

**CHAPTER 325**

**THE PRISONS ACT**

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## CHAPTER 325 THE PRISONS ACT

*Commencement:* 14 July, 2006

**An Act to provide for the organisation, administration and functions of the Uganda Prison Service in accordance with the Constitution; to provide for the establishment of the Prisons Authority and the Prisons Council and for related matters.**

### PART I—INTERPRETATION

#### 1. Interpretation

In this Act, unless the context otherwise requires—

“aggravated prison offence” means an offence declared to be such by rules made under this Act;

“appellant prisoner” means a convicted prisoner who is detained in a 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 but does not mean a convicted prisoner who has made an election under the provisions of section 40(5) of the Criminal Procedure Code Act;

“civil prisoner” means an indebted person entitled to special treatment; “Commissioner General” means the Commissioner General of Prisons; “convicted prisoner” means a prisoner under a 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;

“currency point” has the value assigned to in Schedule 1 to this Act;

“Deputy Commissioner General” means the Deputy Commissioner General of Prisons;

“judge” means a judge of the High Court or higher court;

“junior prison officer” means a prison officer of a class declared by the Minister to be a junior prison officer;

“justice of peace” means a justice of the peace appointed under the

- “lock-up” means any place or building, maintained by the administration of a district or a police force, where arrested persons are temporarily detained, pending production in court;
- “magistrate” means a magistrate presiding over a court;
- “medical officer” means either the district director of health or a medical officer in the district or area in which the prison is situated or, in his or her absence, any registered or licensed Government medical practitioner or the medical officer appointed to a prison if a medical officer has not been appointed;
- “Minister” means the Minister responsible for internal affairs and includes the Minister of State;
- “minor prison offence” means an offence committed by a prisoner and declared to be such by rules made under this Act;
- “officer in charge” means a prison officer appointed by the Commissioner General to be in charge of a prison;
- “prison” means a prison established under this Act;
- “prison officer” means a member of the Prisons Service of whatever rank;
- “prisoner” means a person duly committed to custody under the writ, a warrant or order of a court exercising criminal jurisdiction or by order of a court martial;
- “prohibited article” means an article the introduction or removal of which into or out of a prison is prohibited by this Act or by any rules made under this Act;
- “senior prison officer” means a prison officer of a class declared by the Minister to be a senior prison officer;
- “Service” means the Uganda Prisons Service.

## PART II—ESTABLISHMENT, FUNCTIONS AND ADMINISTRATION

### 2. Composition of Uganda Prisons Service

The Uganda Prisons Service established by Article 215 of the Constitution shall consist of—

- (a) the Commissioner General and the Deputy Commissioner General;
- (b) regional prisons commanders, district prisons commanders, officers in charge of prisons;
- (c) directors;
- (d) heads of departments at prisons headquarters; and

- (e) any other person appointed as a member of the Service under this Act.

### **3. Object of Service**

(1) The main object of the Service is to contribute to the protection of all members of society by providing reasonable, safe, secure and humane custody and rehabilitation of offenders in accordance with universally accepted international standards.

- (2) To achieve its object, the Service shall—
  - (a) professionalise and develop the staff;
  - (b) ensure a meaningful and adequate remuneration to its staff; and
  - (c) ensure proper living conditions for staff and the prisoners.

### **4. Functions of Service**

The functions of the Service shall be

- (a) to ensure that every person detained legally in a prison is kept in humane, safe custody, produced in court when required until lawfully discharged or removed from prison;
- (b) to facilitate the social rehabilitation and reformation of prisoners through specific training and educational programmes;
- (c) to facilitate the re-integration of prisoners into their communities;
- (d) to ensure performance by prisoners of work reasonably necessary for the effective management of prisons; and
- (e) to perform such other functions as the Minister, after consultation with the Prisons Authority, may assign to the Service.

### **5. Financing of Service**

(1) The management, administration and activities of the Service shall be funded from the Consolidated Fund or any other sources that may be accessed or generated by the Service subject to the provisions of the Public Finance Management Act.

(2) The Service shall engage in activities that are vital in securing adequate funding, generation of income from its assets, empowerment of staff and any other activities that shall promote good governance, peace, security and stability within the prevailing laws and regulations.

**6. Powers of Commissioner General**

(1) The Commissioner General shall, in addition to such other powers, duties and functions as may be conferred upon or assigned to him or her by or under this Act, be responsible for the efficient supervision, administration and control of the Service.

(2) The Commissioner General, in consultation with the Prisons Authority, may issue such rules, standing orders, administrative instructions as he or she may consider expedient for the efficient supervision, administration and control of the Service and for observance by prisoners and prison officers.

(3) The Commissioner General may, in the exercise of his or her duties, transfer any prison officer to any station or office in the Service from the station or office held by that officer other than the post held by such officer and may transfer any officer to any part of the country at the exigencies of the Service.

(4) Whenever it is necessary for the safe custody or transportation of any prisoner or any emergencies or any other purpose, the Commissioner General, may appoint such number of suitable persons as he or she may deem expedient to serve as temporary warders or wardresses on such terms and conditions as may be prescribed.

(5) Whenever the need arises, the Commissioner General may, in consultation with the Public Service Commission, create more sections or offices in the Service.

(6) In the exercise of his or her powers and the performance of his or her duties and functions under this Act, the Commissioner General shall be accountable to and act in consultation with the Minister.

(7) The Commissioner General may delegate any of his or her functions under this Act to—

- (a) the Deputy Commissioner General; or
- (b) a senior prison officer.

**7. Welfare of staff and prisoners**

The Service shall be provided with adequate resources and facilities to cater for the staff and the prisoners.

**8. Establishment of Prisons Authority**

- (1) There is established an authority known as Prisons Authority.
- (2) The Prisons Authority shall consist of—
  - (a) the Minister responsible for internal affairs as its chairperson;
  - (b) the following members—
    - (i) the Attorney General or his or her representative;
    - (ii) the Commissioner General;
    - (iii) the Deputy Commissioner General;
    - (iv) the Permanent Secretary, Ministry responsible for public service;
    - (v) a senior officer in charge of personnel at the headquarters of the Service; and
    - (vi) two other persons appointed by the President.
- (c) The two persons appointed by the President in subsection (2)(b) shall serve for two years and their term may be renewed.
- (4) The Permanent Secretary of the Ministry responsible for internal affairs shall be the secretary to the Prisons Authority.
- (5) The quorum of the Prisons Authority shall be five.
- (6) The Prisons Authority may regulate its own procedure.
- (7) The Prisons Authority shall meet at least once every four months at times and places as the Chairperson of the Prisons Authority may determine.
- (8) If the Chairperson is absent from or for any other reason unable to preside at any meeting of the Prisons Authority, the members present shall elect one from among their number to act as Chairperson at that meeting.
- (9) The decision of the majority of the members of the Prisons Authority present at a meeting shall constitute a decision of the Prisons

Authority and, in the event of an equality of votes relating to any matter the member presiding at the meeting shall have a casting vote.

(10) The Prisons Authority shall cause a record to be kept of the proceedings at its meetings.

## **9. Functions of Prisons Authority**

(1) Subject to the Constitution and to this Act, the functions of the Prisons Authority are—

- (a) to advise the Government on policy matters relating to the management, development and administration of the Service;
- (b) to advise the President on the appointment of the Commissioner General and the Deputy Commissioner General;
- (c) to make appointments and promotions of prison officers of and above the rank of assistant superintendent of prisons but below the rank of Deputy Commissioner General;
- (d) to make programmes for social rehabilitation and re-integration of offenders so as to enhance their ability to resettle in their communities;
- (e) to develop and administer services and programmes for the purpose of counselling persons subject to non-custodial sentences;
- (f) to develop and administer services and programmes designed to encourage prisoners, and persons referred to in paragraph (d) and to initiate, maintain and strengthen ties with members of their families and the community;
- (g) to provide clear direction to all staff in their responsibilities;
- (h) to provide strategic framework and plan for the development of the Service;
- (i) to determine the terms and conditions of service in the Prisons Service;
- (j) to hear and determine appeals from the decisions of the Prisons Council; and
- (k) to perform any other function that is connected to the above or that may be accorded to it by law.

(2) The Prisons Authority may appoint a committee from among its members to assist it in the performance of any of its functions and may assign to it such functions subject to such conditions and restrictions as the Prisons Authority may think fit.

**10. Powers of Prisons Authority**

(1) The Prisons Authority may exercise such powers as are necessary or desirable to allow the proper discharge by it of its functions or any of them whether under this Act or any other law.

(2) Without limiting the generality of subsection (1), the Prisons Authority may

- (a) acquire property for the conduct of its operations;
- (b) establish training facilities for prisoners and staff and provide courses and scholarships for officers;
- (c) arrange for an exchange of officers between the Prisons Authority and the relevant authority in another country or state or territory that is responsible for the operation of the Service;
- (d) engage persons to advise it in respect of matters of legal, financial or technical nature or that relate to the welfare of prisoners;
- (e) enter into arrangements with any person or body for the purpose of any investigation, study or research that in the opinion of the Prisons Authority is necessary or desirable having regard to the functions of the Prisons Authority;
- (f) engage a person other than a Commissioner General or, an officer of the Prisons Authority or a body of persons to conduct on behalf of the Prisons Authority any part of its operations;
- (g) grant financial or other assistance to persons or bodies of persons concerned with the welfare of prisoners or persons subject to probation orders, community service orders or fine option orders or their families; and
- (h) encourage improvement in the standard and method of work performed by its officers and employees by such means as it deems appropriate including the establishment of awards for competence and innovation.

**11. Power of Prisons Authority to make rules**

- (1) The Prisons Authority may make rules in respect of—
- (a) the management, security and good order of prisons;
  - (b) the safe custody, welfare and privilege of prisoners;
  - (c) the duties, functions, powers and conduct of its officers and employees; and

- (d) all matters that are required or permitted to be the subject of such rules under the provisions of this Act.

(2) The Prisons Authority may prescribe a code of conduct for prison officers and other employees.

(3) The Prisons Authority shall ensure that the rules made under this section are brought to the notice of prison officers and employees.

## **12. Establishment of Prisons Council**

(1) There is established a council known as the Prisons Council.

(2) The Prisons Council shall consist of—

- (a) the Commissioner General who shall be the Chairperson;
- (b) the Deputy Commissioner General who shall be the Vice Chairperson;
- (c) directors; and
- (d) the officers at the prisons headquarters responsible for—
  - (i) prisoners' administration;
  - (ii) training;
  - (iii) finance;
  - (iv) personnel;
  - (v) legal affairs;
  - (vi) research and planning;
  - (vii) welfare and rehabilitation; and
  - (viii) the regional prisons commanders.

