) A certificate under the hand of the Minister, setting forth that from documents laid before him it appears that the person named in the certificate has been sentenced as described in subsection (1) to the period of imprisonment specified in the certificate, shall be accepted at all times during the continuance of such period as conclusive evidence that such person is lawfully under detention in accordance with the provisions of this section.

141. (1) Every person who has been or may hereafter be sentenced to imprisonment by any competent court may, by warrant signed by the Minister, be removed to any country in which he was born or where he normally resided before his entry into the Republic in order that such person may be detained in any prison in such country until the expiration of his sentence or release according to law:

Removal of prisoners to other countries

Provided that no person who is a citizen of Zambia shall be removed in accordance with the provisions of this subsection without his consent.

(2) Any person in course of removal within Zambia under a warrant signed in accordance with the provisions of this section shall be deemed to be in lawful custody.

(3) Nothing in this Act contained shall prevent the conviction, judgment, finding, order or sentence recorded or made in respect of any person removed in accordance with this section from being questioned in the same manner as if he had not been removed, and the sentence of that person may be remitted and his discharge ordered in the same manner and by the same authority as if he had not been removed.

142. The Commissioner may grant a prisoner permission in writing to be absent from prison for a specified period for personal, family or other reasons if, in the opinion of the Commissioner, the circumstances of the case warrant the granting of permission.

Commissioner may grant permission to be absent from prison

143. The Commissioner shall cause to be kept a personal record of every prison officer, and shall cause to be recorded therein the name or names of the person or persons to whom in the event of the death of

Disposal of deceased's estate

such prison officer, without having made a valid will, any money or other personal property should be paid or delivered.

144. A witness who duly attends at or for the purposes of an inquiry or hearing held under this Act shall be entitled to the same allowances and expenses as a witness who attends criminal proceedings at a subordinate court is entitled under the Criminal Procedure Code: Witnesses' expenses
Cap. 88

Provided that this section shall not apply to a prisoner, prison officer or other public officer.

145. Nothing in this Act shall exempt any person from being proceeded against under any other Act or law in respect of any offence made punishable by this Act, or from being liable under any other Act or law to any other or higher penalty or punishment than is provided for such offence by this Act: Power to prosecute
under other law not
affected

Provided that no person shall be punished twice for the same offence.

PART XXIII

RULES, REPEALS AND SAVINGS

146. (1) The Minister may, by statutory instrument, make rules for the better carrying into effect of the provisions and purposes of this Act and, without prejudice to the generality of the foregoing, may make rules providing for- Rules

- (i) the powers, duties and responsibilities of prison officers and other persons employed in prisons;
- (ii) the attestation and termination of service of prison officers below the rank of Superintendent;
- (iii) the powers and duties of medical officers; the medical inspection of prisons and prisoners, and the prevention of contagious diseases in prisons;
- (iv) the powers and duties of visiting justices, official visitors, ministers of religion and prisoners' aid societies;
- (v) the construction, description, equipment and supervision of cells for separate confinement and wards;
- (vi) the classification of prisons and prisoners into categories and

their separation accordingly;

- (vii) the safe custody, management, organisation, hours, mode and kind of labour and employment, clothing, bedding, maintenance, instruction, discipline, segregation, treatment, restraint, correction and training of prisoners;
- (viii) visits to and communications with prisoners;
- (ix) the introduction of a progressive stage system;
- (x) the payment of prisoners in accordance with earning schemes for work done while in prison;
- (xi) the disposal of the products of prison labour;
- (xii) the establishment of a staff welfare fund and the method of administration of the said fund by the Commissioner;
- (xiii) the appointment of officers responsible for the after care and rehabilitation of prisoners;
- (xiv) the responsibility, accounting and safe-keeping of all stores, equipment, and accountments issued to prisons;
- (xv) accounts and accounting procedure;
- (xvi) prohibiting prison officers or visitors or other persons who have access to prisons from divulging to any un-authorized person any information concerning the administration of prisons or the condition, treatment and affairs of prisoners;
- (xvii) the establishment, constitution, functions and procedure of a prison officers' staff association and for matters incidental thereto;
- (xviii) the custody and maintenance, including charges to be paid by a judgment creditor, of persons who may be committed to a prison under the provisions of any law relating to imprisonment for non-payment of debts;
- (xix) the carrying out of any sentence of confinement in a separate cell, or penal or reduced diet, awarded under the provisions of any law;
- (xx) the establishment of such boards as the Minister deems necessary or expedient for any purpose arising under this Act and the powers, rights, privileges and duties of and the procedure to be followed by such boards;
- (xxi) the medical examination, measuring, photographing and taking of fingerprint impressions, footprints and casts thereof, palm prints or other records of prisoners detained in any prison or otherwise detained in custody, including detailed personal statistics and histories and for requiring full and truthful answers to all questions put to such persons with the object of obtaining such statistics and histories, and the person, if any, to whom such measurements, photographs, fingerprint

impressions, footprints and casts thereof, palm prints or other records are to be sent or supplied;

(xxii) the manner in which the remission of sentences, including any period of public work under Part XXI, shall be calculated;

(xxiii) the manner in which petitions by prisoners shall be submitted;

(xxiv) the provision of suitable diets and dietary scales, including penal and punishment diets for prisoners, and prescribing the conditions under which such diets and scales may be varied;

(xxv) suitable diet and dietary scales or ration allowances for persons employed on public work under Part XXI;

(xxvi) prescribing anything to be prescribed under the provisions of this Act; and

(xxvii) generally for the effective administration of this Act, for the good management and government of prisons and the discipline and safe custody of prisoners.

(2) Rules made under the provisions of subsection (1) may prescribe penalties for a contravention thereof, or failure to comply therewith, not exceeding a fine of three thousand penalty units, or in default of payment, imprisonment for a period not exceeding twelve months, or such imprisonment without the option of a fine.

(3) In exercising the powers conferred upon him by subsection (1), the Minister may restrict the application of any rule to one or more prisons and may apply differing rules in respect of different prisons or classes of prisoners determined by him.

(4) Different rules may be made under the provisions of paragraph (i) of subsection (1) for different classes of prison officers and other persons employed in prisons.

(5) For the avoidance of doubt, it is hereby declared that rules may be made under the provisions of paragraph (i) of subsection (1) in relation to persons who, immediately before the commencement of this Act, were prison officers or other persons employed in prisons.

(As amended by Act No. 13 of 1994)

147. Has had its effect.

SCHEDULE

(Section 9)

RANKS OF THE SERVICE

Senior Officers

Commissioner of Prisons
Deputy Commissioner of Prisons
Assistant Commissioner of Prisons
Senior Superintendent of Prisons
Senior Technical Officer
Superintendent of Prisons
Quartermaster
Senior Farm Manager
Assistant Superintendent

Junior officers

Chief Officer III
Chief Officer II
Chief Officer I
Cadet Chief Officer
Senior Principal Officer
Matron
Male Nurse
Technical Officer
Junior Technical Officer
Farm Manager
Assistant Farm Manager

Subordinate Officers

Principal Officer
Prison Officer
Recruit Prison Officer

(As amended by S.I. No. 48 of 1974)

SUBSIDIARY LEGISLATION

PRISONS

THE PRISONS RULES

ARRANGEMENT OF RULES

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Rule

1. Title
2. Interpretation
3. Manner of applying Rules

PART II

ADMINISTRATION

The Commissioner

4. Commissioner's inspections and reports on prisons
5. Enforcement of Rules
6. Commissioner's duties on visits

Prison Officers-General

7. Duty to report irregularities
8. Representations to Commissioner and Minister
9. Training of prison officers

Officer in Charge

10. Investigation of irregularities
11. Maintenance of records concerning prisoners
12. Safe custody of warrants

13. Inspection of prison
14. Prisoners to have facilities to appeal
15. Prisoners' complaints and applications
16. Special care for certain prisoners
17. Inspection of prisoners' meals
18. Duties to be carried out in proper manner
19. Interview of prisoners on admission and discharge
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21. Muster
22. Injury to prison officer or prisoner
23. Notification of prisoner's illness to medical officer
24. Prison hospital and medical officer's recommendations
25. Notification of dangerous illness of prisoner to relatives
26. Notification of death of prisoner to Commissioner and next of kin
27. Report to Commissioner of persons mentally unsound
28. Visitors to view a prison
29. Maintenance of buildings and machinery
30. Prisoners' property
31. Requisitions on storekeeper
32. Absence from prison for a complete night
33. Charge of prison in case of absence
34. Special reports to Commissioner
35. Action to be taken in case of emergency
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PART I

PRELIMINARY

1. These Rules may be cited as the Prisons Rules.

Title

2. In these Rules, unless the context otherwise requires-

Interpretation

"inmate" means any person ordered or sentenced to corrective training in a youth corrective centre under section *one hundred and thirty-four* of the Act;

"long sentence prisoner" means a prisoner who is serving a sentence or overlapping or consecutive sentences, the total of which is over six months;

"short sentence prisoner" means a prisoner who is serving a sentence or overlapping or consecutive sentences, the total of which is six months or less;

"Standing Orders" means Standing Orders made by the Commissioner under section *eleven* of the Act.

3. (1) Subject to the provisions of the Act, these Rules shall be applied in accordance with the provisions of sub-rule (2).

MaFinner of applying
Rules

(2) The following shall be the guiding principles in the application of these Rules:

(a) due regard and allowance shall be made for the differences in character and respect for discipline of various classes of prisoners;

(b) discipline and order shall be maintained with fairness but firmness, and with not more restriction than is required for safe custody of prisoners and to ensure a well ordered community life;

(c) in the control of prisoners, prison officers shall seek to influence them, through their own example and leadership, so as to enlist their willing co-operation; and

(d) at all times the treatment of prisoners shall be such as to encourage their self-respect and a sense of personal responsibility, so as to rebuild their morale, to inculcate in them habits of good citizenship and hard work, to encourage them to lead a good and useful life on discharge and to fit them to do so.

PART II

ADMINISTRATION

The Commissioner

- 4.** The Commissioner shall-
- (a) at least once a year thoroughly and systematically inspect or cause to be inspected every prison;
- (b) report to the Minister any matter which he considers should be brought to the notice of the Minister;
- (c) prepare and submit to the Minister an annual report on the administration of prisons in the Republic.
- 5.** The Commissioner shall ensure that the provisions of the Act and of these Rules are strictly carried out and shall take all necessary steps to secure uniformity of administration of prisons in the Republic.
- 6.** On the occasion of each inspection of any prison in pursuance of rule 4, the Commissioner shall-
- (a) see every prisoner therein and shall inquire into all complaints and applications which any prisoner may make to him;
- (b) give special attention to the sick and weakly and to those who are in separate confinement; and
- (c) inspect and initial all journals, registers, books and other records kept in the prison.

Commissioner's inspections and reports on prisons

Enforcement of Rules

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Prison Officers-General

- 7.** A prison officer other than an officer in charge shall immediately report to the officer in charge any contravention of the Act and of these Rules or of the Standing Orders which comes to his notice.
- 8.** (1) A prison officer who wishes to make representations of a public nature to the Commissioner shall-

Duty to report irregularities

Representations to Commissioner and Minister

(a) if he is an officer in charge, submit his representations in writing to the Commissioner;

(b) if he is not an officer in charge, submit his representations in writing to the officer in charge for transmission to the Commissioner.

(2) If a prison officer requests that any representations made by him under sub-rule (1) should be brought to the notice of the Minister, the Commissioner shall forward his representations to the Minister with such comments as he may wish to make.

(3) The Commissioner may, if he considers it necessary in the interests of the Service to interview any prison officer in connection with the representations made under this rule, summon any prison officer before him.

9. Every prison officer shall attend for training at such place or places and for such periods as may be determined by the Commissioner and shall fulfil the conditions relating to that training.

Training of prison officers

Officer in Charge

10. (1) The officer in charge shall, without delay, investigate any contravention of the Act and of these Rules or of the Standing Orders whenever such contravention is reported to him or otherwise comes to his notice.

Investigation of irregularities

(2) The officer in charge shall report to the Commissioner any case of misconduct or neglect of duty by a prison officer.

(3) The officer in charge shall investigate any report alleging an offence against discipline by a prison officer not later than the following day, or if the following day be a Sunday or a public holiday, on the next following working day.

11. The officer in charge shall be responsible for seeing that proper records are kept of all circumstances and of all correspondence connected with such circumstances which affect the interests of

Maintenance of records concerning prisoners

prisoners under his control and shall bring such circumstances to the notice of the Commissioner at such times as may be proper in each case.

- 12.** The officer in charge shall be responsible for the safe custody of all prisoners' warrants. Safe custody of warrants
- 13.** The officer in charge shall- Inspection of prison
- (a) inspect all parts of the prison frequently and never less than twice a day and shall see each prisoner once every twenty-four hours, unless the Commissioner directs otherwise;
- (b) visit all parts of the prison at an uncertain hour of the night at least once in every seven days; and
- (c) record such inspections and visits in his journal.
- 14.** The officer in charge shall ensure that every prisoner is given opportunity and reasonable facilities therewith to- Prisoners to have facilities to appeal
- (a) note and prosecute an appeal against conviction and, additionally or alternatively, sentence; or
- (b) submit a written statement as may be required under any written law relating to the review of his case.
- 15.** The officer in charge shall ensure that prisoners who have complaints or applications to make are allowed to make them to him personally. Prisoners' complaints and applications
- 16.** The officer in charge shall pay special attention to those prisoners who are in hospital or are undergoing punishment for prison offences. Special care for certain prisoners
- 17.** (1) The officer in charge shall, from time to time, and not less than twice in each week, visit the prisoners at their meals and shall inquire into any complaints that may be made by prisoners regarding the rations and shall take immediate action to remove the cause of any such complaints which are justified. Inspection of prisoners' meals
- (2) The officer in charge shall ensure that the rations supplied to prisoners are of good quality and that every prisoner receives the

rations to which he is entitled in accordance with the First Schedule and, subject to rule 44, no deviation from the authorised scale of rations shall be permitted unless the medical officer or the Commissioner has given his written authority to do so.