(e) The following members shall be appointed by the Commissioner General in consultation with the officers in charge of prisons—

- (i) an officer of the rank of assistant superintendent of prisons;
- (ii) an officer of the rank of principal officer; and
- (iii) three non-commissioned officers.

(4) The officer responsible for administration in the Service shall be the secretary.

(5) The members of the Prisons Council in subsection (3) shall be appointed for a period of three years.

(6) The quorum for any meeting of the Prisons Council shall be ten members.

### **13. Functions of Prisons Council**

(1) Subject to the Constitution and to this Act, the functions of the Prisons Council are

- (a) to make appointments and promotions of prison officers up to the rank of a principal officer;
- (b) to exercise disciplinary control over all prison officers of and below the rank of principal officer through the established procedure;
- (c) to advise the Prisons Authority on the rank structure in the Service;
- (d) to formulate terms and conditions of service of staff of the Service subject to approval by the Prisons Authority;
- (e) to formulate and establish standards of recruitment and training within the Service;
- (f) to determine the types and quality of equipment and supplies to be procured by the Service;
- (g) to formulate and advise the Prisons Authority on the policy of the Service and ensure the implementation of that policy;
- (h) to ensure efficient organisation and administration of the Service; and
- (i) to ensure that the Service is of a national character and composition.

(2) The Prisons Council may appoint a committee from among its members to assist it in the performance of its functions under this Act and may assign to it such functions subject to such conditions and restrictions as the Prisons Council may consider fit.

### **14. Meetings of Prisons Council**

(1) The Prisons Council shall meet at least once every three months at times and places as the Chairperson of the Prisons Council may determine.

(2) Where the Chairperson is absent from or for any other reason unable to preside at any meeting of the Prisons Council, the Vice Chairperson shall preside at the meeting.

(3) The Chairperson or any other person who acts as Chairperson shall determine the procedure of the meeting of the Prisons Council.

(4) The quorum for a meeting of the Prisons Council shall be ten.

(5) The decision of the majority of the members of the Prisons Council present at a meeting shall constitute a decision of the Prisons Council and in the event of an equality of votes relating to any matter the member presiding at the meeting shall have a casting vote.

(6) The Prisons Council shall cause a record to be kept of the proceedings at its meetings.

### **15. Regional prisons committees, their composition and functions**

(1) There shall be established a regional prisons committee in each region.

(2) The functions of the regional prisons committee are—

- (a) to advise the Prisons Council on appointments, promotions, and other personnel matters; and
- (b) any other duties assigned to it by the Prisons Council.

(3) A regional prisons committee shall be composed of

- (a) the regional prisons commander as its chairperson; and
- (b) the following members—
  - (i) the officers in charge of prisons in the region;
  - (ii) a staff officer of the region who shall act as secretary to the regional prisons committee;
  - (iii) a principal officer from each prison in the region; and
  - (iv) one non-commissioned officer from each prison in the region appointed by the regional prisons commander.

(c) The regional prisons committee shall regulate its own procedure.

### **16. District prisons committees**

(1) There shall be established a district prisons committee in each district whose functions are

- (a) to advise the regional prisons committee on appointments, promotion of staff and other personnel matters; and
  - (b) any other matters assigned to it by the regional prisons committee.
- (2) The district prisons committees shall consist of the following—
- (a) district prisons commander who shall be the chairperson;
  - (b) the deputy district prisons commander who shall be the deputy chairperson;
  - (c) a staff officer who shall be the secretary;
  - (d) a representative of principal officers;
  - (e) a representative of non-commissioned officers;
  - (f) a representative of other ranks; and
  - (g) an officer responsible for health, welfare, rehabilitation, farms, engineering and a representative of a recognised religion.
- (3) The representatives specified in subsection (2)(f) and (g) shall be appointed by the regional prisons commander.

**PART III—APPOINTMENTS, PROMOTIONS, RECRUITMENT,  
RETIREMENT AND TERMINATION OF APPOINTMENTS**

**17. Appointment of Commissioner General and Deputy Commissioner General**

The Commissioner General and Deputy Commissioner General shall be appointed by the President in accordance with Article 216 of the Constitution.

**18. Vacation of office of Commissioner General and Deputy Commissioner General**

- (1) The President may remove the Commissioner General and Deputy Commissioner General in accordance with Article 216 of the Constitution.
- (2) The President may, on the recommendation of the Prisons Authority, remove the Commissioner General and Deputy Commissioner General from office due to the following—
- (a) continued ill health;
  - (b) misconduct;
  - ) inability to efficiently carry out the functions of that office; or
  - (c) in the public interest.
  - (d)

(3) The Commissioner General or Deputy Commissioner General may, at his or her own request and with the approval of the President, vacate his or her office on grounds of ill health or for any other reason that the President may deem sufficient subject to such conditions as to retirement benefits as are applicable to a staff member of similar rank in the public service.

## **19. Appointment of prison officers**

(1) Subject to the Constitution and this Act, officers of and above the rank of cadet assistant superintendent of prisons shall be appointed by the Prisons Authority.

(2) The Prisons Council shall appoint officers below the rank of assistant superintendent of prisons.

## **20. Retirement**

- (1) Unless otherwise expressly provided in this Act, a prison officer—
- (a) shall retire from his or her office on attaining the age of sixty years; or
  - (b) may retire after twenty years of continuous service or after attaining the age of forty-five years and having served continuously for ten years.

(2) An appointing authority responsible for appointment of a prison officer may require the officer to retire—

- (a) in the public interest;
- (b) due to continued ill health;
- (c) due to inefficiency; or
- (d) for any other sufficient reason.

(3) An appointing authority responsible for appointing prison officers shall require the officer to retire on medical grounds if the officer is declared by a prisons medical board or prisons medical officer to be unfit for further service in the Service due to medical, mental or physical incapacity.

(4) An officer affected by subsections (2) and (3) shall have a right to be heard.

**21. Resignation by prison officers**

Subject to section 20, a prison officer shall not terminate his or her service with the Service except with written permission of the appointing authority.

**22. Conditions on termination of service**

(1) A prison officer shall, on the termination of his or her service with the Service—

- (a) cease to exercise all powers and authority vested in him or her by virtue of his or her office and;
- (b) before he or she is issued with a certificate of termination of service, have handed over to the officer in charge of a prison or office at the place at which he or she was last stationed, all arms, accoutrements, ammunition, uniform insignia and other equipment which had been issued to him or her by virtue of his or her employment with the Service.

(2) Any prison officer who fails to comply with subsection (1) commits an offence, and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding one year, or both.

**23. Service on contract**

(1) A prison officer who has reached retirement age may apply to the appointing authority to serve in the Service on contract for a continuous period not exceeding two years at a time, but in any case, the total number of years served on contract shall not exceed four.

- (2) An application under subsection (1) shall be made—
  - (a) in the case of a prison officer of or above the rank of assistant superintendant of prisons, to the Secretary to the Prisons Authority.
  - (b) in the case of a prison officer of or below the rank of assistant superintendant of prisons, to the Prisons Council.

**24. Employment of civilians in Service**

(1) The Public Service Commission, in consultation with the Commissioner General, may employ civilians to perform such administrative functions as are normally outside the line of duties of a prison officer, regulate the method of their employment, establish the terms and conditions of their employment, and provide for any other matters in relation to the employment of civilians as it appears to him or her to be reasonably necessary for the efficient administration of the Service.

(2) Notwithstanding the generality of subsection (1) a civilian may be employed in the Service on temporary, permanent or on contract terms.

(3) The Commissioner General may in consultation with the Prisons Authority, by statutory instrument make rules and regulations governing the terms and conditions of service of civilians employed in the Service.

**25. Appointment, powers and duties of medical officer**

(1) The Prisons Authority may, in consultation with the Health Service Commission, appoint a Director of Health Services, who will be responsible for direction and control of all health services in the Service.

(2) The Prisons Authority may, in consultation with the Health Service Commission, appoint qualified medical officers at every prison in the country who shall be responsible for all health care of all prisoners and staff in the prison for which he or she has been appointed.

(3) The functions and powers of the medical officer shall be prescribed by rules made under this Act.

**PART IV—ESTABLISHMENT OF PRISONS****26. Declaration of prisons**

(1) The Minister may, by statutory instrument, declare any building, enclosure or place or any part of it to be a prison for the purposes of this Act; and may in like manner, declare that any prison shall cease to be a prison for the purposes of this Act.

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

(3) A building declared to be a prison shall meet minimum health standards.

(4) A 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.

## **27. Temporary prisons**

Whenever—

- (a) it appears to the Commissioner General that the number of prisoners in a prison is greater than can be conveniently kept there and 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 temporary shelter or safe custody of any prisoners,

the Commissioner General may, with the approval of the Minister, direct for the shelter and safe custody in temporary prisons of the excess number of prisoners that can not be conveniently or safely kept in the prison, and every such temporary prison shall be a prison for the purposes of this Act.

## **28. Segregation of male and female prisoners**

Except for the purpose of work or training, and only under strict supervision, male and female prisoners shall be kept apart and confined in separate prisons or separate parts of the same prison in such a manner as to prevent contact or communication between the sexes.

## **29. Officers in charge**

(1) The Commissioner General shall, in respect of every prison, appoint a prison officer as the officer in charge.

(2) The officer in charge of a prison shall, subject to the provisions of this Act—

- (a) be charged with the arms, accoutrements, ammunition, clothing and all other public stores and foodstuffs issued and delivered for the use of the prison and prison officers under his or her control, and with all public money for which he or she may be held accountable, all valuables, money, articles of clothing and other property entrusted to his or her keeping as being the property of prisoners, and shall account for the same in case of their being lost or damaged, otherwise than by unavoidable accident, theft, robbery or actual service;
- (b) direct, supervise and control all administrative matters relating to the prison in question;
- (c) issue directives or instructions to prison officers and prisoners, and ensure compliance with the directives and instructions;
- (d) keep records in respect of the prison as may be required by the Commissioner General; and
- (e) perform such other duties or functions as the Commissioner General may assign to him or her under this Act.

(3) The officer in charge shall be responsible to the Commissioner General through the regional prisons commander and the Deputy Commissioner General in the performance of his or her functions under this Act and the conduct of the prison officers and treatment of prisoners in his or her charge.

(4) Where the Commissioner General has not appointed an officer in charge in respect of a prison, the most senior officer in rank in the station will act as the officer in charge of that prison until such time as the Commissioner General may appoint an officer in charge.

(5) An officer who assumes office under subsection (4) shall exercise the power and perform the duties and functions of an officer in charge, subject to such limitations as the Commissioner General may impose, and shall be accountable to the Commissioner General.

### **30. Administrative divisions**

- (1) There shall be regional and district administrative divisions.

(2) A regional and district administrative division shall include an area declared by the Commissioner General to be such an administrative division for easy and better management.

### **31. Regional prisons commander**

(1) The Commissioner General shall, in respect of each region appoint a senior prison officer to head the region, who shall be known as the regional prisons commander.

(2) The administration and supervision of prisons in a region shall be vested in the regional prisons commander.

### **32. Functions of regional prisons commander**

(1) The regional prisons commander shall, subject to the direction of the Commissioner General, be responsible for the implementation of the departmental policies, projects and production, distribution of supplies and coordination of all institutional activities to ensure compliance to national and international standards governing treatment of offenders and prevention of crime in his or her region.

(2) The regional prisons commander will ensure that there is effective staff deployment, ensure there are contingency plans for crisis handling and ensure that the district commanders supervise all prisons against any human rights abuses within their administrative areas.

(3) The regional prisons commander will maintain regular follow up of reports between the Commissioner General and the region for proper coordination and administration.

### **33. District prisons commander**

The Commissioner General shall appoint a senior prison officer as district prisons commander who shall exercise such powers and perform such duties as the Commissioner General may direct.

**34. Security measures**

The Commissioner General shall determine the security measures applicable to prisons, and may determine different security measures in respect of different prisons.

PART V—GENERAL POWERS, DUTIES AND PRIVILEGES OF  
PRISON OFFICERS

**35. General powers and duties of prison officers**

- (1) A prison officer shall
  - (a) exercise or perform such powers and duties or functions as are conferred upon or assigned to him or her by or under this Act by virtue of his or her rank; and
  - (b) obey all lawful orders and directions in respect of the execution of such duties or functions as he or she may receive from officers senior in rank to him or her.

(2) In the performance of his or her functions under this Act, a prison officer shall be under the direction and control of the immediate supervisor and shall act in accordance with this Act and regulations made under this Act and standing orders and administrative instructions made or issued by the Commissioner General.

**36. Prison officers to exercise police powers**

(1) A prison officer shall have all powers, protection and privileges of a police officer within a prison or while in charge of prisoners for the purpose of transferring any person to or from a prison and for the purpose of apprehending any prisoner who may have escaped or attempted to escape from lawful custody.

(2) A prison officer may, on reasonable suspicion that a person is a deserter from the Service, arrest such person without warrant and shall immediately hand him or her to a police officer for prosecution in a court of law for desertion.

**37. Prison officers to be assigned to any part of Uganda**

A prison officer may at any time be assigned by the Commissioner General to any part of Uganda for duty or to perform any function conferred upon or assigned to him or her under this Act.

**38. Powers of search**

(1) A prison officer may at any time examine anything within or being brought into or taken out of a prison and may stop and search any vehicle or persons within a prison or going into or out of a prison or any vehicle which is being driven or parked close to the prison or a prisoner, where the prison officer has reasonable grounds to suspect that such a vehicle or person is unlawfully carrying a prohibited article or any property belonging to or used by the Service or is about to be involved in the commission of an offence under this Act.

(2) A prison officer on duty in a prison may refuse entry into the prison premises to any person who refused to be searched and may order any person on the prison premises who refused to be searched to be removed.

(3) Where, upon a search made under subsection (1) a person, other than a prisoner, is found in the unlawful possession of a prohibited article or any property belonging to or used by the Service, the prison officer having made the search may arrest that person, and as soon as practicable hand him or her over to the nearest police station.

(4) A prisoner found in unlawful possession of a prohibited article or any property belonging to or used by the Service upon a search made under subsection (1) shall be dealt with in accordance with the relevant provisions of this Act or the Penal Code Act as the case may be.

(5) The prison officer arresting a person under subsection (3) may seize the prohibited article or property belonging to, or used by the Service found in that person's possession or impound the vehicle involved and such article, property, or vehicle shall be dealt with in accordance with this Act or the Penal Code Act.

(6) The search of a woman under this section shall only be made by a female prison officer while the search of a man shall be conducted by a male prison officer.

### **39. Use of force or weapons by prison officers**

(1) The officer in charge may authorise a prison officer to use such force against a prisoner as is reasonably necessary to ensure compliance with lawful orders and to maintain discipline in the prison.

(2) A prison officer shall, in carrying out his or her duty, as far as possible apply non-violent means before resorting to use of force or firearms only if other means remain ineffective or fail to achieve the intended result.

(3) Whenever the lawful use of force or firearms is unavoidable, a prison officer shall—

- (a) exercise restraint in such use and act in proportion to the seriousness of the threat and the legitimate objective to be achieved;
- (b) minimise damage and injury, and respect and preserve the prisoner's life;
- (c) ensure that assistance and medical aid are rendered to any injured or affected prisoners at the earliest possible moment;
- (d) where injury or death is caused by the use of force or firearm by a prison officer, the concerned officer shall promptly report the incident to a senior officer who will take necessary and appropriate action; and
- (e) ensure that relatives or close friends of the injured or affected prisoner are notified at the earliest possible moment.

(4) Whenever an officer in charge considers it necessary for the safe custody of a prisoner that he or she should be confined by means of mechanical restraint in the course of his or her transfer or while temporarily outside the premises of the prison, the officer in charge may cause that prisoner to be so confined in accordance with the prescribed procedure.

(5) Where a prisoner attempts to escape or attacks or threatens to attack any prison officer or any other person or in concert with others commits any act of violence, a prison officer authorised under subsection (3) may, whenever it is necessary to prevent the escape or in defence of himself or herself or any other person, use a firearm upon any such prisoner.

(6) The Commissioner General may authorise a prison officer or person employed in or about any prison to be armed with any particular weapon or weapons, other than firearms, for use in the circumstances described in subsection (5) and in those circumstances any prison officer or person so authorised may use the weapon or weapons for any of the purposes mentioned in that subsection.

(7) If a prison officer or a person authorised to be armed and acting in circumstances contemplated in subsections (3) and (5), as the case may be, kills or wounds any prisoner, he or she shall not commit an offence.

(8) The use of any force or weapon under this section shall be to disable and not to kill.

#### **40. Senior officers to check unlawful use of force or firearms**

(1) A senior officer shall be held responsible if he or she knows, or should have known, that a prison officer under his or her command is resorting, or has resorted, to the unlawful use of force or firearms, and the senior officer did not take any measures in his or her power to prevent, suppress or report such use.

(2) Obedience to superior orders shall be no defence if a prison officer knew that an order to use force or a firearm resulting into death or a serious injury of a prisoner was manifestly unlawful and had a reasonable opportunity to refuse to obey it.

(3) A prisoner affected by the unlawful use of force and firearms, or their legal representatives, or in the case of death of a prisoner, their dependants, shall have access to an independent judicial process.

#### **41. Circumstances under which prison officer may use firearm**

(1) Subject to section 39, a prison officer may use such force against a prisoner as is reasonably necessary in order to make the prisoner obey lawful orders to maintain discipline in a prison.

(2) A prison officer may use weapons against any prisoner escaping or attempting to escape except that—

- (a) resort shall not be made to the use of any weapon unless the prison officer has reasonable ground to believe that he or she cannot otherwise prevent the escape; and
  - (b) a firearm shall not be used against a prisoner unless the prison officer has first given a clear warning to the prisoner that he or she is about to fire upon him or her and sufficient time is given for the warning to be observed and such warning goes unheeded.
- (3) A prison officer may use weapons against any prisoner—
- (a) engaged in any combined breaking out or in any attempt to force or break open the outside door or gate or enclosure wall of the prison, and may continue to use such weapons so long as such combined breaking out is actually prosecuted;
  - (b) using violence to any prison officer or other person as such prison officer has reasonable ground to believe that the prison officer or other person is in danger of life or limb, or that other grievous harm is likely to be caused to him or her; and
  - (c) engaged with others in riotous or threatening behaviour and refused to desist when called upon to do so.

(4) Notwithstanding the provisions of subsections (2) and (3), no prison officer shall use any weapon against a prisoner in the presence of his or her senior officer except under the orders of that senior officer.

#### **42. Immunity of prison officers**

(1) The Government, the Commissioner General or a prison officer shall not be liable in respect of anything done *bona fide* under this Act.

(2) No act done by a prison officer under a warrant or written directive or authorisation shall be invalidated or rendered unlawful only by reason of an irregularity in that warrant, directive or authorisation, as the case may be, if the prison officer acted in good faith and believed, on reasonable grounds, that the warrant, directive or authorisation was validly issued.

#### **43. Power to take photographs and fingerprints of prisoners**

(1) An officer in charge may for the purpose of assisting in the conduct of investigations cause photographs, footprints and casts thereof, measurements, palm prints and fingerprints of any prisoner to be taken by any

prison officer or other person duly authorised by the Commissioner General to take such photographs or prints as mentioned in this subsection.

(2) The provisions of the Identification of Offenders Act shall apply to the taking of fingerprints under this section.

#### **PART VI—OFFENCES BY PRISON OFFICERS**

##### **44. Mutiny**

(1) Any prison officer who conspires with any other prison officer to mutiny, cause a mutiny, join a mutiny, and is aware of or suspects another prison officer of conspiring to cause a mutiny, and he or she fails to report such fact without delay to the Commissioner General or his or her immediate senior officer commits an offence and is liable, on conviction, to a fine not exceeding sixty currency points or to imprisonment for a term not exceeding two years, or both.

(2) For the purpose of subsection (1), “mutiny” means conduct or speech directed against the authority of the Service with the intention to breach public order and incite rebellion against such authority.

##### **45. Absenteeism**

(1) A prison officer shall not absent himself or herself from his or her post or official duties and official residence without reasonable cause or the express permission of the Commissioner General or of the prison officer authorised by the Commissioner General to grant such permission.

(2) Any prison officer who absents himself or herself from his or her post or official duty, withdraws himself or herself from duty or is absent without leave or without reasonable excuse, commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding one year, or both.