18. The officer in charge shall-

Duties to be carried out in proper manner

(a) ensure that all prison officers under him understand their duties and that they perform them properly; and

(b) witness the performance of every duty in the prison so that he may be familiar with everything that is done therein and thus be enabled to make improvements or to suggest to the Commissioner improvements in the administration of the prison or in the control of prisoners.

19. The officer in charge shall interview all prisoners either individually or collectively as soon as is possible after their admission into a prison and shall again interview them before their discharge, release or removal to any other prison or place.

Interview of prisoners on admission and discharge

20. (1) The officer in charge shall search or cause to be searched frequently, and in any case not less than twice in every two weeks, the cells, wards, rooms, bedding and all other parts of the prison and shall, at the same time, inspect or cause to be inspected all locks, bolts and bars in the prison.

Search of prison

(2) Any prohibited article which may be found in the prison during any inspection or search shall be seized by the prison officer who finds it.

21. The officer in charge shall receive reports accounting for all prisoners in his custody at the time of opening the prison in the morning and at the time of closing the prison at night and on each occasion when prisoners return from labour inside or outside the prison.

Muster

22. If a prison officer is injured in the course of his duty or a prisoner is seriously injured at labour or otherwise, the officer in charge shall submit a report in writing to the Commissioner and shall give a full account of the circumstances in which such prison officer or prisoner sustained his injury.

Injury to prison officer or prisoner

23. The officer in charge shall, without delay, notify or cause to be notified, the medical officer of the name of any prisoner who-

(a) is ill or injured; or

(b) complains of illness or injury.

Notification of prisoner's illness to medical officer

24. (1) The officer in charge of a prison shall maintain therein a properly secured prison hospital, clinic or sick bay and shall ensure that prisoners are in safe custody while they are attending such hospital, clinic or sick bay.

Prison hospital and medical officer's recommendations

(2) The officer in charge shall, where practicable, put into effect any lawful and reasonable recommendations of the medical officer.

(3) If the officer in charge is of the opinion that it is not practicable to comply with any recommendations made to him by the medical officer or that the recommendations made by the medical officer to him are not lawful or reasonable, he shall refer the matter to the Commissioner for his decision.

25. The officer in charge shall, upon the dangerous illness of a prisoner under his control, give immediate notice thereof to the most accessible known relative of the prisoner.

Notification of dangerous illness of prisoner to relatives

26. (1) The officer in charge shall, upon the death of a prisoner under his control, give immediate notice thereof to the Commissioner and to the deceased's next of kin or his nearest accessible relative.

Notification of death of prisoner to Commissioner and next of kin

(2) Where the interests of public health and the circumstances permit, the officer in charge shall, after complying with the provisions of section *twenty-three* of the Act, cause the body of a prisoner who has died otherwise than by lawful execution to be delivered to his relatives or friends for burial if they make a request for it.

(3) If the relatives or friends of a deceased prisoner do not request his body to be delivered to them for the purpose of burial under sub-rule (2), the officer in charge shall cause the body to be decently interred.

27. The officer in charge shall, without delay, report to the Commissioner and to the medical officer any case of mental disorder or apparent mental disorder in his prison. Report to Commissioner of persons mentally unsound

28. (1) The officer in charge shall not allow any person to enter and view a prison unless such person produces written authority of the Minister or of the Commissioner authorising him to do so. Visitors to view a prison

(2) Every visitor authorised to view a prison under this rule shall give his full name and address to the gatekeeper and shall sign his name in the visitors' book.

(3) The officer in charge shall ensure that no person who is authorised to view the prison makes a sketch or takes a photograph unless such person has written authority of the Minister or of the Commissioner to do so.

(4) Every visitor to a prison shall be accompanied throughout his visit by a prison officer.

(5) A public officer of the Government who is required to visit a prison in the course of his duties may do so with the permission of the officer in charge.

(6) The officer in charge may remove from the prison any visitor whose conduct is considered by him to be improper.

29. The officer in charge shall ensure that all machinery and all buildings connected with his prison are maintained in a proper state of repair and that all the necessary precautions against accidents to prisoners and prison officers are duly taken. Maintenance of buildings and machinery

30. The officer in charge shall, without prejudice to the provisions of section *fifty-nine* of the Act, take care to see that every precaution is taken to ensure the safe custody of prisoners' property in his custody and to prevent the loss or misappropriation of any such property. Prisoners' property

- 31.** The officer in charge shall be responsible for checking and approving all demands made on the prison storekeeper for stores and clothing to be used in the prison of which he is in charge Requisitions on storekeeper
- 32.** The officer in charge shall not be absent from his living quarters for a complete night without prior consent of the Senior Superintendent, or the officer who is in charge of the region in which the prison commanded by such officer in charge is situated or the Commissioner. Absence from prison for a complete night
- 33.** The charge of the prison and of the prisoners lodged therein shall, during the temporary absence of the officer in charge of that prison, devolve on the next senior prison officer in that prison and such officer shall be competent to perform and shall perform any duty required to be performed by the officer in charge by any written law. Charge of prison in case of absence
- 34.** Every officer in charge shall report to the Commissioner all serious assaults, outbreaks of disease or any occurrence of an unusual or serious nature in respect of a prison of which he is in charge. Special reports to Commissioner
- 35.** In cases of sudden emergency, the officer in charge shall take such action as may be necessary in such circumstances and shall enter an account of the emergency and the action taken in relation thereto in his journal and shall forward a report of the same to the Commissioner forthwith. Action to be taken in case of emergency
- 36.** The officer in charge shall refer to the Commissioner all questions of discipline or matters relating to the expenditure of funds of the prison with which he is not competent to deal. Special cases to be referred to Commissioner
- 37.** The officer in charge shall prepare annual estimates and statistics for the prison of which he is in charge and shall submit them to the Commissioner at such time or times as the Commissioner may direct. Annual estimates
- 38.** The officer in charge shall keep strict surveillance over the expenditure of such public money as may be allocated to his prison and shall ascertain that all moneys received by him are properly accounted for. Control of expenditure

39. The officer in charge shall furnish to the Commissioner before the 31st January in each year a general report upon the prison under his charge in addition to such special or periodical reports which may be required. Annual report to Commissioner

Medical Officers

40. (1) Every medical officer or his subordinate shall-

Medical
examination of
prisoners

(a) where practicable, examine every prisoner before the prisoner is made to do or carry out work;

(b) examine every prisoner ordered to undergo punishment for a prison offence if such punishment involves confinement in a separate cell or a reduction of the prisoner's normal diet and shall certify in writing whether in his opinion such punishment may be inflicted without the probability of serious injury being caused thereby;

(c) visit as often as may be necessary the prisoners who are sick;

(d) where practicable, see every prisoner once a week and at uncertain times inspect the prisoners whilst they are at work; and

(e) direct such modifications of labour and diet of prisoners as in particular cases he may deem necessary.

(2) After every medical examination carried out under section *eighteen* of the Act, the medical officer shall enter in the prisoner's record-

(a) the state of health of the prisoner;

(b) whether or not the prisoner has been vaccinated for, or has had, smallpox;

(c) any other information which he may consider desirable to

record.

(3) The medical officer shall, after medical examination of a prisoner, enter in the prisoner's record whether or not the prisoner is fit for normal labour and whether there shall be any restriction or condition regarding the type of labour to which the prisoner may be put.

- 41.** The medical officer shall enter or cause to be entered in a case book an account of the name, disease, state and treatment of every sick prisoner and such book shall be accessible to the officer in charge. Keeping of case book
- 42.** The medical officer shall report in writing to the officer in charge any case of a prisoner whose mind has been, or appears to him to be, injuriously affected or who is mentally disordered and shall give such written directions in such case as he may think proper: Reports on prisoners mentally unsound
- 43.** The medical officer shall report in writing to the officer in charge any case of a prisoner (other than a case to which rule 42 applies) which, in his opinion based on medical grounds, should be brought to the notice of the officer in charge and shall make such recommendations as he may think proper to the officer in charge as regards discipline or treatment of such prisoner or the supply of additional or alternative food or articles to such prisoner. Reports on sick prisoners to officer in charge
- 44.** Every prisoner who is admitted to a civil hospital shall receive the normal hospital diet. Diet in civil hospital
- 45.** Whenever the medical officer is of the opinion that- Prisoners unfit for imprisonment
- (a) the life of a prisoner is likely to be endangered by his continued imprisonment; or
- (b) a sick prisoner will not survive his sentence; or
- (c) a prisoner is totally and permanently unfit for prison discipline;
- he shall submit his opinion and the grounds thereof in writing to the officer in charge who shall forward the same to the Commissioner.
- 46.** (1) For the purposes of section *nineteen* of the Act, the medical officer shall report in writing to the officer in charge on the mental condition of a prisoner under sentence of death as follows: Reports on prisoners under sentence of death

(a) within one week of the first medical examination of the prisoner;

(b) if subsequently there is, in the opinion of the medical officer, a change in the mental condition of the prisoner, immediately on observation of such change;

(c) immediately after the dismissal of any appeal lodged by the prisoner.

(2) The medical officer shall report in writing to the officer in charge on the physical condition of a prisoner under sentence of death at the same time as he reports on the mental condition of such prisoner under sub-rule (1).

(3) The officer in charge shall immediately submit any report made by the medical officer under this rule to the Commissioner.

47. At least once in every month the medical officer shall-

Inspection of prisons
by medical officers

(a) inspect every part of the prison and during such inspection he shall pay special attention to the sanitary state of the prison, the health of the prisoners, and the adequacy and proper cooking of the diets; and

(b) review the weights of the prisoners.

48. (1) The medical officer shall visit every person in the prison who is committed for trial on a capital charge and shall make such observations and reports on the prisoner as may be requisite to enable him to give evidence as to the mental condition of such person, if required at the trial.

Visits to prisoners
committed on capital
charge

(2) If a prisoner who is committed for trial on a capital charge is transferred from one prison to another, it shall be the duty of the medical officer of the first prison to furnish to the officer in charge a report on such prisoner and the said officer in charge shall forward the report to the officer in charge of the second prison who shall bring such report to the notice of the medical officer of the second prison.

(3) The medical officer may, if he considers it necessary, request the

officer in charge to procure for him a copy of the record of the preliminary inquiry concerning a prisoner on a capital charge.

49. The medical officer shall at least one week before the trial of a prisoner on a capital charge submit a report in writing to the Director of Public Prosecutions on the mental condition of the prisoner and shall state in the report if-

Reports on prisoners charged with capital offence

- (a) any indication of insanity has been exhibited by the prisoner;
- (b) the prisoner is fit to plead;
- (c) there is a distinct history of periodical attacks of insanity, followed by lucid intervals and whether the prisoner has enjoyed lucid intervals whilst under observation in prison.

50. Where a prisoner has been sentenced to death the medical officer of the prison where the prisoner is confined shall, within three weeks of such sentence, forward a report on the prisoner's mental condition to the Solicitor-General through the officer in charge.

Reports on condemned prisoners

51. (1) Where there is an outbreak of infectious or contagious disease in a prison the medical officer shall give directions in writing to the officer in charge for-

Infectious or contagious diseases in prison

- (a) separating prisoners having infectious or contagious diseases;
- (b) cleansing and disinfecting any room or cell occupied by any prisoner having an infectious or contagious disease; and
- (c) cleansing, disinfecting, or destroying any infected clothing or bedding, if necessary;

and the officer in charge shall carry such directions into effect forthwith.

(2) The medical officer shall, in the case of any epidemic or highly infectious or contagious disease, or any other circumstances affecting the health of the prisoners requiring unusual measures, report the same immediately to the officer in charge.

52. The medical officer shall report in writing to the officer in charge any irregularity in the prison hospital, clinic or sick bay which

Medical officer's reports on prison

may come to his knowledge and shall report any difficulty or obstruction which he may meet in the performance of his duties.

hospital

53. (1) The medical officer shall in writing notify the officer in charge of any woman prisoner who is found by him to be pregnant.

Pregnant prisoners to be reported to officer in charge

(2) Where the officer in charge has received a report under this rule in respect of an unconvicted woman prisoner, the officer in charge shall report the same to the court in which proceedings against her have been, or may be, instituted.

54. (1) The medical officer shall, where practicable, examine every prisoner who is to be transferred to another prison and shall report to the officer in charge on his fitness to be transferred.

Examination of prisoners on transfer

(2) No transfer of a prisoner shall be made otherwise than in accordance with such instructions in regard to his health during transfer as the medical officer may give.

55. The medical officer shall examine, or cause to be examined, every candidate for employment as a warder and shall report, or cause a report to be made, as to whether such candidate possesses the necessary qualifications as to health and strength.

Examination of candidates for the Service

56. Every medical officer shall make himself conversant with the provisions of these Rules and shall conform to them and shall support the officer in charge in the maintenance of discipline and order and the safe custody of prisoners in so far as the medical officer's duties affect these matters.

Medical officer to be conversant with Rules

Chief Officer

57. In a prison where a Senior Superintendent, Superintendent or Assistant Superintendent of Prisons has been appointed as officer in charge, the next senior officer of the rank of Chief Prison Officer or below shall be the chief officer for the purposes of these Rules and, where no such officer has been appointed officer in charge, the officer in charge of the prison shall, at the same time, be the chief officer for

Chief officer

the purposes of these Rules.

58. (1) The chief officer shall, subject to the directions of the officer in charge, be the principal discipline officer of the prison and shall ensure that the provisions of the Act and of these Rules and the Standing Orders are strictly observed in the prison to which he is appointed and shall assist the officer in charge in maintaining discipline in the prison. During the temporary absence of the chief officer, the next senior prison officer shall act as the chief officer.

Duties of chief officer

(2) The chief officer shall carry out any duties that may be specially assigned to him by the Commissioner or the officer in charge.