##### **46. Desertion**

- (1) A prison officer deserts if—
- (a) he or she absents himself or herself without authority from his or her prison or formation or from the place where his or her duty

requires him or her to be, with the intention of not returning to the prison;

- (b) while absent with authority from the prison or from the place where his or her prison station or the place where his or her duty requires him or her to be with the intention of not returning to that prison or place does an act, or omits to do an act the natural and probable consequence of which act or commission is to preclude the return to that prison unit or formation or place at the time required.

(2) A person who has been absent without authority for a continuous period of twenty-one days or more shall, unless the contrary is proved, be presumed to have deserted for purposes of subsections (1) and (2).

(3) Any person who deserts the Service commits an offence and is liable, on conviction, to imprisonment for a term of one year.

(4) Any person who assists, procures, persuades or attempts to assist, procure or persuade, another to desert the Service commits an offence and is liable, on conviction, to the same punishment as the deserter.

(5) Any prison officer who has been declared a deserter from the Service shall be arrested without a warrant of arrest and handed over to the police for prosecution.

#### **47. Inciting prison officers to desert**

(1) Any person who directly or indirectly incites, conspires, or persuades or attempts to make or persuade any prison officer to desert the Service, or who aids, abets or is an accessory to the desertion of a prison officer or who harbours such deserter or aids in concealing or rescuing such prison officer from apprehension, commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding one year, or both.

(2) No person who leaves the Service on completion of his or her period of engagement shall be guilty of an offence under this section provided the Commissioner General does not retain the retired officer in times of emergency.

**48. Assault by prison officers on another officer in rank**

A prison officer who assaults, threatens or insults any officer senior to him or her in the Service, when such senior officer is on duty or when the assault, threat or insult relates to or is consequent upon the discharge of duty by the officer so assaulted, threatened or insulted, commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding six months, or both.

**49. Other offences**

A prison officer or any other person employed in a prison who, outside the ambit of his or her functions under this Act and without the prior authorisation of the Commissioner General or the officer in charge—

- (a) sells or has direct or indirect interest in any sale of any article to a prisoner; or conducts any business dealing with a prisoner or with another person acting on behalf of a prisoner;
- (b) solicits, accepts or receives any gift, gratuity, or reward from a prisoner or another person acting on behalf of a prisoner; or receives any discounts, gifts or other considerations from contractors or suppliers of goods to the Service;
- (c) permits any intoxicating liquor, tobacco, habit forming drug, opiate, money, clothing, letter, document or any other provision or article to be sold to or on behalf of a prisoner; or lends, or gives to any prisoner any intoxicating liquor, tobacco, habit forming drugs, opiate, money, clothing, letter, document or other provision or article; or
- (d) conveys or permits any letter, document or other article to be conveyed out of a prison, or informs the press or any other person of any confidential matter concerning a prison or a prisoner or any confidential matter derived from official sources connected with or related to the Service,

commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding one year, or both.

**50. Prison officers not to engage in dealings with prisoners**

- (1) Prison officers shall not—
  - (a) receive fees or gratuity from prisoners;

- (b) have any business dealings with prisoners or with visitors to prisoners; or
- (c) correspond with or interact with friends or relatives of prisoners, unless expressly authorised to do so by the Commissioner General or any other senior officer.

(2) A prison officer unless so authorised by the Commissioner General shall not give any certificate or testimonial to or in respect of any prisoner as regards his or her conduct in prison or otherwise.

(3) A prison officer, except in accordance with the provisions of this Act or in accordance with orders or instructions from the Commissioner General, shall not convey any communication or article to or from a prisoner.

(4) Any prison officer who contravenes the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding fifteen currency points or to imprisonment for a term not exceeding six months, or both.

## PART VII—DISCIPLINE OF PRISON OFFICERS

### **51. Power of disciplinary control**

- (1) The power of disciplinary control of a prison officer
  - (a) of or above the rank of a senior superintendent of prisons shall vest in the Prisons Authority; and
  - (b) below the rank of a senior superintendent of prisons shall vest in the Prisons Council.
- (2) The Prisons Authority and the Prisons Council shall empower the regional prisons commander and the officer in charge to handle disciplinary cases on behalf of the Prisons Authority or Prisons Council as the case may be.

### **52. Recommendation for dismissal of prison officers**

- (1) A regional prisons commander or officer in charge empowered under section 51 to discipline prison officers may impose any penalty other than dismissal.

(2) Where after disciplinary proceedings, a regional prisons commander or officer in charge is of the view that dismissal should be an appropriate penalty to be imposed, it shall make recommendations to that effect

- (a) in the case of a senior prison officer, to the Prisons Authority; and
- (b) in the case of subordinate prison officer, to the Prisons Council.

(3) Where the Prisons Authority or the Prisons Council accepts the recommendations of the regional prisons commander or officer in charge as the case may be, that a prison officer may, upon being heard, be dismissed.

### **53. Arrest for disciplinary offence**

Where a prison officer or person employed in the Service commits or attempts to commit an aggravated offence prescribed in Schedule 2 to this Act, he or she, may be arrested with or without a warrant by a prison officer higher in rank.

### **54. Place of confinement of offenders**

A prison officer arrested in respect of an offence under this Part shall be informed as soon as is practicable of the nature of the offence and be confined in a guardroom or a cell provided for that purpose.

### **55. Criminal proceedings take precedence over disciplinary proceedings**

If criminal proceedings of a nature likely to warrant disciplinary proceedings are instituted against a person, no such disciplinary proceedings shall be taken until the conclusion of the criminal proceedings and the determination of any appeal arising from those proceedings.

## **PART VIII—ADMISSION, TREATMENT, CONTROL AND DISCHARGE OF PRISONERS**

### **56. Rights of prisoners**

Subject to the Constitution and this Act—

- (a) a prisoner shall be treated with the respect due to his or her inherent dignity and value as a human being;

- (b) no prisoner shall be discriminated against on the grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;
- (c) a prisoner shall be entitled to freedom of worship, whenever conditions allow;
- (d) a prisoner shall be entitled to take part in cultural activities and education aimed at the full development of the human personality;
- (e) a prisoner shall be entitled to undertake meaningful remunerated employment; and
- (f) a prisoner shall have access to the health services available in the country without discrimination due to the legal situation of the prisoner.

### **57. Admission of prisoners into prison**

(1) A person shall not be received or admitted into prison custody without a valid commitment or a remand warrant, order of detention, warrant of conviction or committal signed with a court seal or authenticated by a person authorised to sign or authenticate such warrant or order under the provision of any law.

(2) The officer in charge shall satisfy himself or herself before the admission of any person into prison custody that—

- (a) the particulars of each person are accurately described in the warrant or order of detention accompanying such person; and
- (b) such warrant or order of detention has been properly issued or authenticated.

(3) The officer in charge shall not admit any person in custody if the person is severely tortured and is in a bad health condition.

(4) The officer in charge shall not refuse to admit a person into prison custody only by reason of an error on the face of the warrant or order of detention but shall take steps as soon as is practicable, to have the error rectified.

(5) Every prisoner on admission shall be provided with written information on the following—

- (a) the regulations governing the treatment of prisoners of that category;
- (b) the disciplinary requirements of the institution;

- (c) the centralised methods of seeking information and making complaints, complaints procedure; and
- (d) all other such matters as are necessary to enable the prisoner understand his or her rights and obligations so as to adapt to the life of the institution.

(6) Where a person is sentenced to imprisonment in a place where a prison has not been established or a prisoner is under the authority of the Commissioner General temporarily transferred to a police cell or lock up, such prisoner may be detained in a prison cell or lock-up for a period not exceeding one month or for such further period as the Commissioner General may authorise.

(7) A person shall not admit a juvenile prisoner into a prison designated for adult prisoners.

#### **58. Admission of female prisoners with infants**

(1) A female prisoner shall be admitted and confined in a separate prison, or part of the prison set for female prisoners.

(2) Subject to such conditions as may be prescribed, a female prisoner may be admitted into prison custody with her infant.

(3) A female prisoner, pregnant prisoner or nursing mother may be provided special facilities needed for their conditions.

(4) An infant referred to in subsection (2) shall be supplied with clothing and other necessities of life by the State until the infant attains the age of eighteen months in which case the officer in charge shall, on being satisfied that there is a relative or friend of the infant able and willing to support the infant, cause the infant to be handed over to the relative or friend.

(5) Where there is no relative or friend who is able and willing to support the infant, the Commissioner General may, subject to the relevant laws, entrust the care of the infant to the welfare or probation authority as the Commissioner General may approve for that purpose.

**59. Custody of female prisoners**

A female prisoner shall at all times during detention or imprisonment be under the care, custody and supervision of a female prison officer.

**60. Particulars of prisoners to be recorded**

Upon admission of any person into custody, the officer in charge shall record or cause to be recorded in the relevant registers particulars of that person.

**61. Search of prisoners on admission to custody**

(1) Every prisoner shall on admission to a prison and subsequently at such times as the officer in charge may determine, be searched and all prohibited articles removed from his or her possession; and the search shall be conducted by a prison officer of the same sex as the prisoner being searched and shall not be conducted in the presence of a person of the opposite sex.

(2) On admission to a prison, all money, clothes and personal effects belonging to such prisoner, which he or she is not permitted under this Act to retain, shall be placed into the custody of the officer in charge after the items have been properly entered in the prescribed registers.

(3) The articles referred to in subsection (2) shall be returned to the prisoner on his or her release or discharge from prison.

(4) The officer in charge shall keep or cause to be kept an inventory of all the money, clothes or personal effects placed in his or her custody.

**62. Prisoners to be in custody of officer in charge**

(1) Every person committed to prison shall be in the lawful custody of the officer in charge during the whole period of imprisonment and shall be subject to prison discipline and the provisions of this Act.

(2) The officer in charge shall ensure that every person committed to prison under a warrant or order, is detained in accordance with the provisions of the warrant or order, until the person is lawfully released from prison.

**63. Custody of unconvicted prisoners**

(1) A prisoner who is not convicted is presumed to be innocent and shall be treated as such and he or she shall be kept separate from convicted prisoners.

(2) Where a prisoner is committed for remand in a prison by order of a court or other competent authority, he or she shall be handed over to the custody of the officer in charge with the warrant of commitment, and the officer in charge shall detain the prisoner in custody for a period indicated in the warrant and cause the prisoner to be discharged at such time, or as to the terms of the warrant in question may specify.

(3) For the purposes of his or her defence, an untried prisoner shall be allowed to apply for free legal aid where such aid is available, to receive visits from a legal adviser, and for these purposes, the prisoner shall, if he or she desires, be supplied with writing materials and the interviews between the prisoner and the legal adviser may be within sight but not within the hearing of a police or prison officer.

**64. Certain prisoners to be treated as unconvicted prisoners**

(1) Where a sentence of imprisonment imposed on a prisoner requires confirmation by the High Court and the prisoner elects to postpone serving the sentence until High Court makes a confirmation or other order, that prisoner shall, between the date of the election and making of the confirmation or other order, be treated as an unconvicted prisoner.

(2) Where a prison sentence is confirmed by the High Court under subsection (1), the period spent by a person in detention as an unconvicted prisoner shall be counted as part of his or her term of imprisonment.

**65. Release on bail**

Where a person is arrested in respect of a criminal offence—

- (a) in the case of an offence which is triable by the High Court as well as by a subordinate court, the person shall be released on bail on such conditions as the court considers reasonable, if that person has been remanded in custody in respect of the offence before trial, for one hundred twenty days;

(b) in the case of an offence triable only by the High Court, the person shall be released on bail on such conditions as the court considers reasonable, if the person has been remanded in custody, for three hundred sixty days before the case is committed to the High Court.

#### **66. Prisoners required as witnesses**

(1) Whenever the presence of a person confined in a prison is required by a court or other competent authority, the court or the competent authority may issue an order addressed to the officer in charge requiring production before the court or other competent authority of the person in proper custody at a time and place to be named in the order.

(2) The officer in charge shall cause the person named in the order to be brought up as directed and shall provide for safe custody during his or her absence from prison.

(3) A court or competent authority may endorse on the order requiring the person named in the order to be again brought up at any time to which the matter in which the person is required may be adjourned.

(4) A prisoner taken from a prison in pursuance of an order made under this section shall, while outside the prison, be kept in custody as the officer in charge may direct and while in custody shall be deemed to be in lawful custody.

#### **67. Prisoners to be subject to prison discipline**

Every prisoner shall be subject to prison discipline and to all laws, orders and directions relating to prisons and prisoners during the time of imprisonment whether he or she is within the premises of the prison or not.

#### **68. Prisoners entitled to food**

(1) A prisoner shall be provided with food of nutritious value adequate for health and strength by the prison administration, at the usual hours and the food shall be of wholesome quality, well prepared and served.

(2) Drinking water shall be available to every prisoner whenever he or she needs it.

**69. Prisoner to have exercise**

Every prisoner not employed in outdoor work shall have at least one hour of suitable exercise in the open air daily.

**70. Prisoners to make complaints to prison authorities**

(1) A prisoner shall have the opportunity each day of the week to make a request or complaint to the officer in charge of the prison or the officer authorised to represent him or her.

(2) A prisoner may make a request or complaint to the inspector of prisons during his or her inspection without the officer in charge or other members of the staff being present.

(3) A prisoner shall be allowed to make a request or complaint, without censorship as to substance but in proper form, to the Commissioner General, the judicial authority or other proper authorities through approved channels.

**71. Petitions**

A prisoner may petition the President, but in exercising that right, shall address the President through the Commissioner General.

**72. Removal of prisoners to other prisons**

(1) A prisoner on being sentenced or during confinement, may be removed to any prison established under this Act.

(2) A sentence of imprisonment lawfully imposed upon a person may be served partly in one prison and partly in another.

(3) The Commissioner General may, by general or special order, direct that a prisoner be transferred from the prison to which he or she was committed or in which he or she is detained to another prison.

(4) At the Commissioner General's discretion, a prisoner shall, if practicable be kept in and released from a prison situated in the area to which the prisoner belongs.

(5) A prisoner who is being transferred or conveyed from one prison to another prison or place shall, while outside the prison, be deemed to be in the custody of the prison officer.

(6) A prisoner who escapes from the custody of a prison officer, referred to in subsection (5) shall be deemed to have escaped from lawful custody.

### **73. Treatment of prisoners who are insane or mentally ill**

(1) Insane and mentally ill persons shall not be detained in prison and arrangements shall be made to remove them to a mental hospital as soon as possible.

(2) Where a medical officer or officer in charge is of the opinion that a prisoner is mentally ill, the officer shall take all necessary action to produce his or her judgment under the Mental Health Act; if a magistrate adjudges such prisoner to be a person suffering from mental illness the prisoner shall be removed promptly from the prison and confined in a mental hospital.

(3) Where a prisoner removed to a mental hospital is entitled to be discharged, the medical superintendent in charge of the mental hospital shall notify the officer in charge of the prison from which the prisoner was removed and the prisoner shall be delivered into custody if still liable to be confined in prison, and if not so liable, be released.

(4) The period during which the prisoner has been detained in the mental hospital shall be reckoned as part of his or her term of imprisonment.

### **74. Removal of sick prisoners to hospital**

(1) In the case of illness of a prisoner confined in a prison where there is no suitable accommodation for that prisoner, the officer in charge, on the advice of the medical officer, may make an order for his or her removal to a hospital and, in cases of emergency, the removal may be ordered by the officer in charge without the advice of the medical officer.

(2) A prisoner who has been removed to a hospital under this section shall be deemed to be under detention in the prison from which he or she was so removed.

(3) Where the medical officer in charge of a hospital considers that the health of a prisoner removed to hospital under this section no longer requires his or her detention there, he or she shall notify the officer in charge who shall cause the prisoner to be brought to the prison if he or she is still liable to be confined in the prison.

(4) Every reasonable precaution shall be taken by the medical officer in charge of a hospital and the other officers and employees of the hospital to prevent the escape of a prisoner who may at any time be under treatment in the hospital.

(5) The officers and employees of the hospital shall take such measures to prevent the escape of the prisoner as shall be necessary but nothing shall be done under the authority of this section which in the opinion of the medical officer in charge of the hospital is likely to be prejudicial to the health of the prisoner.

#### **75. Measures for security of prisoners in hospital**

(1) Where in any case from the gravity of the offence for which a prisoner may be in custody or for any other reason, the officer in charge considers it desirable to take special measures for the security of a prisoner while under treatment in hospital, the officer in charge shall leave the prisoner into the charge of fit and proper persons, not being less than two in number, one of whom shall always be with the prisoner day and night.

(2) The persons referred to in subsection (1) shall be vested with full power and authority to do all things necessary to prevent the prisoner from escaping and shall be answerable for his or her safe custody until such time as he or she is handed over to the officer in charge on discharge from hospital or until such time as his or her sentence expires, whichever may first occur.

(3) If a prisoner escapes while in hospital, mental hospital or leper settlement, no prison officer shall be held answerable for the escape unless the prisoner shall have been in the personal custody of the prison officer.

#### **76. Right to information**

(1) A prisoner shall be informed of provisions of this Act and the rules and administrative instructions applicable to the prisoner.

(2) The provisions of this Act and any rules, standing orders or administrative instructions made or issued under this Act relating to the treatment and conduct of prisoners shall be printed in the official language and in any other languages that the Commissioner General may determine and shall be made available to every prisoner immediately on admission to a prison, or if a prisoner is unable to read and understand any of the languages in which the provisions have been printed, the officer in charge shall ensure that the contents of those provisions are orally explained to the prisoner.

#### **77. Contact with outside world**

(1) Communications, other than communications with legal representatives, between prisoners and their relatives and friends shall only be allowed in accordance with this Act, subject to such restrictions as the officer in charge may think are necessary for the maintenance of discipline and order in the prison, and the prevention of crime.

(2) On admission, a prisoner shall be entitled to write and receive a “reception letter” and to receive a visit and on transfer to another prison, a prisoner shall be entitled to write and receive a “transfer letter”.

#### **78. Re-arrest of prisoner released erroneously**

If the Commissioner General reasonably suspects that a prisoner has been released from a prison erroneously, he or she may issue a warrant for the re-arrest of that prisoner, which warrant may be executed by any police officer or prison officer and shall serve as authority for the detention of the

prisoner in a prison.

#### **79. Imprisonment *in lieu* of default of payment of fine**

Any imprisonment which is imposed by court *in lieu* or default of payment of a fine shall, prior to the expiration of the imprisonment thereof, terminate whenever that fine is paid or is lawfully levied under the process of any law authorising the levy of the fine, provided that courts shall be encouraged to pass community service orders as alternative to imprisonment where an offender fails to pay a fine.

**80. Restraint of prisoner in separate cell**

- (1) Where the officer in charge considers it necessary—
  - (a) to secure or restrain a prisoner who has—
    - (i) displayed or threatened violence;
    - (ii) been recaptured after escape from custody or in respect of whom there is good reason to believe that he or she is contemplating escape from custody; or
    - (iii) been recommended on medical grounds for confinement in a separate cell by a medical officer; or
  - (2) for the good order and discipline of a prisoner to be isolated and not to work or communicate with other prisoners,the officer in charge may order that such prisoner be confined in a separate cell for a period, not exceeding fourteen days, as he or she may deem necessary.

(2) Stripping a prisoner naked, pouring water in a cell of a prisoner, depriving him or her of food and administering corporal punishment and torture is prohibited.

**81. Foreign prisoners**

(1) A foreign prisoner, on admission to a prison shall, as far as possible, be given similar treatment as a prisoner who is a national; in particular, a foreign prisoner shall have the same access as a national prisoner to education, work and vocational training.

(2) The religious precepts and customs of a foreign prisoner shall be respected.

(3) A foreign prisoner shall be allowed reasonable facilities to communicate with his or her family, diplomatic or consular representatives of the state to which he or she belongs.

(4) A prisoner who is a national of a state without diplomatic or consular representation in Uganda or a refugee or stateless person shall be allowed similar facilities to communicate with the diplomatic representative of the state which takes charge of his or her interests or any national or international authority whose task it is to protect such persons.

(5) Humanitarian international organisations shall be given the opportunity to assist all prisoners including foreign prisoners.

(6) Foreign prisoners shall be informed promptly after reception into a prison, in a language that they understand and generally in writing, of the main features of the prison regime, including relevant rules and regulations.

(7) Foreign prisoners shall be given proper assistance, in a language they can understand, when dealing with medical or programme staff and in such matters as complaints, special accommodation, special diets and religious representation and counselling.

## **82. Release of prisoners on full remission**

(1) The officer in charge shall be responsible for the due discharge of a prisoner immediately upon becoming entitled to release.

(2) A prisoner who is due for release, but is still under treatment by the medical officer shall be discharged from prison to a medical or social service outside the prison as necessary.

(3) A prisoner shall be discharged before noon on the date on which he or she is entitled to be released, but if the date falls on a Sunday or a public holiday, he or she shall be released before noon on the day preceding the Sunday or public holiday.