59. (1) The chief officer shall visit and inspect the whole prison and shall see every prisoner at least twice in every twenty-four hours and, in default of such daily visits and inspections, the chief officer shall record in his journal how far he has omitted them and the cause of such omission.

Inspection of prison by chief officer

(2) The chief officer shall be responsible for seeing that everything in the prison is clean and in good order and that all means of security are effective.

60. The chief officer shall visit every party of prisoners while at work, whether such party of prisoners is working inside or outside the prison, and shall ensure that discipline and order are maintained among them and shall report thereon as may be directed by the officer in charge.

Visits to working parties by chief officer

61. (1) The chief officer shall-

Details of officers' duties

(a) attend and take charge of the parade of prison officers at the unlocking of the prison each morning;

(b) supervise the issue of keys to prison officers;

(c) detail all prison officers under his control for their duties;

(d) satisfy himself that the duties of the prison officers are properly carried out;

(e) read to the parade of prison officers any new orders from the order book of the officer in charge.

(2) The chief officer shall check all keys at the time when the prison is locked up for the night and shall satisfy himself that the prison officers on night shift are properly posted and that they are conversant with their duties.

62. The chief officer shall inspect every part of the prison at least twice a week between the hours of 11 p.m. and 5 a.m. and shall record in his journal in red ink the time of such visit and the condition of the prison. Night visits to prison by chief officer

63. The chief officer shall-

(a) ensure that every prisoner having a complaint or application to make is given an opportunity for doing so;

(b) ensure that every prisoner is able to record a complaint or to make an application in the prisoners' complaint book and shall bring such book to the notice of the officer in charge daily. Prisoners' complaints and applications

64. The chief officer shall inspect and superintend the issuing of prisoners' rations and whenever possible shall weigh the rations supplied to the prisoners. A record shall be made of such weighing of rations in a book to be kept for the purpose. Inspection of issue of rations

65. (1) The chief officer shall be responsible for ensuring that every article of food supplied to the prisoners is sound and of good quality and shall take such measures as may be necessary to have unsatisfactory food exchanged by the supplier. Inspection of raw rations

(2) The chief officer shall take special care to see that the rations issued to prisoners are issued in strict accordance with the prescribed scales of diets and that every prisoner receives the diet to which he is entitled.

(3) The chief officer shall take all necessary steps to ensure that the scales, weights and measures used for the weighing of prisoners' rations are in good order and that they are in accurate condition.

66. The chief officer shall see that prisoners' clothing and bedding are in good order and repair and that prisoners keep themselves clean and have their hair cut as may be necessary. Prisoners' clothing, bedding and haircutting

67. The chief officer shall specially attend to the carrying into effect of the orders of the officer in charge as to punishments to be inflicted on prisoners and shall see that prisoners undergoing separate confinement are given opportunities of taking such exercise as they may be required to take. Punishment of prisoners

68. The chief officer shall ensure that every prisoner is searched on admission and that all prohibited articles are taken from the prisoner. The chief officer may, with the written approval of the officer in charge, cause any dangerous or objectionable article found on the prisoner to be taken from him or her. Search of prisoners on admission

69. The following categories of prisoners and the cells allocated to them shall be searched each morning and evening: Search of special categories of prisoners

- (a) prisoners undergoing punishment for prison offences;
- (b) prisoners awaiting trial for prison offences;
- (c) prisoners who are mentally disordered or defective;
- (d) prisoners under observation.

70. (1) All working parties of prisoners leaving the prison for labour outside the prison shall be searched in order to ensure that no property is being unlawfully taken out of the prison. Search of working parties of prisoners

(2) All working parties of prisoners shall be searched on their return to prison from labour.

71. A search of a prisoner shall, if circumstances permit, be carried out by more than two prison officers. Search of prisoner by more than two officers

- 72.** The chief officer shall- Mental disorder of prisoner
- (a) report immediately to the officer in charge any case of apparent mental disorder or mental illness of any prisoner; and
 - (b) deliver to the medical officer daily-
 - (i) a list of prisoners who are ill or complain of illness; and
 - (ii) a list of prisoners detained in separate confinement.
- 73.** The chief officer shall carry into effect all written directions of the medical officer respecting alterations in the diet or treatment of any prisoner. Application of medical officer's directions
- 74.** The chief officer may temporarily relieve any subordinate officer from duty and may exclude him from the prison in case of misconduct and shall report the matter without delay to the officer in charge. Temporary suspension of subordinate officers
- 75.** (1) The chief officer shall not be absent from his living quarters during the hours when the prison is locked up for the night without permission from the officer in charge. Absence from prison quarters by night
- (2) Every absence from living quarters on the part of the chief officer as mentioned in sub-rule (1) shall be entered in his journal and the chief officer shall, if absent at night due to unavoidable circumstances, report such absence and its circumstances to the officer in charge as soon as possible.
- 76.** The chief officer shall report to the officer in charge- Reports to officer in charge
- (a) every circumstance which may come to his knowledge and which is likely to affect the security, health or discipline of the prisoners, or the efficiency of the prison officers; and
 - (b) any other matter which may come to his knowledge which in his opinion may require the attention of the officer in charge.

Prison Officers

77. (1) A person shall, on joining the Service as a warder, make and sign a declaration before the officer in charge. Attestation of subordinate officers

(2) The form of attestation is set out in the Second Schedule.

78. (1) Every prison officer shall reside in such living quarters as the officer in charge may assign to him. A prison officer shall not sleep out of such quarters without prior permission of the officer in charge. Prison quarters

(2) No prison officer shall permit any person, other than a regular member of his household, to remain for the night in his living quarters without prior permission of the officer in charge.

79. Any prison officer who is disabled from the regular performance of his duties by illness shall report or cause to be reported the same to the chief officer or to the officer in charge and shall obey such instructions as may be issued regarding his medical treatment. Illness of prison officers

80. Every subordinate officer shall, before leaving the prison at any time, deposit his keys, arms and books in the place appointed for the purpose. Absence from duty

81. A prison officer shall, on the termination of his service, deliver up his arms, ammunition, accoutrements, uniforms and other equipment which may have been issued to him by, and which are the property of, the Government- Arms, accoutrements, etc., to be delivered up on discharge

- (a) if he is an officer in charge, to his relieving officer; or
- (b) if he is not an officer in charge, to the officer in charge.

82. (1) No search of a prison officer shall be made in the presence of prisoners or otherwise than- Search of prison officers and prison quarters

- (a) by a prison officer who is of like sex; and
- (b) in the presence of another prison officer of like sex.

(2) No search of a prison officer's living quarters shall be made in the presence of a prisoner or prisoners.

83. No subordinate officer shall receive private visitors in the prison. Visitors to subordinate officers prohibited

84. No prison officer shall give a certificate or testimonial to, or in respect of, any prisoner as regards the prisoner's conduct in prison or elsewhere. Testimonial to prisoners prohibited

85. No prison officer shall use or smoke tobacco, dagga or hemp, or drink intoxicating liquors within a prison or while he is on duty. Prohibition of tobacco and liquors

86. (1) No subordinate officer shall enter a prisoner's cell at night without being accompanied by another officer except in cases of imperative necessity and, in such circumstances, he shall make an immediate report to the officer who is in charge of the prison at the time. Night visits to cells by subordinate officers

(2) No male prison officer shall enter any part of a prison in which female prisoners are confined unless he is accompanied by a woman prison officer.

87. No prison officer shall- Familiarity with prisoners forbidden

(a) allow any familiarity on the part of any prisoner towards himself or any other prison officer;

(b) on any account speak of his duties, prison arrangements or any matters of discipline within the hearing of a prisoner or prisoners.

88. Every subordinate prison officer shall inform the chief officer without delay of the name of any prisoner who desires to see the chief officer or who desires to make a complaint or application. Prisoners' complaints and applications

89. All subordinate officers shall be responsible for the safe custody of prisoners under their charge and, for the purpose of giving effect to this rule, they shall count the prisoners under their charge at least once every half hour, and shall do so- Safe custody of prisoners

- (a) on receiving charge of a party of prisoners;
- (b) on handing over the charge of the prisoners; and
- (c) on leaving any building or work whilst in charge of prisoners.

90. All prison officers shall make themselves familiar with the provisions of section *twenty-nine* of the Act and shall use firearms strictly in conformity with such provisions. Use of firearms

91. (1) All prison officers shall check all prison keys when handing or taking them over and shall report immediately any defect or loss of such keys to the officer in charge. Keeping of prison keys

(2) A prison officer shall under no circumstances allow a prison key to pass into possession of a prisoner or any other unauthorised person.

92. No prison officer who is in charge of prisoners shall under any pretext whatsoever leave such prisoners unless he is properly relieved of his charge by another prison officer. Prison officers in charge of prisoners

93. (1) The gatekeeper shall not allow any person, other than a prison officer or a prisoner, to enter a prison without the sanction of the chief officer or the officer in charge. Duties of gatekeeper

(2) The provisions of sub-rule (1) shall not apply to-

- (a) any Justice of Appeal or Judge;
- (b) the Minister or Parliamentary Secretary to the Minister responsible for home affairs;
- (c) any magistrate having jurisdiction in the place where the prison is situated; or
- (d) any visiting justice or official visitor to the prison.

(3) The gatekeeper shall keep a record in the gate-book of all persons, other than prison officers on regular shifts, entering or leaving the

prison and shall require all such persons to enter their particulars in a book provided for the purpose.

(4) The gatekeeper shall not allow any person, other than a prison officer, to enter the prison unless that person is to be accompanied whilst in the prison by a prison officer.

(5) The gatekeeper shall not allow any prisoner to leave the prison unaccompanied by a prison officer unless he has received orders to the contrary from the officer in charge personally.

(6) The gatekeeper shall carefully examine the passes for the admission of prisoners' visitors to the prison and shall check their names and identification with the name on the pass, and, if he is not satisfied that the pass relates to the person tendering the same, he shall immediately report the matter to the chief officer for his instructions.

(7) The gatekeeper shall ascertain the names of all workmen who may be admitted to work in the prison and shall warn such workmen not to speak or give anything to any prisoner without proper authority, and shall satisfy himself that the number of workmen leaving the prison corresponds to those who entered the prison in the first instance.

(8) The gatekeeper shall take charge of any article, food or letter brought to the prison for a prisoner and deliver such article, food or letter to the chief officer or the officer detailed by the chief officer to receive them.

(9) The gatekeeper shall examine all articles brought into the prison and shall examine every vehicle entering or leaving the prison.

(10) The gatekeeper shall not allow any articles whatever to be taken out of the prison without the permission of the chief officer or the production of a gate-pass duly signed by the chief officer or the officer in charge.

94. Every prison officer shall direct the attention of the officer in charge or the chief officer to any prisoner who appears to him not to be in good health or whose state of mind appears to him to deserve special Duty to report
prisoners in ill health

notice and care.

95. Every prison officer shall be liable for discipline duty if required to do so at any time. Discipline duty

96. In a women's prison, the senior woman prison officer shall perform all the duties of the chief officer as defined in this Part. Duties of a senior woman prison officer

PART III

ADMISSION AND CONTROL OF PRISONERS

97. No prisoner shall be entitled to exercise any right or claim any privilege which is not a right or privilege conferred on such prisoner by or under the Act or these Rules or any other written law. Prisoners' privileges

98. No prisoner shall be admitted to a prison between the hours of 7 o'clock in the evening and 7 o'clock in the morning: Hours of admittance to prisons

Provided that, at the discretion of the Commissioner, an officer in charge may be authorised to admit prisoners to prison between the hours of 7 o'clock in the evening and 7 o'clock in the morning.

99. Upon admission to a prison, and from time to time as may be required, every prisoner may, where practicable, be photographed and his name, age, height, particular marks and general appearance shall be recorded in the prisoner's record. Photographs and particulars of prisoners

100. The searching of a prisoner shall be conducted with due regard to decency and self-respect and in as seemly a manner as is consistent with the necessity of discovering any concealed article. No prisoner shall be stripped and searched in the presence of another prisoner. Search of prisoners

101. The release of a prisoner by the court upon appeal or review of his conviction for an offence shall not necessitate the destruction of photographs, fingerprints or other prints or casts taken of the prisoner under section *thirty-one* of the Act in connection with any other offence of which he has been convicted. Photographs and prints taken under section 31 of the Act

102. (1) All private clothing and all other articles whatever in possession of, or sent in to, a prisoner, not expressly allowed by these Rules or by the Standing Orders shall be taken from such prisoner and shall be inventoried in the prisoners' property book and the officer in charge and the prisoner shall sign their names in such book.

Custody and disposal
of prisoners' property

(2) Any money or movable property in possession of, or sent in to, a prisoner shall be taken from him and shall be inventoried in the prisoners' property book which shall be signed by the prisoner and the officer in charge.

(3) Any money or movable property in the custody of the officer in charge belonging to a prisoner who has escaped and who has been at large for six months shall be treated as if the prisoner had been discharged and subsections (5), (6), (7) and (8) of section *fifty-nine* of the Act shall apply.

103. (1) Every prisoner shall take or be made to take a bath on admission to a prison and at such times subsequently as may be ordered.

Bathing and
weighing of
prisoners

(2) The officer in charge shall, if circumstances permit, cause every prisoner to be weighed immediately on his admission to a prison and once every month thereafter.

(3) The weight of a prisoner determined at each weighing referred to in sub-rule (2) shall be recorded in the prisoner's record and in such books as the Commissioner may determine.

(4) The officer in charge shall notify the medical officer of any substantial change in the weight of any prisoner.

104. Subject to the provisions of rules 116 and 163, every prisoner shall be dressed in appropriate prison clothing and such clothing shall be in accordance with such classifications as may be laid down in the Standing Orders.

Prisoners to be
dressed in prison
clothing

105. (1) Unless the medical officer otherwise directs and subject to sub-rule (3), the hair of male prisoners shall be cut short and their beards, if any, shall be shaved as often as may be necessary to preserve clean and decent appearance of such prisoners.

Haircutting of prisoners

(2) The hair of female prisoners shall not be cut unless the medical officer considers it to be necessary for reasons of health or cleanliness or where a female prisoner so desires.

(3) The hair of a prisoner awaiting trial shall be kept, as far as cleanliness permits, in the same state as it was on his admission to prison.

106. A prisoner who is due for discharge from prison and who is suffering from any acute or dangerous illness shall, subject to the provisions of section *one hundred and eleven* of the Act, be transferred to a Government hospital.

Removal to Government hospital on discharge

107. A prisoner may be vaccinated or re-vaccinated at the direction of the medical officer.

Vaccination of prisoners

108. If a prisoner-

(a) is found to be suffering from any infectious or contagious disease; or

(b) is in a verminous condition;

the officer in charge shall take steps to place such prisoner under treatment and to prevent such disease or condition from spreading to other prisoners.

Prisoners with infectious or contagious diseases

109. (1) At every prison there shall be established a board, to be known as "the reception board" consisting of the officer in charge and such other persons as the Commissioner may appoint.

Establishment of reception boards

(2) The reception board shall, as soon as possible after a prisoner's admission to a prison and not later than the day following his admission (unless such day be a Sunday or public holiday), interview the prisoner and shall consider and make arrangements for his training.

(3) The reception board shall, as soon as may be after a prisoner's admission to prison, classify him.

110. (1) Every prisoner shall, on admission to a prison, be provided with full information about so much of these Rules as concern the treatment of prisoners of his class, earnings and privileges, the proper method of submitting petitions and of making complaints, food, clothing, bedding and other necessities and the disciplinary requirements of the prison.

Information to prisoners on admission

(2) A printed abstract of these Rules in the English language (including full diet scales) and approved by the Commissioner with translations in Bemba, Nyanja, Lozi and Tonga, relating to the treatment and conduct of prisoners shall be kept posted in every prison in places accessible to all prisoners and shall be read out to a prisoner within twenty-four hours of his admission to prison.

111. A prisoner who is committed to prison in default of payment of a fine, compensation, debt or costs or for want of surety shall, on admission, be informed of the means whereby he may obtain his release from prison.

Prisoners committed in default of payment

112. (1) The officer in charge shall, at least once a month, check the release dates of all prisoners who are due for discharge in the ensuing month.

Checking of release dates of prisoners

(2) The officer in charge shall, one month before the discharge of any prisoner, notify the police of such discharge as may be required by Standing Orders.

113. The full amount of savings which a prisoner may accumulate under the earnings scheme shall be paid to the prisoner on discharge or release by the officer in charge and both the officer in charge and the prisoner shall sign their names in the prisoners' earnings account book to certify the correctness of the payment and its receipt by the prisoner.

Savings to be paid on discharge

114. (1) There shall be established at every prison a board to be known as "the discharge board" which shall consist of the officer in charge and such other persons as the Commissioner may appoint.

Establishment of discharge boards

(2) The discharge board shall, at least one month before the prisoner's discharge or release, determine the action to be taken as regards the prisoner's welfare and after care after his discharge or release from prison.

(3) The officer in charge shall enter details of the discharge board's determinations made under this rule in the prisoner's record.

115. All sentences shall be computed as follows:

Computation of sentences

(a) a term of imprisonment shall be deemed to run from the first moment of the day on which the sentence begins;

(b) a prisoner who is sentenced to a term of imprisonment shall not be entitled to a discharge until the end of the last day of his sentence and due provision shall be made for any remission to which the prisoner may be entitled; and

(c) a sentence of imprisonment expressed in terms of one month or so many months, or one year or so many years, shall run to the date in the month or year in which it expires preceding that on which it commenced whatever be the number of days in the month or months or year or years.

116. (1) A prisoner shall not appear in court whilst in prison clothing.

Special clothing for appearance in court

(2) If the private clothing of a prisoner is not suitable or sufficient for the purpose of his appearance in court, he shall be provided with garments which are not of a prison pattern.

PART IV

PROGRESSIVE STAGE SYSTEM

117. (1) There shall be established at every prison a system of progressive stages to be known as "the Progressive Stage System" hereinafter referred to as the "system":

Establishment of progressive stage system

Provided that the provisions of this Part shall not apply to inmates in a

youth corrective centre and to unconvicted and civil prisoners.

(2) There shall be five stages of the system, namely: "first stage", "second stage", "third stage", "fourth stage" and "special stage".

(3) Subject to sub-rule (1) of rule 118, promotions from one stage to another shall depend upon good conduct, industry and length of service of a prisoner in each stage of the system.

(4) The whole term of imprisonment which a prisoner is liable to serve under consecutive or overlapping sentences shall be treated as one sentence for the purpose of the system.

118. (1) The first stage of the system shall consist of short sentence prisoners and there shall be no promotion from the first stage to any other stage. First stage of system

(2) A prisoner in the first stage shall-

(a) wear a white band on the right arm; and

(b) be eligible to participate in the earnings scheme provided that he is of good conduct and is industrious.

119. (1) Upon admission to prison, a long sentence prisoner shall be placed in the second stage and shall remain therein for a period of three months and shall not be promoted to the third stage or any other stage until he has served in that stage for a period of not less than one month without being found guilty of a prison offence. Second stage of system

(2) A prisoner in the second stage shall-

(a) wear a yellow band on the right arm; and

(b) be eligible to participate in the earnings scheme provided that he is of good conduct and is industrious.

120. (1) A long sentence prisoner shall, after serving for a period of three months in the second stage or such longer period as he may be required to serve therein, enter the third stage and shall remain in that stage for a period of twelve months and shall not be promoted to the fourth stage or special stage until he has served in that stage for a period of not less than three months without being found guilty of a prison offence. Third stage of system

(2) A prisoner in the third stage shall-

(a) wear a red band on the right arm; and

(b) be eligible to participate in the earnings scheme provided that he is of good conduct and is industrious.

121. (1) A long sentence prisoner shall, after serving for a period of twelve months in the third stage or such longer period as he may be required to serve therein, enter the fourth stage and shall not become eligible for promotion to the special stage until he has served in that stage for a period of at least six months without being found guilty of a prison offence. Promotion to the special stage shall only be given to specially selected prisoners who merit promotion by reason of their exemplary character and industry. Fourth stage of system

(2) A prisoner in the fourth stage shall-

(a) wear a blue band on the right arm; and

(b) be eligible to participate in the earnings scheme provided that he is of good character and is industrious.

122. (1) A long sentence prisoner may, after serving for a period of fifteen months in the fourth stage or such longer period as he may be required to serve therein and who is of exemplary character and is industrious, be promoted to the special stage. Special stage of system

(2) A prisoner in the special stage shall-

(a) wear a special blue suit; and

- (b) be eligible to participate in the earnings scheme, and
- (c) be known as an "honour prisoner" and if-
 - (i) his conduct has been excellent continuously from the time he entered the fourth stage; and
 - (ii) he has been in the special stage for a period of at least two years;

he may be discharged from prison seven days earlier than his normal date for discharge if the Commissioner so directs.

123. (1) A prisoner who has been found guilty of a prison offence may be reduced to a lower stage by the Commissioner or the officer in charge: Reduction in stage as punishment

Provided that a long sentence prisoner shall not be reduced to the first stage.

(2) A prisoner who has been reduced to a lower stage shall not be entitled to re-enter his previous stage, and shall not be promoted to any stage, unless-

- (a) in the case of reduction from the third or fourth stage, he has served for a period of three months without being found guilty of a prison offence; or
- (b) in the case of a first reduction from the special stage, he has served for a period of six months without being found guilty of a prison offence; or
- (c) in the case of a second reduction from the special stage, he has served for a period of twelve months without being found guilty of a prison offence.

124. Privileges shall be afforded to prisoners as follows: Privileges of prisoners

- (a) prisoners in the first and second stages shall-
 - (i) be allowed to have library books and to exchange them as often

as may be practicable;

(ii) receive such other privileges as the officer in charge may direct:
and

(iii) be entitled to send and receive one letter every four weeks and to receive one visit of twenty minutes' duration every four weeks or to write and receive one letter in lieu;

(b) prisoners in the third stage shall-

(i) be allowed to attend concerts, cinema shows, lectures and handicraft and school classes;

(ii) be allowed to have library books and to exchange them as often as may be practicable; and

(iii) be entitled to write and receive one letter every three weeks and to receive a visit of twenty minutes' duration every four weeks or to write and receive one letter in lieu;

(c) prisoners in the fourth and special stages-

(i) may be allowed to attend concerts, cinema shows, lectures and school and handicraft classes and to partake in other evening activities which may be arranged;

(ii) may have approved means of recreation in their cells;

(iii) may be permitted to leave a prison under escort in order to take part in competitive games approved by the officer in charge;

(iv) shall be allowed to have library books and to exchange them during the hours the library is open; and

(v) in the case of fourth stage prisoners, shall be entitled to write and receive one letter every two weeks and to receive a visit of twenty minutes' duration every three weeks or write and receive a letter in lieu;

(d) prisoners in the special stage, in addition to the privileges hereinbefore mentioned-

(i) shall receive letters without restriction and shall be allowed to write one letter every week and to receive a visit of thirty minutes' duration every two weeks or write a letter in lieu;

(ii) shall be permitted whenever possible to occupy separate dormitory accommodation and, where this is not possible, their cells may be provided with special furniture and extra bedding;

(iii) shall not be locked in their cells or dormitory at midday or until one hour after the normal hour of lock up and similar facilities may be provided at weekends; and

(iv) may be permitted to move about the prison without escort.

125. The officer in charge may permit a special stage prisoner to lead other prisoners in the vicinity of the prison or in small working parties. Special stage prisoners may lead parties

126. The Commissioner may, subject to the provisions of sub-rule (1) of rule 118, authorise the promotion of a prisoner to a higher stage or to the special stage for any act or conduct on the part of the prisoner concerned which is considered particularly deserving of reward. Commissioner may make special promotions

127. (1) The Commissioner may direct that prisoners in any stage shall be eligible to receive additional privileges, including additional visits and letters, but they shall be liable to forfeit such privileges as punishment or part of punishment for a prison offence. Commissioner may grant additional privileges

(2) Prisoners in all stages shall be eligible to receive suitable books or periodicals of an educational nature subject to such directions as the Commissioner may from time to time give.

PART V

LETTERS AND VISITS

128. (1) All prisoners shall be entitled to send and receive letters and to receive visits as provided in these Rules, subject to such restrictions as may be necessary for the maintenance of discipline and order in prisons and the prevention of crime. Authorised communications to prisoners

(2) Except as provided in the Act or these Rules, no visits to a prisoner shall be permitted without a pass issued by the officer in charge.

(3) The sending and receiving of letters and the receiving of visits by any prisoner may, at the discretion of the officer in charge, be deferred at any time in case of misconduct on the part of a prisoner but shall not be subject to forfeiture.

(4) When a prisoner who becomes entitled to a letter or a visit under these Rules is, at the time of such entitlement, undergoing punishment in separate confinement, such letter or visit shall be deferred at the discretion of the officer in charge.

129. (1) The Commissioner may allow additional letters and visits to any prisoner or prisoners. Commissioner may impose restrictions

(2) Subject to the provisions of the Act and these Rules, the Commissioner may impose such restrictions upon, and supervision over, letters and visits as he deems necessary for securing discipline and good order, for the prevention of crime and the association of criminals and for the welfare of prisoners.

130. (1) The Commissioner may, subject to any directions which may be issued by the Minister, authorise that the costs or a portion of the costs of a visit to a prisoner made by indigent relatives of the prisoner who has served three years of his sentence without being visited by his relatives shall be paid to the visiting relatives. Costs of visits by relatives of certain prisoners

(2) The officer in charge shall recommend to the Commissioner any case in which, in his opinion, the costs or a portion of the costs of a visit to a prisoner made by indigent relatives of the prisoner who has served three years of his sentence without being visited by his relatives should be paid to the visiting relatives.

131. (1) The officer in charge may allow a prisoner to send a special letter and to receive a reply or special visit in any of the following circumstances, that is to say: Special letters, visits and communications

(a) at the death or sudden illness of a near relative of the prisoner;

(b) in order to attend to business or family affairs of an urgent nature; or

(c) in order to make arrangements for obtaining employment or assistance from friends when the prisoner is released.

(2) The officer in charge may at any time communicate to a prisoner,

or to his relatives or friends, any matter of importance relating to a prisoner where a prisoner is not entitled to write or receive a letter or a visit.

132. (1) No prisoner shall be allowed more than three visitors at any one time. Restriction and supervision of visits

(2) All visits to prisoners shall take place during such hours as the officer in charge may direct and, subject to the provisions of the Act or these Rules, such visits shall be in the sight and hearing of a prison officer.

133. No communication shall be allowed between an ex-prisoner and a prisoner except by authority of the officer in charge. Communication with ex-prisoners

134. (1) Subject to sub-rule (6), every letter or document written in a prison by or on behalf of a prisoner shall be delivered to the officer in charge and shall be endorsed in accordance with the provisions of subsection (1) of section *seventy-nine* of the Act. Censoring of letters

(2) The officer in charge or a prison officer to whom he has delegated the duty shall read every letter to and from a prisoner in his custody:

Provided that all letters written or received by a prisoner charged with a capital offence shall be carefully examined by the officer in charge personally.

(3) The officer in charge may stop any letter or document referred to in sub-rules (1) and (2) if, in his opinion, its contents are objectionable or it is of inordinate length.

(4) A prisoner whose letter or document is stopped under sub-rule (3) shall be advised that the letter or document has been so stopped.

(5) A prisoner to whom a letter or document is sent which has been stopped under sub-rule (3) may elect, after he has been advised in accordance with sub-rule (4), to have the letter or document returned to the sender or to have it placed with his property which may be in the

custody of the officer in charge and such letter or document shall be delivered to the prisoner when he is released or discharged.