## **83. Remission of part of sentence of certain prisoners**

(1) A convicted prisoner 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 his or her sentence or sentences.

(2) For the purpose of giving effect to subsection (1), each prisoner on admission shall be credited with the full amount of remission to which he or she would be entitled at the end of his or her sentence or sentences if he or she lost or forfeited no such remission.

**84. Loss of remission**

A prisoner may lose remission as a result of its forfeiture as a punishment for an offence against prison discipline and shall not earn any remission in respect of any period spent in hospital through his or her own fault or while malingering, or while undergoing confinement as a punishment in a separate cell.

**85. Grounds for grant of further remission by President**

(1) The Commissioner General may recommend to the Minister responsible for justice to advise the President under Article 121(4)(d) of the Constitution to grant a further remission on special grounds.

(2) The Commissioner General may restore forfeited remission in whole or in part.

(3) For the purpose of calculating remission of sentence, imprisonment for life shall be deemed to be imprisonment for twenty years.

**86. Habitual criminals to be released on licence only**

(1) A habitual criminal sentenced to imprisonment whether by one sentence or consecutive sentences for a period of three years or more who is released under section 82 of this Act shall be released on licence.

(2) A licence under subsection (1) shall be granted by the Commissioner General and shall authorise the prisoner to be at large in Uganda or in any other territory with the government of which reciprocal arrangements have been made under subsection (10) or in any part of Uganda, or other country as shall be specified in the licence.

(3) The Commissioner General shall revoke or alter such licence at his or her discretion.

(4) A licence granted under this section shall be in the prescribed form and shall be granted subject to the prescribed conditions; the Commissioner General may waive any conditions in the case of a particular prisoner.

(5) If a prisoner released on a licence granted under this section is convicted of any offence or fails to comply with any of the conditions of the licence by any act or omission that is not of itself an offence, the prisoner is liable, on conviction, to imprisonment for a term not exceeding three months, and to have his or her licence forfeited by order of a magistrate.

(6) Where a licence under this section is forfeited or revoked, the prisoner whose licence is forfeited or revoked shall, after undergoing any other punishment to which he or she has been sentenced, undergo a further term of imprisonment equal to the portion of his or her imprisonment as remained unexpired at the date of his or her release on licence, calculated without any remission previously earned or granted.

(7) Whenever a licence is revoked by the Commissioner General, any magistrate shall, on the production to him or her of a certificate of such revocation signed by the Commissioner General, issue a warrant for the apprehension of the person to whom the licence was granted.

(8) The person on being apprehended shall be brought before a magistrate or some other magistrate exercising jurisdiction in the same area who shall make out his or her warrant for the recommitment of the person to prison to undergo the residue of the sentence as remained unexpired at the date of the release under licence calculated without remission previously earned or granted.

(9) Where a licence is forfeited by order of a magistrate under subsection (6), the magistrate shall make out a warrant for the recommitment of the person to prison to undergo the residue of his or her sentence that remained unexpired at the date of his or her release under licence calculated without any remission previously earned or granted.

(10) The Minister may, by statutory order, declare any other country to be a country with the government of which reciprocal arrangements have been made by the Uganda Government for the surrender of persons whose licences have been revoked.

(11) Where a warrant has been issued under subsection (7) for the apprehension of a person whose licence has been revoked, it shall be lawful for the magistrate issuing the warrant to forward it for execution to any court having jurisdiction in such other country.

(12) A warrant issued by a court having jurisdiction in another country for the apprehension of a person who, in such other country, has been released on licence and whose licence has been subsequently revoked may be executed in Uganda in the same manner and subject to the same conditions as if the provisions of Part II of the Extradition Act applied to such warrant.

(13) For the purposes of this section, “habitual criminal” means a person who has been sentenced on four separate occasions to imprisonment for any offence contained in Chapters XXV to XXXVII inclusive of the Penal Code Act or for any attempt or conspiracy to commit any such offence.

## **87. Review of sentences**

(1) The Commissioner General shall submit to the Minister responsible for justice a report on the general condition and conduct of every prisoner undergoing imprisonment for life or for a term exceeding seven years, at the end of every four years of such imprisonment or at such lesser period as the Minister or the Commissioner General considers desirable.

(2) A review referred to in subsection (1) shall include—

- (a) a statement by the officer in charge of the prison, where the prisoner concerned is detained on work and conduct of the prisoner;
- (b) a report from the medical officer on the mental and physical health of such a prisoner with particular reference to the effect of imprisonment on the health of the prisoner; or
- (c) from the social worker about the community attitude and possible reintegration of the prisoner back into community.

## **88. Release on parole**

(1) A prisoner serving a sentence of imprisonment for a period of three years or more may be allowed by the Commissioner General within six months of the date he or she is due for release on conditions and for reasons approved by the Commissioner General to be temporarily absent from prison on parole for a stated length of time which shall not be greater than three months.

(2) The Commissioner General may at any time recall a prisoner released on parole.

(3) Any prisoner who fails to return to prison on the completion of the period of his or her parole or when informed that he or she has been recalled under subsection (2) commits an offence and may be arrested without a warrant and is liable, on conviction, to the same punishment as if he or she had escaped from prison.

(4) Any prisoner when released on parole who contravenes the conditions imposed upon him or her commits an offence and is liable, on conviction, to imprisonment for a term not exceeding six months.

## **89. Social relations and after care**

(1) Special attention shall be paid to the maintenance and improvements of relations between a prisoner and his or her family as are desirable in the best interests of both.

(2) From the beginning of a prisoner's sentence, consideration shall be given to his or her future after release and he or she shall be encouraged and assisted to maintain or establish such relations with persons or agencies outside the prison as may promote the best interests of his family and his own social rehabilitation.

(3) The Service, in conjunction with other services and agencies, governmental or otherwise, which assist released prisoners to re-establish themselves in society shall ensure, so far as is possible and necessary, that released prisoners be provided with appropriate documents and identification papers, have suitable homes and work to go to, are suitably and adequately clothed having regard to the climate and season, and have sufficient means to reach their destination and maintain themselves in the period immediately following their release.

(4) The approved representatives of the agencies shall have all necessary access to the prison and to prisoners and shall be taken into consultation as to the future of a prisoner from the beginning of his or her sentence.

(5) It is desirable that the activities of the agencies shall be centralised or coordinated as far as possible in order to secure the best use of their efforts.

**PART IX—OFFENCES RELATING TO PRISONS AND PRISONERS****90. Punishment in different prisons**

A punishment lawfully imposed may be carried out partly in one prison and partly in another.

**91. Forfeiture of remission as punishment**

A prisoner shall not be ordered to forfeit as a punishment more remission than he or she has earned.

**92. Prescription of prison offences by Minister**

The Minister may, in consultation with the Commissioner General, prescribe what acts or omissions constitute a prison offence.

**93. Punishment by confinement**

Punishment by close confinement shall not be inflicted unless a medical officer has examined the prisoner and certified in writing that the prisoner is fit to sustain it and the medical officer may advise the officer in charge to terminate the punishment if he or she considers it necessary on grounds of physical or mental health.

**94. Prisoners may be charged before court for offences against discipline**

(1) A prisoner may be charged before a magistrate with an offence against discipline and the magistrate may on convicting the prisoner, award any of the punishments mentioned in sections 102, 103, 104, 105, 106 and, in addition or *in lieu* thereof, may award imprisonment for a term not exceeding six months to run consecutively with the sentence then being served.

(2) No proceedings shall be taken against a prisoner in respect of any matter for which he or she has been punished under this Act.

**95. Prisoners right to defence**

A prisoner shall not be punished for a prison offence until the prisoner has had an opportunity of hearing the charge against him or her and making a

defence and where necessary and practicable, the prisoner shall be allowed the services of an interpreter.

#### **96. Restriction on prisoner punishing**

A prison officer shall not employ a prisoner in the punishment of a fellow prisoner.

#### **97. Registration of punishments**

The officer in charge shall cause to be entered in a register to be open to the inspection of the visiting justices a record of all punishments imposed upon prisoners showing, in respect of each prisoner punished, the name, the nature of offence and the extent of punishment.

#### **98. Punishment imposed on prisoner to be effected**

(1) A punishment lawfully imposed on a prisoner under this Act or any rules made under the Act may be carried into effect notwithstanding that the carrying into effect thereof may necessitate the detention of the prisoner beyond the date at which he or she would have otherwise been entitled to be discharged from prison.

(2) The period of detention shall not exceed forty-eight hours and the period shall be calculated from the last hour of the day upon which the prisoner would otherwise be entitled to be discharged.

#### **99. Offence in relation to prisoner trafficking**

Any person who without lawful authority—

- (a) conveys, supplies or causes to be supplied or conveyed to a prisoner, whether within or outside a prison or hides or places for his or her use any letter or document or any intoxicating liquor, tobacco, bhang or hemp, drug, opiate, money, clothing, provisions or any other article whatsoever;
- (b) brings or attempts to bring by any means whatsoever into a prison, or places or attempts to place where prisoners work any letter or document, intoxicating liquor, tobacco, bhang or hemp, drug, opiate, money, clothing, or provisions;

- (c) brings or attempts to bring out of a prison or conveys from prison any letter or document; or
- (d) communicates with any prisoner without lawful authority, commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding one year, or both.

**100. Prohibited articles**

- (1) Any person who, without lawful authority—
  - (a) brings or introduces in any manner into a prison a prohibited article; or
  - (b) takes out from prison a prohibited article,commits an offence and is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding one year.

(2) In this section, “prohibited article” means any article enumerated in a list that the Commissioner General has decided shall be prohibited.

(3) The list referred to in subsection (2) shall be signed by the Commissioner General or by the officer in charge on behalf of the Commissioner General and it shall be fixed in a conspicuous place outside every prison.

(4) The list shall be written in English, Swahili and the language that the officer in charge considers to be the local vernacular.

**101. Seizure of prohibited articles**

Whether or not any criminal or disciplinary proceedings are commenced against any person, a prison officer may seize any article found to be unlawfully in a prison and the Commissioner General may order its confiscation and forfeiture.

**102. Trespassing**

- (1) A person who, without lawful authority, enters or remains within the boundaries of a prison or any place where prisoners are working commits an offence and if he or she refuses to leave when asked to do so may be arrested by a prison officer or a police officer.

(2) Any person convicted of an offence under subsection (1) is liable, on conviction, to a fine not exceeding fifteen currency points or to imprisonment for a term not exceeding six months, or both.