(6) There shall be exempt from the provisions of subsection (1) of section *seventy-nine* of the Act a letter or document written or prepared by a prisoner or by a legal adviser on his behalf-

(a) for the purpose of, or in connection with, proceedings in any court or tribunal established under the provisions of any written law;

(b) purporting to be a power of attorney, agreement, deed, conveyance, transfer, mortgage, bond assignment, cession, lease, promissory note, bill of exchange, will or other legal document of a like nature;

(c) purporting to be a note, memorandum or instruction authorising a legal adviser acting on behalf of a prisoner to prepare any of the documents referred to in paragraph (b);

(d) purporting to be a notice, application, certificate, return, statutory declaration or other like document prescribed or required in terms of any written law.

(7) The expenses incurred in despatching letters written by or on behalf of prisoners under these Rules shall be defrayed out of moneys provided for the purpose.

135. The officer in charge shall permit a legal adviser of a prisoner who is a party to legal proceedings to interview him in connection with such proceedings in the sight but not in the hearing of a prison officer. Visits by legal advisers

136. Any public officer with a valid warrant, writ, order or any other legal document to be served on a prisoner shall be admitted to the prison at any reasonable time for the purpose. Service of writs on prisoners

137. Every civil prisoner shall be subject to the same provisions as regards receiving visits and letters as a convicted criminal prisoner in the first stage of the Progressive Stage System. Letters and visits to civil prisoners

138. (1) An unconvicted prisoner shall have facilities-

Letters and visits to
unconvicted
prisoners

(a) for seeing his relatives and friends and his legal advisers, and, if he is not a Zambian, his consular representative; and

(b) for sending and receiving letters consistent with the discipline of the prison.

(2) A person who is committed to prison in default of payment of a fine, compensation, debt or costs or in default of finding a surety, shall be allowed to communicate to or to have an interview with, any of his relatives or friends at any reasonable time for the *bona fide* purpose of providing for the payment of such fine, compensation, debt or costs or for the purpose of finding the necessary surety.

139. If a prisoner who is dangerously sick desires to be visited by a near relative or friend, the officer in charge may give permission for such relative or friend to visit the prisoner.

Visitors to
dangerously sick
prisoners

PART VI

PETITIONS AND COMPLAINTS

140. (1) Any prisoner may, through the officer in charge, submit a petition under this rule but, subject to sub-rule (5), no prisoner shall be permitted to submit a petition under this rule regarding his conviction or sentence unless and until the expiration of the period within which such prisoner is legally entitled to appeal against such conviction or sentence.

Petitions by
prisoners

(2) Any prisoner may submit a petition regarding his conviction or sentence to the President as follows:

(a) after serving at least one year of his sentence; and

(b) after serving at least three years of his sentence; and

(c) subsequently at two-yearly intervals or at such times as in the

opinion of the officer in charge there are special circumstances which should be brought to the notice of the President.

(3) A prisoner may submit a petition to the President on any matter other than his conviction or sentence at any time:

Provided that no petition shall be permitted if the reply to a previous petition made by such prisoner on the same subject is still outstanding.

(4) A prisoner may submit a petition to the Commissioner in respect of any matter affecting his imprisonment at any time.

(5) A prisoner under sentence of death may petition the President on any matter while the prisoner is under such sentence.

(6) The officer in charge shall, without delay, submit to the Commissioner any petition submitted by a prisoner under this rule.

141. (1) A prisoner may make any complaint or application to a visiting justice, an official visitor, the Commissioner, the officer in charge or the chief officer, and, in the case of a female prisoner, to the senior woman prison officer, but no complaint shall be made to any subordinate officer except to report sickness.

Prisoners' complaints
and applications

(2) The officer in charge shall make arrangements to ensure that any request made by a prisoner to see the Commissioner, an official visitor or a visiting justice is recorded by the officer to whom it is made and that such request is conveyed without delay to the officer in charge who shall inform the Commissioner, official visitor or visiting justice when such person next visits the prison of such request.

(3) All complaints and applications made by prisoners shall be heard or attended to by the officer in charge every day except Sundays or public holidays, and the officer in charge shall record in a book kept for the purpose the action taken in each case.

PART VII

EMPLOYMENT OF PRISONERS

142. (1) The Commissioner may authorise the introduction of an earnings scheme for prisoners in any prison or any part of a prison.

Earnings scheme

(2) A prisoner under sentence of death shall not be subject to employment and the provisions of this Part shall not apply to such prisoner.

143. Every prisoner shall, on admission to a prison to which an earnings scheme has been introduced, be eligible to receive such payments as are prescribed in the Third Schedule:

Rates of payment

Provided that no prisoner shall be eligible to be paid for days spent in a hospital or for days spent in separate confinement as a punishment for a prison offence.

144. (1) The Commissioner may, on the recommendation of the officer in charge, vary the rate of payment in respect of any prisoner or class of prisoners.

Commissioner may vary rates of payment

(2) Any variations in the rate of payment made to any prisoner under sub-rule (1) shall be recorded in the prisoner's record.

145. (1) All prisoners who are eligible to participate in the earnings scheme shall be graded as follows:

Grading of prisoners

(a) first stage prisoners and inmates;

(b) Grade C prisoners who shall be all long sentence prisoners other than Grade B and Grade A prisoners;

(c) Grade B prisoners who shall be all long sentence prisoners who, in the opinion of the officer in charge, are of good conduct and are skilled or semi-skilled in their trade, or have an output and effort at work which is above average and are placed in this grade by the officer in charge;

- (d) Grade A prisoners who shall be-
- (i) all long sentence prisoners who, in the opinion of the Commissioner, are of exemplary conduct and are skilled in their trade and are placed in this grade by the Commissioner; and
 - (ii) all long sentence prisoners who have, under sub-rule (1) of rule 122, been promoted to the special stage.

(2) Grade C prisoners engaged in collective work may receive payment for work completed in excess of a fixed task in accordance with such instructions as may be issued by the Commissioner:

Provided that such a prisoner shall not receive more than a Grade A prisoner.

146. The Commissioner may, by Standing Orders, or otherwise in writing, prescribe the method of accounting to be adopted in the administration of the earnings scheme. Method of accounting

147. (1) A prisoner who is certified as unfit for normal prison labour by the medical officer shall not be put to any form of labour until the medical officer has certified him fit for the particular labour to which it is intended to put him. Prisoners unfit for normal labour

(2) A prisoner who has been classified as unfit for any type of labour shall be permitted to exercise for one hour each day if he is fit enough to do so.

148. All prisoners who are not employed in association with one another or who are employed on sedentary work, such as tailoring or mat-making, shall, if circumstances permit, be permitted to exercise in the open air for one hour each day. Exercise for special prisoners

149. The officer in charge shall ensure that- Type and record of prisoners' labour

- (a) all convicted criminal prisoners are properly and usefully employed;
- (b) prisoners are not employed on work which is dangerous;
- (c) a note of each type of work on which a prisoner is employed is

entered in the prisoner's record.

- 150.** The hours of labour for prisoners shall be prescribed by the Commissioner and different hours may be prescribed for different classes of prisoners. Commissioner to prescribe hours of labour
- 151.** At each prison a record of the daily work of the prisoners shall be kept by the officer in charge in such form as the Commissioner may direct. Entries in employment book
- 152.** The officer in charge shall personally assign to each criminal prisoner the type of work or labour to which he is best suited, but before doing so the officer in charge shall give consideration to the necessity of affording each prisoner the best training which his sentence, his capacity and the resources of the prison allow and to the recommendations, if any, of the medical officer. Allocation of labour to prisoners
- 153.** The officer in charge shall decide, with particular regard to security, the proportion of prison officers to prisoners in working parties of more than four prisoners where such working parties are employed outside the precincts of the prison. Ratio of escorts to working parties
- 154** (1) Subject to the provisions of this rule, no prisoner shall be hired out to or placed at the disposal of- Restriction on hire of prisoners
- (a) another prisoner;
 - (b) a prison officer or other person employed in the prison;
or
 - (c) any private person, company or association
- (2) With the concout of the Commissioner, a prisoner may be hired out or placed at the disposal of a parastatal organisation, a public company, a statutory corporation or a public institution:

Provided that such prisoner shall work under the supervision or control of a prison officer or other public officer.

(3) Where a prisoner is hired out in exercise of the powers contained in this rule, the hirer shall pay to the Government the wages specified in the Eighth Schedule.

(As amended by S.I. No. 123 of 1982)

154A. Revoked by S.I. No. 123 of 1982

155. No prisoner shall be employed in any disciplinary capacity. Employment of prisoners in disciplinary capacity

156. (1) Subject to sub-rule (3), no prisoner shall be required to do any labour on Sundays or public holidays except such labour as may be necessary for keeping the prison premises clean and for cooking prisoners' rations. Work on Sundays and public holidays

(2) The officer in charge shall ensure that on public holidays properly organised recreation and exercise are arranged for the prisoners.

(3) Criminal prisoners of the Jewish faith shall not be compelled to work on Saturdays if they make a claim for such exemption, but any such prisoners who claim this exemption shall be liable to work on Sundays.

(4) Prisoners of the Orthodox Muslim faith shall be allowed to observe the fast of Ramadan and during such fast those who are criminal prisoners shall be required to work at such reduced task as the officer in charge may order.

(5) The Commissioner may issue such other orders as may, in his opinion, be necessary in regard to the days on which prisoners who are members of religious communities not specifically mentioned in sub-rules (3) and (4) shall not be required to engage in labour.

PART VIII

ESCAPES, PROHIBITED ARTICLES AND AREAS

157. It shall be the duty of all prison officers at all times to prevent the escape of prisoners and, for the purpose of giving effect to this rule, no ladders, planks, ropes, chains or anything fit to facilitate the escape of prisoners shall be left unsecured in a prison.

Duty of officers to prevent escape of prisoners

158. (1) Upon receiving a report of an escape of a prisoner, the officer in charge shall-

Action in event of escape of prisoner

(a) order the prison and its neighbourhood to be searched at once;

(b) circulate notification of the escape and the prisoner's particulars and description to the officer in charge of police of the nearest police station; and

(c) notify the Commissioner.

(2) The officer in charge shall, as soon as may be after receiving a report of an escape of a prisoner, hold an inquiry about such escape and shall submit a full report to the Commissioner.

159. (1) A prisoner who, during a previous detention in lawful custody, has escaped or attempted to escape, shall be considered and treated as a potential security risk unless excluded personally by the officer in charge for any reason.

Potential escapees

(2) A prisoner to whom sub-rule (1) applies shall be required to wear clothing with a distinctive mark.

160. The period during which a prisoner is at large shall not be counted as part of the sentence he was undergoing at the time of his escape.

Period at large not to count as served

161. (1) No prisoner shall, save as is provided in the Act, these Rules or Standing Orders, have in his possession money, food, clothing, liquor, tobacco, cigarettes, letters, papers, books, stupefying drinks, drugs or any other prohibited article.

Prohibited articles

(2) If a prison officer has reason to suspect that a prisoner is in

possession of a prohibited article, he shall, subject to the provisions of section *fifty-eight* of the Act and rule 71, carry out a special search of-

(a) such prisoner and may remove his clothing out of sight of other prisoners and the prison staff;

(b) the cell occupied by such prisoner if he considers it necessary.

PART IX

CIVIL AND UNCONVICTED PRISONERS

162. (1) No civil prisoner or unconvicted prisoner shall be confined in association with convicted prisoners. Unconvicted prisoners to be segregated

(2) Civil prisoners and unconvicted prisoners may be permitted during their periods of exercise to associate together in an orderly manner and to smoke under such conditions as the Commissioner may prescribe.

163. (1) A civil prisoner or an unconvicted prisoner may be permitted to wear his own clothing and may be permitted to procure for himself or to receive such articles of clothing at such times as the officer in charge may approve: Private clothing

Provided that any such prisoner not having proper clothing of his own shall be provided with prison clothing.

(2) Bedding shall be provided for all civil prisoners and unconvicted prisoners on the same scale as convicted prisoners in the first stage.

(3) The officer in charge may require any civil prisoner or unconvicted prisoner who attempts to escape to wear prison clothing.

164. The officer in charge or the medical officer may, for the purposes of preventing the introduction or spread of infectious disease in a prison, order that any clothing permitted to be worn by a prisoner under sub-rule (1) of rule 163 be disinfected and during the process of disinfection the prisoner may be required to wear prison clothing. Disinfection of prisoner's clothing

165. A prisoner charged with a capital offence shall be kept under special observation at all times. Persons charged with capital offence

166. A prisoner who is on remand or awaiting trial shall, if necessary for the purposes of his defence, be allowed to see a registered medical practitioner of his own choice, at any reasonable time, in the sight but not in the hearing of the officer in charge or any prison officer detailed by the officer in charge for the purpose. Private medical advice

167. (1) The officer in charge may modify the routine of the prison in regard to any civil prisoner or unconvicted prisoner so as to dispense with any practice which, in the opinion of the officer in charge, is clearly unnecessary or unsuitable in respect of such particular prisoner. Modification of prison routine and withdrawal of privileges

(2) Any privilege allowed under this Part may at any time be withdrawn by the officer in charge if he is satisfied that there has been abuse thereof.

168. (1) The amount of money to be paid for the daily maintenance of a judgment debtor shall be prescribed by the Minister and shall be paid weekly in advance. Maintenance of judgment debtors

(2) The officer in charge shall not admit to his prison any person as a judgment debtor unless he has received from the judgment creditor payment of one week's maintenance in advance.

(3) For the purpose of payment for maintenance of a judgment debtor under this rule, a period of detention of a judgment debtor shall be treated as commencing at twelve noon on the day of his admission to prison.

(4) If the money for the maintenance of a judgment debtor has not been paid by twelve noon on the day it is due, the officer in charge shall forthwith discharge the judgment debtor.

(5) The officer in charge shall discharge a judgment debtor immediately-

- (a) upon payment of the amount of the debt and costs mentioned in the prisoner' warrant of commitment; or
- (b) upon the giving up by the judgment creditor of his written consent to the discharge; or
- (c) upon an order of the court which committed him to prison.

PART X

DISCIPLINE OF PRISONERS

169. Every offence against prison discipline committed by a prisoner which comes to the notice of a prison officer shall be reported to the officer in charge and the officer in charge shall investigate such report not later than the following day unless that day be a Sunday or a public holiday.

Offences by prisoners to be dealt with promptly

170. (1) Every prisoner sentenced to penal or reduced diet as a punishment for a prison offence shall, before undergoing such punishment, be examined by the medical officer who shall certify the prisoner's fitness to undergo such punishment.

Medical examination of certain prisoners

(2) A prisoner shall not be made to undergo a punishment of penal or reduced diet within a period of twenty-four hours immediately preceding the day of his discharge or, if circumstances permit, on the day preceding his appearance before a court.

171. (1) A prisoner sentenced to separate confinement shall not be entitled to receive visits other than visits by prison officers on duty, a minister of religion or the medical officer, and such prisoner shall have only such outdoor exercise as the medical officer may certify to be absolutely necessary for his health.

Visits to prisoner in separate confinement

(2) Every prisoner who is in separate confinement or who is subjected to a penal or reduced diet as a punishment for a prison offence shall be visited at least once a day by the officer in charge.

(3) The medical officer shall visit a prisoner who is in separate confinement as often as is practicable.

172. The medical officer shall, at the infliction of every sentence of corporal punishment on a prisoner, give such instructions as may be necessary for preventing injury to the health of the prisoner and the officer in charge shall carry such instructions into effect.

Prevention of injury when corporal punishment is inflicted

173. (1) For the purpose of subsection (5) of section *one hundred and two* of the Act-

Type of cane and corporal punishment

(a) the type of cane with which corporal punishment shall be inflicted shall be-

(i) in the case of a prisoner under the age of nineteen years, a rattan cane, three feet long and not more than three-eighths of an inch in diameter;

(ii) in the case of a prisoner who is nineteen years of age or over, a rattan cane, four feet long and not more than half an inch in diameter;

(b) the manner in which corporal punishment shall be inflicted shall be as follows:

(i) a blanket or similar form of protection shall be placed across the small of the prisoner's back above the buttocks;

(ii) a small square of thin calico shall be dipped in water, wrung out and tied over the prisoner's buttocks;

(iii) strokes shall be administered from one side upon the buttocks of the prisoner and on no account on the back.

(2) No corporal punishment shall be inflicted on a prisoner in the presence of another prisoner or prisoners.

174. The officer in charge shall enter in the corporal punishment book the time at which corporal punishment has been inflicted, the number of strokes inflicted and any order which the medical officer may have given as to the prohibition of corporal punishment.

Corporal punishment book

175. A return of all corporal punishments ordered and all such punishments inflicted shall be submitted by the officer in charge to the

Returns of punishments to

Commissioner monthly.

Commissioner

176. The officer in charge shall-

Entries in prisoners' punishment book

(a) enter in the prisoners' punishment book a record of every prisoner punished under the Act or these Rules, showing the date, nature of the offence and punishment, the name of the prisoner, and the authority dealing with the case;

(b) enter in the prisoner's record a record of punishment of the prisoner.

177. (1) When a prisoner is placed in separate confinement as a punishment for a prison offence and when a prisoner is awaiting the hearing of a charge against him for a prison offence, the bedding, accessories and clothing which he is not wearing at the time and all the cell equipment, other than the latrine equipment, may be removed from his cell.

Certain prisoners may be denied privileges

(2) A prisoner in separate confinement may be supplied with a book of a religious nature.

(3) A prisoner in separate confinement shall be exercised for one hour each day and during such period he shall be required to bathe himself.

178. The officer in charge shall ensure that every prisoner placed in separate confinement shall-

Visits to prisoners in separate confinement

(a) be visited by the chief officer not less than twice a day;

(b) be visited by any prison officer other than the chief officer at intervals of not less than thirty minutes.

179. The Commissioner may review any punishment imposed under paragraph (b) of subsection (1) of section *ninety-three* of the Act upon a prisoner found guilty of a prison offence and may vary or remit such punishment.

Commissioner may vary punishment

180. (1) No prisoner shall be placed under mechanical restraint as a punishment.

Use of mechanical restraints

(2) No prisoner shall be placed in fetters except as means of restraint or to prevent escape of a prisoner and only fetters of a pattern which has been approved by the Commissioner may be used.

(3) The officer in charge may order the use of handcuffs for prisoners who are in course of transfer from one prison to another:

Provided that it shall not be permitted under any circumstances to place prisoners in leg irons who are in course of transfer from one prison to another.

(4) The officer in charge may place a prisoner under mechanical restraint if he considers it necessary for the safe custody of the prisoner, and the particulars of every such case shall be recorded in the journal of the officer in charge and of the chief officer and in the restraint book, and notice thereof shall be given immediately to the medical officer and the Commissioner:

Provided that any mechanical restraint applied under this sub-rule shall not be continued for more than twenty-four hours unless the Commissioner has given his consent and the Commissioner's consent shall be confirmed in writing.

(5) Where a prisoner is kept under mechanical restraint beyond the period of twenty-four hours, the officer in charge shall obtain from the medical officer a certificate as to the fitness of the prisoner to undergo such restraint. The consent referred to in sub-rule (4) and the medical certificate issued under this sub-rule shall be preserved by the officer in charge and shall be regarded as his authority for applying such mechanical restraint beyond twenty-four hours.

PART XI

REMISSION OF SENTENCE

181. (1) Where one term of imprisonment is consecutive to another term, such terms shall be treated as one term for the purpose of remission of sentence.

Calculation of sentences for remission

(2) Where one sentence is partly concurrent with, but overlaps another sentence, the latter sentence shall be added to the period of the former sentence actually served when the latter commenced and remission of sentence shall be calculated on the total period.

(3) Where a court orders a fresh sentence "to commence at the expiration of the sentence the prisoner is now serving" or other words to the like effect, the order of the court shall be interpreted literally.

(4) Where a prisoner is sentenced to two or more terms of imprisonment on different counts, such sentences shall be consecutive unless the court orders otherwise.

(5) Where a prisoner is sentenced to several terms of imprisonment on several warrants at the same time, or is sentenced to a further term or terms of imprisonment before the expiration of his first sentence, his several sentences on all the warrants shall be consecutive unless otherwise ordered by the court and the aggregate term shall run from the date of the first warrant.

(6) Any doubt or difficulty regarding the computation of sentences and remission shall be referred to the Commissioner for a ruling.

182. (1) Any remission of sentence due to a prisoner shall be computed upon the prisoner's admission to prison and thereafter as may be necessary. Record of remission
to be kept

(2) The earliest possible date of discharge and the latest possible date of discharge shall be recorded by the officer in charge-

(a) in the prisoner's record;

(b) in the discharge diary; and

(c) on the warrant slip;

and such dates shall be amended by the officer in charge from time to time as may be necessary.

183. The operation of the remission of sentences shall be explained to every prisoner on admission and when, for any reason, remission due to a prisoner is forfeited the officer in charge shall ensure that the prisoner is made fully aware of such forfeiture.

Operation of remission of sentences to be explained

184. A prisoner who is transferred to a mental hospital or leprosarium shall be entitled to remission of sentence under section *one hundred and nine* of the Act.

Prisoners in mental hospital or leprosarium

185. The period of remission, calculated in days, to which a prisoner shall not be entitled under subsection (4) of section *one hundred and nine* of the Act, shall be one-third of the number of days spent by the prisoner in hospital or separate confinement.

Calculation of forfeited remission

186. A prisoner who is entitled to remission of sentence under the Act or these Rules shall be entitled to be discharged on the day after he has completed earning his remission.

Release on day after earning total remission

187. (1) When a prisoner avails himself of the right to obtain his earlier release by part payment of a fine, he shall be allowed to earn full remission of sentence on the full period of his sentence, less than part for which he has paid, if the balance of the term of imprisonment is more than one calendar month.

Remission in regard to part payment of fines

(2) If part of a fine imposed on a prisoner is paid before the expiration of a period of imprisonment imposed on him in default of payment of such fine, a proportionate reduction in the period of his imprisonment shall be made.

(3) No payment of an amount of fine which may have the effect of reducing a period of imprisonment imposed in default of payment of such fine by part of a day shall be accepted.

(4) The payment of part of a fine shall be made between the hours of 8.00 a.m. and 4.00 p.m. Monday to Friday inclusive and between the hours of 8.00 a.m. and 12.30 p.m. on Saturday. The payment of a fine imposed on a prisoner or part thereof shall be made to the officer in charge of the prison where the prisoner is confined or the clerk of the court which imposed the fine:

Provided that-

- (i) the payment of part of a fine shall not be accepted between the hours of 12.30 p.m. on Saturday and 8.00 a.m. on Monday, nor on a public holiday;
- (ii) the payment of a fine in full shall be accepted at any time.

PART XII

DISCHARGE AND PAROLE

188. Where the Minister permits a young prisoner to be temporarily absent from the prison under the provisions of section *one hundred and fifteen* of the Act, the Minister shall issue to such young prisoner a permit in the form set out in the Fourth Schedule. Permit to be at large by Minister

189. Where the Commissioner permits a prisoner to be absent from prison under sections *one hundred and fourteen* and *one hundred and forty-two* of the Act, the Commissioner shall issue to the prisoner a permit in the form set out in the Fifth Schedule. Permit to be at large by Commissioner

190. Upon a temporary release from prison of a prisoner by the Minister or the Commissioner, the officer in charge shall explain to the prisoner the conditions subject to which he is permitted to be absent from prison. Conditions of temporary release

191. Where the officer in charge considers that a prisoner should be permitted to be absent from prison under the provisions of section *one hundred and fourteen*, *one hundred and fifteen* or *one hundred and forty-two* of the Act, he shall send the necessary recommendation to the Commissioner immediately and shall give particulars, of the prisoner with full and detailed reasons for his recommendations. Recommendations by officer in charge

PART XIII

COMPULSORY AFTER CARE ORDERS

192. In this Part-

Interpretation

"holder" means a person in respect of whom a compulsory after care order has been made;

"order" means a compulsory after care order.

- 193.** The order shall be in the form set out in the Sixth Schedule. Form of order
- 194.** Upon the discharge of a holder from prison, the officer in charge shall explain to him the conditions contained in the order. Conditions of release to be explained
- 195.** The person named in the order as being responsible for the after care of the holder shall notify the Commissioner immediately it comes to his knowledge that the holder has failed to comply with any condition of the order. Contravention of order to be reported to Commissioner
- 196.** In every case where a prisoner is serving a sentence of imprisonment for a period of three years or more, and where such prisoner has been sentenced to a term of imprisonment on not less than two previous occasions, the officer in charge shall forward particulars of such prisoner to the Commissioner at least two months before the earliest possible date of his release. Report of prisoners liable to order

PART XIV

PRISONERS UNDER SENTENCE OF DEATH

- 197.** (1) The Commissioner shall cause a prisoner who has been sentenced to death to be transferred immediately under sufficient escort to the prison in the Republic where the sentence of death is to be carried out, unless such prisoner is already in such prison. Transfer of condemned prisoners
- (2) The officer in charge shall report to the Commissioner the admission of his prison of a prisoner under sentence of death who has been transferred under sub-rule (1) and shall state the date of the sentence, the court imposing the sentence and the offence.
- 198.** (1) Every prisoner under sentence of death shall be thoroughly searched and all prohibited articles found on him shall be removed Search of condemned prisoners

from him as soon as may be after his sentence has been delivered.

(2) The officer in charge shall cause a prisoner under sentence of death to be searched twice daily by a responsible prison officer and shall take every precaution to ensure that he does not obtain any article with which he may do himself harm or injury.

(3) A cell or room which is allocated to a prisoner under sentence of death shall be inspected as follows:

(a) immediately before it is occupied by such prisoner; and

(b) subsequently, on every occasion when such prisoner leaves his cell or room and before he re-occupies such cell or room, and the officer in charge shall satisfy himself as to the fitness and safety of such room or cell and shall record the fact of inspections in his journal.

(4) The cell or room in which a prisoner under sentence of death is confined shall not be unlocked save in the presence of at least two prison officers and it shall be thoroughly examined and searched daily while occupied by the condemned prisoner.

199. The officer in charge shall-

Appeals by
condemned prisoners

(a) inform every prisoner under sentence of death of his right of appeal;

(b) report to the Commissioner if-

(i) a prisoner under sentence of death lodges an appeal;

(ii) the period within which a prisoner under sentence of death may lodge an appeal as of right has lapsed.

200. A prisoner under sentence of death shall be asked if he wishes to see a minister of religion and if he so desires arrangements shall be made for a minister of religion to have access to such prisoner.

Visits by ministers of
religion

201. A prisoner under sentence of death shall be provided with the same kind of clothing, food and bedding as convicted prisoners

Clothing and
bedding

undergoing imprisonment and may be provided with such other articles as may be approved by the officer in charge

202. All visits made to a prisoner under sentence of death under section *one hundred and twenty-one* of the Act shall take place in the sight and hearing of a prison officer.

Visits to condemned prisoners

203. (1) A prisoner under sentence of death who becomes sick shall not be removed from the cell set aside for his detention without the authority of the Commissioner.

Illness of condemned prisoners

(2) The medical officer shall not treat any sick prisoner under sentence of death in any place other than the cell set aside for his detention without the authority of the Commissioner.

204. (1) Any prison officer who notices anything in the demeanour or behaviour of a prisoner under sentence of death indicating to him that the prisoner has become mentally disordered shall immediately report in writing to the officer in charge.

Mental disorder of condemned prisoners

(2) The officer in charge shall forward any report made to him under sub-rule (1) to the medical officer and the Commissioner.