### **103. Unlawful possession of prison articles**

A person found in possession of any article whatsoever which has been supplied to a prison officer for use on duty, or of other prison property and—

- (a) who fails to account satisfactorily for the possession of the article or property;
- (b) who without due authority purchases or receives any article or property from any prison officer; or
- (c) who aids or abets any prison officer to sell or dispose of any such article or property,

commits an offence and is liable, on conviction, to a fine not exceeding ten currency points or to imprisonment for a term not exceeding three months, or both.

### **104. Incitement to mutiny or disobedience**

Any person who—

- (a) directly or indirectly instigates, commands, counsels, or solicits any mutiny, sedition or disobedience to any lawful command of a prison officer to any other prison officer; or
- (b) maliciously endeavours to seduce any prison officer from his or her allegiance or duty,

commits an offence and is liable, on conviction, to imprisonment for a term not exceeding three years.

### **105. Harbouring prisoners**

A person who knowingly harbours a prisoner in a house, land or otherwise, or who knowingly employs any person under sentence of imprisonment and illegally at large, commits an offence and is liable, on conviction, to imprisonment for a term not exceeding one year.

### **106. General penalty**

A person who contravenes the provisions of this Act or any rules made under this Act, commits an offence and if no penalty is specially provided,

is liable, on conviction, to a fine not exceeding thirty currency points or to imprisonment for a term not exceeding six months, or both.

### **107. Power to prosecute under other laws not affected**

Nothing in this Act shall exempt a prisoner or any other person from being prosecuted under any other law for the time being in force for any offence made punishable by this Act, or from being liable under any other law to any other or higher penalty or punishment than is provided for under such offence by this Act; but no person shall be tried twice for the same offence.

## **PART X—VISITING JUSTICES, OFFICIAL VISITORS AND MINISTERS OF RELIGION**

### **108. Inspection of prisons by visiting justices**

(1) There shall be regular inspections of all prison institutions by persons to be known as visiting justices who shall be appointed by the Minister by statutory instrument.

(2) For the purpose of this Act, the following persons shall be *ex officio* visiting justices in respect of all prisons in Uganda

- (a) chairperson and members of Uganda Human Rights Commission;
- (b) a judge of the High Court, Court of Appeal and Supreme Court;
- (c) the Minister responsible for internal affairs.
- (d) the Minister responsible for justice;
- (e) all Cabinet Ministers;
- (f) a chief magistrate and resident magistrates in any area in which the prison is situated;
- (g) the chief administrative officer of the district in which a prison is situated;
- (h) the Permanent Secretary in the Ministry responsible for internal affairs;
- (i) the Inspector General of Government.

(3) In addition to the persons referred to in subsection (2), the Minister, in consultation with the Commissioner General and on the recommendation of a chief administrative officer, may appoint by notice in the *Gazette* fit and proper persons within the district to serve as visiting justices in that region.

**109. Functions of visiting justices**

(1) A visiting justice may at any time visit a prison in respect of which he or she is a visiting justice, and may—

- (a) inspect every part of the prison and visit every prisoner in the prison where practicable especially prisoners in confinement;
- (b) inspect and test the quality and quantity of food ordinarily served to prisoners;
- (c) inquire into any complaints or requests made by a prisoner;
- (d) ascertain as far as possible whether the rules, administrative instructions, standing orders issued to the prisoner and the rights of prisoners are brought to their attention and are observed;
- (e) inspect any book, document or record relating to the management, discipline and treatment of prisoners; and
- (f) perform any other functions as may be prescribed.

(2) On completion of each visit, a visiting justice shall enter in the visiting justices' book to be kept by the officer in charge for the purpose of such remarks, suggestions and recommendations about his or her findings as he or she may deem necessary for the attention of the Commissioner General.

(3) The officer in charge shall take an extract of the comments of the visiting justices made in the visiting justices' book referred to in subsection (2) with his or her own comments and submit those comments as soon as possible to the Commissioner General for his or her attention and reaction.

(4) The visiting justices for any prison may appoint a chairperson and may act as a board of visiting justices and may at the end of each year or at any other convenient time make a report to the Commissioner General on the state of the prison for which they are visiting justices.

(5) The board of visiting justices in subsection (4) shall be provided with funds to facilitate their work as the Minister may determine.

**110. Powers of Cabinet Ministers and Judges**

(1) A Cabinet Minister or a judge may at any time he or she thinks fit enter into and examine the condition of any prison and of the prisoners in the prison and may question any prisoner or prison officer, and may enter any

observations he or she thinks fit to make in reference to the condition of the prison in a visitor's book to be kept for that purpose by the officer in charge.

(2) The officer in charge shall inform the Commissioner General of any observations so entered in the visitor's book.

### **111. Inspection by other bodies or groups**

(1) Inspections may also be carried out by the Inspector General of Government or the Special Rapporteur on Prisons of the African Commission on Human and Peoples Rights.

(2) Subject to the permission of the Commissioner General, inspection may be carried out by teams composed of persons coming from other official or external bodies or non-governmental organisations and human rights groups.

### **112. Appointment of religious ministers or priests to be prison ministers**

(1) The Minister shall appoint, by statutory instrument, ministers or priests of any religious faith to be prison ministers.

(2) The Commissioner General shall make standing orders for the guidance of the prison ministers who may receive such remuneration in terms of salaries or allowances as the case may be.

(3) A religious minister shall—

- (a) visit prisoners in prison for which he or she is appointed to conduct religious services for the benefit of prisoners; and
- (b) hold religious and moral fellowships and interactions and counselling for benefit of prisoners.

(4) Access to a qualified representative of any religion shall not be refused to any prison and if any prisoner objects to a visit of any religious representative, his or her opinion shall be respected.

(5) So far as practicable, every prisoner shall be allowed to satisfy the needs of his or her religious life by attending the services provided in the institution and having in his or her possession the books of religious observance and instruction of his or her denomination.

**PART XI—MISCELLANEOUS****113. Prisons Contracts Committee**

(1) There shall be established a Prisons Contracts Committee as specified by the Public Procurement and Disposal of the Public Assets Act.

(2) The Minister may make regulations under section 122 to regulate the functions and operations of the Prisons Contracts Committee.

**114. Prisons Welfare Fund**

(1) There is established a fund known as the Prisons Welfare Fund.

(2) There shall be paid into the Prisons Welfare Fund all fines and other authorised payments to the Service as a result of orders by disciplinary committees.

(3) The money of the Prisons Welfare Fund shall also consist of donations from the Government and any other sources.

(4) The Prisons Welfare Fund shall be managed in accordance with the Public Finance Management Act.

(5) The Minister in consultation with the Commissioner General and other service organs may by statutory instrument provide for payments out of the Prisons Welfare Fund for the benefit of the families of a deceased prison officer.

(6) A person responsible for the gratuity, allowance, or other moneys or personal property, as the case may be, belonging to a prison officer who dies while in the Service, shall pay or deliver the money or personal property to the responsible chief administrative officer or the Administrator General as the case may be, who shall dispose of the same in accordance with the applicable laws.

**115. Lock-ups not classified as prisons**

(1) A police officer or any other law enforcement officer may arrest and detain an accused person in a lock-up pending trial, but in any case for not more than forty-eight hours from the time of his or her arrest.

- (2) A lock-up shall not be a prison for the purposes of this Act.

### **116. List of prisoners awaiting trial**

The officer in charge of a prison shall, before the commencement of a session of the High Court, file in that court a list of every prisoner within that prison awaiting trial in that court, the date of his or her admission into prison and the authority for his or her detention and when the prisoner last appeared in court.

### **117. Reward for apprehension of escaped prisoner**

(1) Where a prisoner escapes from lawful custody, the Commissioner General may offer a monetary reward to any person who—

- (a) gives information leading to the apprehension of such prisoner; or
- (b) apprehends, secures and hands over such prisoner to the officer in charge of a prison or police station and may, whether or not a reward has previously been offered, pay to such person a refund of any reasonable expenses incurred as a result of the apprehension, as the Commissioner General may determine.

(2) Notwithstanding the provisions of subsection (1), no prison officer or member of the Uganda Police Force and security organ whose duty is to handle the security of prisoners and maintenance of law and order shall be entitled to any reward under subsection (1) for the apprehension of an escaped prisoner unless the Commissioner General is of the opinion that exceptional circumstances exist to justify such reward being paid.

### **118. Rewards of gratuities for prison officers**

(1) The Commissioner General may in his or her opinion or on the recommendation of a judge, or a magistrate, grant a monetary reward or gratuity to a prison officer who in the course of duty has—

- (a) suffered bodily injuries;
- (b) performed special acts of bravery such as saving or attempting to save life or property from loss or danger;
- (c) rendered valuable information acquired by personal risk, hardship or unusual skill; or
- (d) rendered any other special or meritorious service.

(2) Every reward or gratuity granted under subsection (1) shall be subject to the approval of the Minister in consultation with the Minister responsible for finance and shall be paid from the prisons rewards and fines fund to be established by regulations made under this Act or the Prisons Welfare Fund as the Minister and the Commissioner General may see fit.

### **119. Detention of prisoners sentenced abroad**

(1) A Ugandan citizen who has been duly sentenced to a term of imprisonment by a competent court of law within a foreign country, may be transferred to a prison in Uganda to serve the whole or the unexpired portion of the sentence, and shall, on such transfer, be subject to the provisions of this Act as if he or she was serving a sentence of a competent court in Uganda.

(2) The Minister may, by notice in the *Gazette*, specify the countries to which this section applies.

(3) A certificate under the hand of the Minister certifying that, from the documents laid before him or her, it appears that the person named in the certificate has been sentenced, the period of imprisonment specified in the certificate shall be accepted as proof during the continuity of such period, that that person is lawfully detained in accordance with the provisions of this section.

### **120. Transfer of prisoners to other countries**

(1) Subject to the provisions of the Extradition Act, or any other law or any reciprocal arrangement where a person who is not a citizen of Uganda is sentenced to a period of imprisonment by a competent court of law in Uganda, the Minister may by warrant authorise that such a person be transferred to the country of which he or she is a citizen to serve the rest of his or her term of imprisonment in accordance with the law of that country, provided that country and the prisoner concerned agree to that procedure.

(2) A person who is being transferred under subsection (1) shall, while in Uganda, be deemed to be in lawful custody.

(3) The transfer of a person to another country under this section shall not affect that person's right under any law to appeal against his or her conviction or sentence in a court of law in Uganda.