205. If the officer in charge is satisfied that the relatives or friends of a prisoner under sentence of death have not the means to pay the costs of their transport to the prison where such prisoner is confined, he may recommend to the Commissioner that the whole or part of the costs be paid to the visiting relatives or friends and the Commissioner may thereupon authorise the necessary expenditure:

Expenses of visits by certain relatives

Provided that the cost of transport authorised under this rule shall be limited to the cost of transport of not more than three relatives or friends of the prisoner.

206. A prisoner under sentence of death may be issued with tobacco, cigarettes, snuff and such other luxuries as the Commissioner may direct.

Issue of special luxuries

207. (1) Upon receipt of a warrant of execution of a prisoner, the officer in charge shall give the prisoner concerned three days' notice of his impending execution. Notice of execution

(2) A prisoner under sentence of death who has been informed of his impending execution-

(a) may be given a special diet and such other privileges as the Commissioner may authorise in writing;

(b) shall be given an opportunity and reasonable facilities therewith to dispose of his property, if any.

208. The body of an executed prisoner shall be disposed of in accordance with the written instructions of the Commissioner. Disposal of body of executed prisoner

209. Such allowance as the Minister may approve shall be paid to the executioner, assistant executioner and prison officers attending an execution. Expenses of executioners

PART XV

VISITING JUSTICES, OFFICIAL VISITORS, MINISTERS OF RELIGION AND PRISONERS' AID SOCIETIES

210. (1) During a visit of inspection by a visiting justice or official visitor, neither the officer in charge nor the next senior prison officer shall accompany him, but the officer in charge or next senior officer shall inform such visiting justice or official visitor of any prisoner who has expressed an intention to see him and shall afford him every assistance in his inspection and shall detail a prison officer to accompany him. Visits to prison by visiting justices, etc.

(2) No person other than a prison officer or a prison employee shall be permitted to accompany a visiting justice or official visitor during the course of his inspection.

(3) A copy of the visiting justice's remarks, together with any comments by the officer in charge, shall be forwarded to the resident magistrate in whose jurisdiction the prison is situated and to the Commissioner immediately after the inspection has taken place.

(4) A copy of the official visitor's remarks, together with any comments by the officer in charge, shall be forwarded to the Commissioner immediately after the inspection has taken place.

211. (1) Every prisoner shall be required on admission to a prison to state his religious denomination, if any, and every such prisoner shall be treated as a member of such denomination during his whole term of imprisonment. Religious denominations

(2) No prisoner shall be allowed to change his religion except in special cases in which the officer in charge is satisfied, after due inquiry, that such change is proposed from conscientious motives and that it is not sought from any idle whim or caprice or from a desire to escape from prison discipline.

212. Religious services in prisons shall be in accordance with the provisions of section *one hundred and thirty-one* of the Act. Religious services in prisons

213. There shall, so far as practicable, be available for the use of prisoners such of the Scriptures and books of a religious nature as the Commissioner may direct. Supply of religious books

214. Prisoners shall be permitted to retain in their possession articles and publications of a religious nature approved by the minister of the prisoner's religious denomination. Retention of religious objects by prisoners

215. The Minister may authorise payment of travelling and subsistence allowances to official visitors, duly recognised ministers of religion and authorised representatives of a prisoners' aid society in respect of their functions under the Act or these Rules. Payment of travelling expenses

PART XVI

STAFF WELFARE FUND

216. (1) The Prison Service Staff Welfare Fund shall continue in force and shall be deemed to be established under these Rules and shall be administered by the Commissioner. Establishment of Fund

(2) The income of the Prison Service Staff Welfare Fund, hereinafter referred to as "the Fund", shall be provided from moneys appropriated by Parliament for the purpose.

217. (1) The Commissioner shall administer the Fund and such Fund shall be expended for the following objects: Administration of Fund

(a) rewards for outstanding acts of initiative and resource on the part of prison officers or for special skill in the performance of any prison duty requiring tact or ability on the part of prison officers;

(b) rewards for any meritorious act of bravery whereby life has been saved or property has been secured from loss or destruction;

(c) entertainment for prison officers on Christmas Day or on any special occasion as may be approved by the Commissioner;

(d) prizes for marksmanship or proficiency in any examination held at the termination of a training course for prison officers;

(e) providing and furnishing recreation rooms for the use of prison officers; and

(f) purchase of sports and recreation equipment for prison officers and prison employees.

(2) An account book of the Fund shall be kept in the office of the Commissioner in which there shall be entered all amounts of money received, the source from which such amounts of money are received and all payments made therefrom, and the Commissioner shall, at the end of each quarter, furnish copies of the account to the Auditor-General.

PART XVII

EXTRA-MURAL PENAL EMPLOYMENT

218. (1) Every person appointed as an authorised officer for the purpose of Part XXI of the Act shall maintain a record of offenders ordered to perform public work under his supervision.

Records to be kept

(2) The record mentioned in sub-rule (1) shall contain the following particulars in respect of every offender so employed:

- (a) his name;
- (b) his place of birth or origin;
- (c) the length of his sentence;
- (d) the date of commencement of his sentence;
- (e) the date he is due for release; and
- (f) the work to which he has been directed.

(3) The warrant of commitment to undergo extra-mural penal employment to be issued by a court to a prisoner in pursuance of an order made under section *one hundred and thirty-five* of the Act shall be in the form set out in the Seventh Schedule.

Form of warrant

(As amended by No. 243 of 1968)

219. Any prisoner who while employed on public work becomes sick shall be medically examined by a medical officer.

Admission to hospital

220. The scale of diet for persons performing work under an order made under section *one hundred and thirty-five* of the Act shall be in accordance with Part IV of the First Schedule.

Diet

PART XVIII

YOUTH CORRECTIVE CENTRES

221. (1) Every inmate shall be detained in one of the following youth ^{Youth corrective} corrective centres, hereinafter referred to as "centres", appropriate to ^{centres} his or her age and sex, namely:

- (a) junior centre for males under the age of eighteen years;
- (b) junior centre for females under the age of eighteen years;
- (c) senior centre for males who have attained the age of eighteen years;
- (d) senior centre for females who have attained the age of eighteen years:

Provided that an inmate under the age of eighteen years may be detained in a senior centre and an inmate aged eighteen years or over may be detained in a junior centre if in either case the Commissioner, having regard to the inmate's mental or physical development, so directs.

- (2) A senior and a junior centre for inmates of the same sex may be provided in the same building.
- (3) An inmate who has escaped from lawful custody and who has been recaptured shall be transferred immediately to a prison other than a youth corrective centre.

222. (1) Upon admission to a centre an inmate shall be placed in ^{Grading of inmates} Grade I.

- (2) Subject to any general directions by the Commissioner, an inmate may be promoted from Grade I to Grade II-
 - (a) after being not less than four weeks in Grade I; and
 - (b) if in the opinion of the officer in charge his conduct justifies the

promotion.

(3) Inmates promoted to Grade II shall be given such privileges as the Commissioner may from time to time determine.

223. No room or cell shall be used for the separate confinement of an inmate in pursuance of a disciplinary award under Part XIII of the Act, or for the confinement of a refractory or violent inmate, unless it is certified by the Commissioner to be suitable for the purpose and to be furnished with the means of enabling the inmate so confined to communicate at any time with a prison officer. Separate confinement of inmates

224. An inmate who has been found guilty of a prison offence under Part XIII of the Act may be reduced to Grade I and shall not be promoted to Grade II until he has satisfied the officer in charge as to his conduct. Punishment of inmates

225. No mechanical restraint shall be used in a junior centre. Mechanical restraints

226. No inmate in junior centre shall be allowed to smoke or have in his possession any tobacco or cigarettes. Prohibition of tobacco

227. Arrangements shall be made for the part-time education of inmates either within the normal working hours or outside such hours. Education

228. At least one hour a day shall be devoted to physical training or to organised games for inmates and such periods shall be deemed to form part of the normal working hours. Recreation of inmates

229. A library shall be provided in every centre and, subject to such conditions as the Commissioner may determine, every inmate shall be allowed to have library books and to exchange them as often as practicable. Supply of books

230. (1) Special attention shall be paid to the maintenance of such relations between inmates and their families as are judged by an officer in charge to be desirable in the best interests of the inmates. Social relations and after care

(2) So far as is practicable and in the opinion of an officer in charge desirable, an inmate shall be encouraged and assisted to maintain and establish relations with persons or agencies outside the centre as may promote his social rehabilitation.

231. (1) Every inmate shall be entitled to send and receive a letter on admission to a centre and thereafter once in four weeks and to receive a visit once in four weeks: Letters and visits

Provided that the officer in charge may allow an inmate to send a letter and receive a reply in lieu of a visit.

(2) The officer in charge may for special reasons allow an inmate to write or receive additional letters or receive additional visits.

(3) The degree of supervision to be exercised during visits to inmates shall, subject to any express provision of these Rules, be in the discretion of the officer in charge.

232. Except as may be determined by the medical officer or the Commissioner, or as provided under Part VII, no inmates shall be allowed to have any food other than the normal diet provided by prison authorities. Diet

233. All inmates shall wear special clothing as may be determined by the Commissioner. Clothing

PART XIX

MISCELLANEOUS

234. No person who is authorised to visit a prison or work in prison shall, without the authority of the Commissioner, divulge to any person, otherwise than in the course of his duties, any information concerning the administration of prisons and the condition and treatment and affairs of prisoners. Persons not to divulge information without authority

or Cooking oil	.. .. .	..	14 grams
or Red palm oil	.. .. .	..	4 grams
Salt (iodised if possible)	.. .. .	..	7 grams
Unlimited water			

PART IV
(Rule 220)

DIET FOR PERSONS UNDERGOING A SENTENCE OF EXTRA-MURAL PENAL EMPLOYMENT

To be issued on each working day

Fresh meat	.. .. .	..	113 grams
or Fresh fish	.. .. .	..	170 grams
or Dried fish	.. .. .	..	85 grams
Maize meal	.. .. .	..	454 grams
or Millet meal	.. .. .	..	454 grams
Fresh vegetables	.. .. .	..	113 grams
or Potatoes or sweet potatoes	.. .. .	..	226 grams
Beans or peas or lentils or groundnuts	.. .. .	..	113
grams			
Cooking fat, or cooking oil or margarine	.. .. .	..	28 grams
Salt (iodised if possible)	.. .. .	..	7 grams

NOTES

1. Rice or bread may be substituted for maize meal or millet meal on the recommendation of the medical officer or the Prison Reception Board.

2. Where bread is supplied in place of maize meal or millet meal (*see* Note 1), 56 grams of cheese or syrup or jam may be substituted for 56 of the 113 grams of any of the items in Group F.

GENERAL OBSERVATIONS

- (i) All quantities shown in this Schedule are raw weights.
- (ii) Fish should not be issued more than two days per week.
- (iii) In Group C, 113 grams of maize or millet may be substituted for bread (226 g) in rural areas where regular supplies of bread are unobtainable.
- (iv) Soup powder should be added to the water used for cooking vegetables or meat.
- (v) Groundnuts should be issued on at least two days per week.
- (vi) Vegetables include spinach, cabbage, tomatoes, kale, pumpkin, turnip, kohlrabi, lettuce, onions, beetroot, carrots, peas, beans.

(vii) Fruit includes lemons, limes, pawpaw, bananas, mangoes, guava, grenadillas, mulberries.

(viii) Tea or coffee may be substituted for cocoa if necessary.

(ix) Expenditure may be incurred at such rates as the Minister may approve from time to time for the purpose of purchasing additional rations for issue on Christmas Day and on such days as may be approved by the Minister.

(As amended by S.I. No. 79 of 1973)

SECOND SCHEDULE

THE PRISONS RULES

(Rule 77)

ATTESTATION

I, do most solemnly and sincerely declare and affirm that I will be faithful and bear true allegiance to the President of the Republic of Zambia, and will obey all orders of the officers placed over me, and subject myself to all written laws relating to the Prison Service now in force or which may, from time to time, be in force, during my service. And I hereby declare that I have not been convicted of any criminal offence.

Signature or mark of recruit

Declared at this day of

.....

Before me.

Charge *Officer* *in*

THIRD SCHEDULE

The following scales of pay may be earned by Prisoners in accordance with Part VII.

First Stage	K1.00 per day
Grade C Prisoners	K1.00 per day
Grade B Prisoners	K2.00 per day
Grade A Prisoners (other than special stage Prisoners	K3.00 per day
Special Stage Prisoners	K3.00 per day plus per month gratuity

(As amended by S.I. No. 137 of 1990)

FOURTH SCHEDULE

REPUBLIC OF ZAMBIA

THE PRISONS ACT

(Section 115)

THE PRISONS RULES

(Rule 188)

PERMIT FOR TEMPORARY ABSENCE OF A YOUNG PRISONER

Ref
Ministry of
Date

To:

In accordance with subsection (1) of section 115 of the Act and on the recommendations of the Commissioner of Prisons:

You are hereby permitted to be absent from the Prison from until inclusive, on the undermentioned conditions:

(1) You shall proceed to and shall not without my consent remove from that place.

(2) On arrival at you will report to and shall remain under the supervision of until the 19.....

(3) You shall obey any instruction given to you by

(4) You shall abstain from any violation of the law and not associate with persons of bad character.

Minister of

The conditions relating to my temporary absence from Prison have been read to me and I have understood them.

Prisoner

Witness

Officer in charge of Prison

NOTE

Prisons Act, section 115 (2). If any prisoner fails to perform and observe any condition imposed under the provisions of this section, he may be arrested and recommitted to any

prison by warrant under the hand of a magistrate and shall be detained in a prison as if he had not been so absent from prison for a period equal to the portion of the sentence which was unexpired at the date of his release.

(3) If a prisoner does not contravene during the period of his absence from prison under the provisions of this section any condition attached to his absence, he shall no longer be liable for any punishment in respect of the conviction upon which he was sentenced.

One copy of this Order to be retained by the Minister.

One copy to be retained by the Commissioner.

One copy to be retained by the Officer in Charge of the prison from which the prisoner is temporarily released.

Original copy to be handed to the prisoner.

FIFTH SCHEDULE

REPUBLIC OF ZAMBIA

THE PRISONS ACT

(Sections 114 and 142)

THE PRISONS RULES

(Rule 189)

PERMIT FOR TEMPORARY ABSENCE OF A PRISONER

To:

.....

In accordance with *section 114 or section 142 of the Prisons Act:

You are hereby permitted to be absent from the

..... Prison for a period of days, with effect from on the undermentioned conditions:

- (1) You shall proceed to and shall not without my consent remove from that place.
- (2) You shall abstain from any violation of the law and will not associate with persons of bad character.
- (3) You shall report back to the officer in charge of Prison by hours, on the
- (4) No extension of absence will be granted.
- (5) You shall carry this permit during the period you are absent from prison and shall produce it whenever you are required to do so by any prison or police officer.
- (6) You shall report to the officer in charge of the Prison at any circumstances in which you may require assistance or advice.

Commissioner of Prisons

Date:

The conditions relating to my temporary absence from Prison have been read and explained to me and I have understood them.

Prisoner

Witness

Officer in charge of Prison

* Delete whichever is inapplicable.

NOTE

Prisons Act, section 114 (3). Any prisoner when released on parole who contravenes or fails to comply with the conditions imposed upon him under this section shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding six months.

One copy of this Order is to be retained by the Commissioner.

One copy to be retained by the Officer in Charge of the prison from which the prisoner is temporarily released.

Original copy to be handed to the prisoner.

SIXTH SCHEDULE

REPUBLIC OF ZAMBIA

THE PRISONS ACT

(Sections 117 and 118)

THE PRISONS RULES

(Rule 193)

COMPULSORY AFTER CARE ORDER

To:
.....

IN EXERCISE of the powers conferred upon the Commissioner of Prisons by subsection (1) of section 117 of the Prisons Act, I hereby order that you shall undergo compulsory after care for the period commencing until inclusive, on the undermentioned conditions:

- (1)
- (2)
- (3)

*Commissioner of
Prisons*

Date:

The conditions relating to this order have been read to me in my own language and I understand them.

Prisoner

Witness

Officer in charge of Prison

NOTE

Prisons Act, section 118 (1). If a person in respect of whom a compulsory after care order is in force-

(a) is convicted of an offence; or

(b) contravenes or fails to comply with any term or condition of the order;

he shall be guilty of an offence and shall on conviction be sentenced to imprisonment for a period of three months or for the period of remission of sentence earned by that person while he was a prisoner under section 109 immediately prior to the making of the order,

whichever is the greater.

(2) A sentence of imprisonment imposed on a person under subsection (1) shall commence on the expiration of any other sentence of imprisonment which that person is liable to serve.

Original to be handed to the prisoner named in the Order.

Duplicate to be sent to the person named in the Order as being responsible for the after care of the prisoner.

Triplicate to be retained by the Commissioner.

SEVENTH SCHEDULE

REPUBLIC OF ZAMBIA

THE PRISONS ACT

(Section 135)

THE PRISONS RULES

(Rule 218 (3))

IN THE SUBORDINATE COURT OF THE..... CLASS FOR
THE

DISTRICT HOLDEN AT Case
No.

ORDER TO A MALE PRISONER TO PERFORM PUBLIC WORK

To (name of prisoner):

.....
.....

WHEREAS you, being a male prisoner, were on the day of
....., 19....., at (being a
declared area) *sentenced to imprisonment for a term of
*committed to imprisonment for a term of for non-payment of
.....

AND WHEREAS you have consented to the making of this Order.

NOW THEREFORE IT IS HEREBY ORDERED that you perform public work, in
accordance with Part XXI of the Prisons Act, outside a prison for the duration of such
imprisonment.

AND IT IS FURTHER ORDERED that you report forthwith to

.....
.....

Made at the day of
....., 19.....

Magistrate

*Delete as appropriate.

Insert name of authorised officer or of other specified officer.

(No. 243 of 1968)

EIGHTH SCHEDULE

(Rule 154)

								K	
1.	For a skilled prisoner	..	..	..	..	..	..	..	1.00 per diem
2.	For a semi-skilled prisoner	..	..	..	..	..	..	..	0.60 per diem
3.	For an unskilled prisoner	..	..	..	..	..	..	..	0.40 per diem

(No. 123 of 1982)

THE ZAMBIA PRISON OFFICERS' STAFF ASSOCIATION RULES

ARRANGEMENT OF RULES

Rule

1. Title
2. Interpretation
3. Establishment of Association
4. Objects of Association
5. Membership of Association
6. Resignation from Association
7. Representative Board
8. Elected representatives
9. Election of representatives
10. Standing Committee
11. Meetings of Board
12. Procedure at meetings of Board
13. Meetings by representatives
14. Permission to attend meetings
15. Funds of Association
16. Inspection of books by members

SECTION 146-THE ZAMBIA PRISON OFFICERS' STAFF ASSOCIATION RULES

Statutory Instrument
389 of 1966

Rules by the Minister

1. These Rules may be cited as the Zambia Prison Officers' Staff Association Rules. Title

2. In these Rules, unless the context otherwise requires- Interpretation

"Association" means the Zambia Prison Officers' Staff Association

established under rule 3;

"Board" means the Representative Board constituted in terms of rule 7;

"representative" means a representative elected under rules 8 and 9.

3. There is hereby established a body to be known as the Zambia Prison Officers' Staff Association. Establishment of Association

4. The objects of the Association shall be to enable members thereof to consider and to bring to the attention of the Commissioner and the Minister matters affecting the welfare and efficiency of the Service, including pay, pensions and conditions of service: Objects of Association

Provided that discussion of promotion or discipline shall be limited to the general aspects and principles of these matters and in no case shall individual cases be considered.

5. All persons appointed to or deemed under the Act to have been appointed to any of the ranks set out in the First Schedule to the Act shall be members of the Association: Membership of Association

Provided that this rule shall not apply to the Commissioner, Deputy Commissioner, Assistant Commissioner and persons acting in these posts.

6. A prison officer may resign from the Association within one month of the commencement of these Rules or within one month from the date on which such prison officer became a member of the Association: Resignation from Association

Provided that a prison officer who has resigned from the Association may at any time rejoin the Association by notifying the secretary of the Board of his intention to do so.

7. (1) The executive body of the Association shall be a Board to be known as the Representative Board. Representative Board

(2) The Board which shall be responsible for the management of the Association shall consist of the chairman, secretary, treasurer and representatives of the members elected under the provisions of rules 8 and 9.

(3) The Board shall elect annually in July a chairman, secretary and treasurer from among its own members.

8. (1) The number of representatives to the Board shall be as follows:

Elected
representatives

*Number of
Representatives*

(a) Senior superintendents, superintendents, assistant superintendents, senior technical officers	..	..	1
(b) Chief prison officers, prison officers, assistant prison officers matrons, male nurses, technical officers	..	..	3
(c) Chief warders and principal warders	..	..	2
(d) Warders in grades I, II and III	..	..	12
(e) Woman prison officers of the rank of warder grade I, II and III	..	..	1
(f) Instructors	..	..	1

(2) Warders in grades I, II and III of the prisons in the undermentioned regions shall elect representatives according to the following scale:

Central region (excluding Lusaka and Feira)	..	..	..	1
Southern region (excluding Livingstone)	..	..	..	2
Western region	..	..	..	1
Copperbelt and North-Western region	..	..	..	2
Northern and Luapula region	..	..	..	2
Lusaka (including Feira)	..	..	..	1
Eastern region	..	..	..	1
Katombora	..	..	..	1
Livingstone	..	..	..	1

(3) The grade from which the secretary of the Board is elected under sub-rule (3) of rule 7 shall elect an additional representative to the Board.

(4) It shall be the function of the regional representative to bring to the notice of the officer superintending the region any matter affecting the welfare and efficiency of the members he represents.

9. (1) The election of representatives shall take place not later than the second week in May, and in every second year thereafter and the officers so elected shall hold office for two years. Election of representatives

(2) If before the 1st February in the second year of his term of office any representative-

(a) ceases to be a member of the Association; or

(b) ceases to be a prison officer; or

(c) is appointed to a grade other than that which he has been elected to represent;

such representative shall forthwith cease to be a member of the Board and a fresh representative shall be elected to hold office during the remainder of the term of office of such representative.

(3) The election of representatives shall be by ballot. In the event of there being an equality of votes between any two or more candidates, the matter shall be decided by lot in the presence of the officer superintending the region concerned and in such manner as he shall determine.

(4) A representative who has ceased to be a member of the Board

shall be eligible for re-election.

10. The Board shall elect annually in July a Standing Committee consisting of six of its members and such Standing Committee shall meet in the months of January, April, July and October in each year. Standing Committee

11. (1) The Board shall meet twice a year in January and July and may meet at any other time with the approval of the Commissioner. Meetings of Board

(2) All items for the agenda shall be forwarded to the secretary by the representatives not later than one month before the date of each meeting. If any member of the Association wishes a matter to be discussed by the Board, he shall request his elected representative to forward such matter to the secretary.

(3) At every meeting, the Board shall discuss and consider all matters submitted to it in accordance with these Rules and, at the discretion of the chairman, the Board may also discuss other matters which are not included in the agenda.

(4) The Board may make representations in writing to the Minister, through the Commissioner, and shall forward to the Minister, through the Commissioner, any representations made by the Standing Committee which such Standing Committee requires to be so forwarded, together with comments, if any, of the Board thereon.

(5) The Board or the Standing Committee may make representations in writing to the Commissioner.

12. (1) The quorum at every meeting of the Board shall be eight members of the Board. Procedure at meetings of Board

(2) The chairman shall preside at all meetings of the Board at which he shall be present. In the absence of the chairman, the members present shall elect one of their number to act as chairman of the meeting.

(3) At meetings of the Board, a resolution or any question put to the vote on any matter shall be decided by a majority of members present

and voting; each member shall have one vote and if the votes are equally divided the chairman or a person acting as such shall have a deliberative and a second or casting vote.

(4) All resolutions passed by the Board shall be signed by the chairman and secretary and shall be forwarded by the secretary to the Commissioner for consideration.

(5) In the event of the Board being dissatisfied with the result of action taken regarding resolutions passed at the previous meeting of the Board, the Commissioner shall, at the request of the Board, refer the matter in dispute to the Minister for consideration.

(6) The secretary of the Board shall keep minutes of the meetings of the Board and shall forward a copy thereof to the Commissioner within thirty days after the meeting of the Board to which such minutes relate.

(7) The treasurer shall keep proper books of account and shall submit to the Board an annual report on the administration of accounts of the Association.

13. A representative may, under the auspices of the Board, hold a general meeting of the members of the grade he represents at any prison:

Meetings by
representatives

Provided that-

(i) attendance at such meeting shall be confined to members of the grade to which the representative belongs;

(ii) members attending such meetings shall do so at their own expense and in their own time;

(iii) such meetings shall not be open to the public or press;

(iv) such meetings shall have no authority whatsoever to pass resolutions for submission to the officer in charge of a prison, the Commissioner or the Minister, but may pass resolutions for the consideration or guidance of the Standing Committee or the Board

which shall in acting upon them follow the procedure prescribed in rule 11 for making representations; and

(v) application to hold such a meeting shall be made to the Commissioner at least fourteen days before the meeting is held and a copy of the agenda to be placed before such meeting shall be forwarded to the Commissioner with such application.

14. Permission shall be given for a representative to attend any meeting of the Board or Standing Committee established under these Rules on which he sits and attendance at the following meetings shall, for the purpose of the payment of allowances and expenses, be deemed to be an occasion of prison duty: Permission to attend meetings

(a) meetings of the Standing Committee held in the months of January, April, July and October under rule 10;

(b) meetings of the Board held not more than twice annually under sub-rule (1) of rule 11;

(c) any meetings of the Board with the approval of the Commissioner:

Provided that-

(i) allowances and expenses shall not be payable in respect of any period in excess of one day (excluding reasonable time spent in travelling) in the case of meetings of the Standing Committee and any period in excess of two days (excluding reasonable time spent in travelling) in the case of a meeting of the Board;

(ii) allowances and expenses shall not be payable in respect of more than two meetings of the Board in any one year.

15. (1) The Association shall raise funds by subscriptions from among its members and the representatives may collect such subscriptions from the members of the grades they represent and forward them to the treasurer of the Board. No subscriptions or donations shall be accepted from individuals or organisations outside the Service. Funds of Association

(2) The Board shall fix the amount of subscriptions payable by the members of the Association and shall keep detailed accounts and shall have them audited by an independent auditor. Annual statements of accounts shall be made available to all members of the Association and

to the Commissioner.

(3) The funds of the Association shall not be used for contributing directly or indirectly to-

- (a) the funds of any trade union;
- (b) the funds of any political party;
- (c) the election expenses of a candidate at any election to a council, or the National Assembly;
- (d) the funds of any body or organisation outside the Service.

(4) The funds of the Association shall not be used-

- (a) for any benevolent or charitable purposes outside the Service;
- (b) to defray the expenses incurred by or on behalf of any member of the Association in respect of criminal or disciplinary proceedings brought against such member.

(5) The funds of the Association may be used-

- (a) to pay the expenses incurred in connection with meetings of the Board, Standing Committee or any meeting of the members of the Association approved by the Commissioner;
- (b) to pay for the advice of any medical, legal or other expert, where such consultations have been approved by the Commissioner; and
- (c) for such other purposes as the Commissioner may approve.

16. (1) It shall be open to any member of the Association to inspect the books of the Association by giving reasonable notice to the secretary. Inspection of books by members

(2) A copy of all circulars affecting prison officers and their conditions of service shall be handed on receipt by the officer in charge of a prison to each representative officer.