**121. Delegation of powers**

- (1) The Commissioner General may—
  - (a) delegate any power conferred upon him or her under this Act, excluding the power to make or issue rules, standing orders or administrative instructions to the Deputy Commissioner General; or
  - (b) assign the performance of any function or duty entrusted to him or her under this Act to a prison officer.
- (2) The officer in charge may—
  - (a) delegate any power conferred upon him or her under this Act to any senior prison officer employed under him or her in that prison; or
  - (b) assign the performance of any function or duty entrusted to him or her under this Act to any senior prison officer employed in that prison under him or her.

(3) A delegation or assignment under subsection (1) or (2) may be made subject to such conditions and restrictions as may be determined by the Commissioner General or officer in charge as the case may be, and may be withdrawn or amended by him or her in writing.

**122. Regulations**

(1) The Minister may, by statutory instrument, in consultation with the Commissioner General, make regulations for the effective management and governance of prisons and prisoners whether in, about or beyond the limits of the prison, and generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may provide for—

- (a) the classification of prisons and prisoners into categories, and their separation accordingly;
- (b) the duties and responsibilities of prison officers including the duties and responsibilities of particular classes of prison officers;
- (c) the duties and powers of visiting justices;

- (d) the duties of medical and dental officers, the inspection of prisons and prisoners, and the mode of preventing contagious diseases in prisons;
- (e) the safe custody, management, organisation, hours, mode and kind of labour and employment, clothing, maintenance, instruction, discipline, treatment, restraint, correction and discharge of prisoners;
- (f) the provision of a suitable diet and dietary scales for prisoners and prescribing conditions under which the diet and scale may be varied;
- (g) the construction, description, equipment and supervision of cells and wards;
- (h) the payment of prisoners for work done while in prison;
- (i) the establishment of a prisons rewards and fines fund and the method of administration of the fund by the Commissioner General;
- (j) the establishment of prisoners' connection with discharged prisoners and the appointment of officers responsible for the after care of prisoners;
- (k) the medical examination, photographing and taking of fingerprint impressions or other records of prisoners confined in a 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 statistics and histories; and the persons, if any, to whom such measurements, photographs, fingerprint impressions or other records are to be sent or supplied;
- (l) the execution of condemned prisoners;
- (in ) the disposal of products of prison labour;
- (n) the disposal of prisoners' property left unclaimed for a prescribed period including its sale and the disposal of the proceeds of such sale;
- (o) the manner in which the remission of sentences shall be calculated; or
- (p) prescribe any other thing that may be prescribed under this Act.

### 123. Power to amend Schedule 1

The Minister may, by statutory instrument, with the approval of Cabinet, amend Schedule 1 to this Act.

**SCHEDULES***Schedule 1*

Sections 1, 123

**Currency Point**

A currency point is equivalent to twenty thousand shillings.

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*Schedule 2*

Section 53

**Disciplinary Offences**

1. Discreditable conduct, which includes acting in a disorderly manner or in any manner prejudicial to discipline or likely to bring discredit on the reputation of the Service, or to cause any injury to the public service in any way.
2. Using traitorous or disloyal words regarding the Government.
3. Being under arrest or confinement, leaving or escaping from arrest or confinement before being set at liberty by proper authority.
4. Neglecting, or refusing to assist in the apprehension of any prison officer or prisoner whom it is his or her duty to arrest.
5. Instigating or permitting any prisoner to commit any crime or offence against prison discipline.
6. Associating with discharged prisoners without the written authority of the officer in charge.
7. Persuading or endeavouring to persuade, procuring or attempting to procure or assist any other prison officer to desert.
8. Being cognisant of any desertion or intended desertion of any other prison officer and failing to give notice to his or her senior officer forthwith or take any steps in his or her power to cause the deserter or intending deserter to be apprehended.

9. Insubordinate or oppressive conduct, that is to say, if he or she—
  - (a) is insubordinate by word, act or demeanour;
  - (b) is guilty of oppressive or tyrannical language towards an inferior in rank or any prisoner;
  - (c) uses obscene, abusive or insulting language to any prison officer or prisoner;
  - (d) wilfully or negligently makes any false complaint or statement against any prison officer or prisoner; or
  - (e) assaults any prison officer or prisoner.
  
10. Disobedience of orders, that is to say, if he or she—
  - (a) removes any part of his or her uniform or is improperly dressed when on duty or endeavours at any time to conceal or disguise his or her number;
  - (b) smokes on duty;
  - (c) engages without authority in any employment or office other than his or her official duties;
  - (d) brings friends or relatives into staff quarters without permission;
  - (e) disobeys, or without good and sufficient cause, omits or neglects to carry out any lawful order, written or otherwise; or
  - (f) if called upon by the Commissioner General to furnish a full and true statement of his or her financial position, fails to do so.
  
11. Neglect of duty, that is to say, if he or she—
  - (a) neglects, or without good and sufficient cause, omits, promptly and diligently, to attend or to carry out anything which is his or her duty as a prison officer;
  - (b) is not alert or idles or misbehaves while on duty;
  - (c) fails to work his or her patrol or to perform any other duty in accordance with orders, or leaves his or her patrol or post or other place of duty to which he or she has been ordered without due permission or sufficient cause;
  - (d) by carelessness or neglect gives opportunity for a prisoner to escape;
  - (e) loses supervision over prisoners in his or her charge;
  - (f) fails to report any matter which it is his or her duty to report;
  - (g) fails to report anything which he or she knows concerning a criminal or disciplinary charge, or fails to disclose any evidence which he or she, or any person within his or her knowledge, can

- give for or against any prisoner or accused person on a criminal or a disciplinary charge;
- (h) omits to make any necessary entry in any official book or documents, or omits to make or send any report or return which it is his or her duty to make or send;
  - (i) sleeps on duty;
  - (j) conceals any venereal contagious disease or fails to report that he or she is suffering from the same, or neglects to carry out any instructions of a Government medical officer, or while absent from duty on account of sickness, is guilty of any act or conduct calculated to retard his or her return to duty.
12. Falsehood or prevarication, that is to say, if he or she—
- (a) makes or signs, in any official document or book, any statement which he or she knows or has reasonable grounds to believe to be false;
  - (b) wilfully or negligently makes a false, misleading or inaccurate statement;
  - (c) without good and sufficient cause destroys or mutilates any official document or record, or alters or erases any entry therein;
  - (d) is guilty of any prevarication before any court or at any inquiry.
13. Breach of confidence that is to say, if he or she—
- (a) divulges any matter which it is his or her duty to keep secret;
  - (b) without due authority discloses or conveys any information concerning any prisoner or prison or investigation or other departmental matter to the press or to any unauthorised person;
  - (c) without proper authority shows or conveys to any person outside the Service any book or document, the property of the Government;
  - (d) makes any anonymous, frivolous or vexatious communication or complaint in an irregular manner;
  - (e) signs or circulates any petition or statement with regard to any matter concerning the Service except through the proper channel or correspondence to the Commissioner General;
  - (f) calls or attends any unauthorised meeting to discuss any matter concerning the Service.
14. Corrupt practice, that is to say, if he or she—
- (a) solicits or receives any bribe;

- (b) fails to account for or to make prompt and true return of any money or property received by him or her in official capacity, or fails to account satisfactorily, if called upon by the Commissioner General to do so, for any money or property in his or her possession or received by him or her otherwise than in official capacity;
  - (c) directly or indirectly solicits or receives any gratuity, present, subscription or testimonial, without the consent of the Commissioner General;
  - (d) receives any fee or gratuity from or having any business dealings, with prisoners or discharged prisoners, with the friends of prisoners or with visitors to a prison;
  - (e) improperly uses his or her character and position as a member of the Service for his or her private advantage;
  - (f) in his or her capacity as a prison officer, writes, signs or gives without the sanction of the officer in charge any testimonial or character or other recommendation with the object of obtaining employment for any prisoner or other person;
  - (g) traffics with prisoners;
  - (h) allows unauthorised persons to communicate with prisoners;
  - (i) brings tobacco or spirituous or fermented liquor or any other prohibited articles into a prison;
  - (j) without proper authority, extracts any article from any person, vehicle or vessel.
15. Unlawful or unnecessary exercise of authority, that is to say, if he or she—
- (a) uses any unnecessary violence to any prisoner save as provided in section 39;
  - (b) is uncivil or uses improper language, to any member of the public;
  - (c) interferes unnecessarily in any matter or with any person which or who is outside the scope of his or her authority.
16. Malingering, that is to say, if he or she feigns or exaggerates any sickness or injury with a view to evading duty.
17. Withdrawal from duty or absence without leave, that is to say, if he or she—
- (a) withdraws himself or herself from his or her duties unless expressly permitted to do so by the Commissioner General or by some other officer authorised to grant such permission;

- (b) without reasonable excuse, is absent without leave from or is late for parade, court, or any other duty.

18. Uncleanliness, that is to say, if he or she, while in uniform, is improperly dressed, or is dirty or untidy in his person, clothing or accoutrement.

19. Damage to clothing or other Government property, that is to say, if he or she—

- (a) pawns, sells, loses by neglect, makes away with, or wilfully or negligently causes damage to, or the loss or waste of, any Government property including arms, ammunition, clothing or equipment or medal or decoration issued to him or her, or prisoners' property;
- (b) fails to report any loss or damage as to above Government property;
- (c) commits any petty offence of stealing or misappropriating any money or goods being the property of the Government or of any prison officer, or of receiving any such property knowing the same to have been stolen or misappropriated from the Government or from any prison officer.

20. Drunkenness, that is to say, if he or she while on or off duty, is unfit for duty through drink or drugs.

21. Drinking on duty, that is to say, if he or she—

- (a) drinks or receives from any person any intoxicating liquor while he or she is on duty;
- (b) demands or endeavours to persuade any other person to give him or her or to purchase or obtain for him or her any intoxicating liquor while he or she is on duty.

22. Entering licensed premises, that is to say, if without permission he or she enters—

- (a) while on duty any premises licensed under the liquor licensing laws or any other premises where liquors are stored or distributed;
- (b) any such premises in uniform while off duty.

23. Lending or borrowing money, that is to say, if he or she lends money to or borrows money from any prison officer, or accepts any present from any inferior in rank.

24. Contracting debts, that is to say, if he or she contracts any private debt of a discreditable nature, or which there is no likelihood of his being able to repay, or if, having contracted any debt, he makes no reasonable effort to pay the same.

25. Cowardice, that is to say, if he or she is guilty of any act of cowardice.

26. Irregular conduct, that is to say, if he or she acts in any irregular manner prejudicial to the discipline of the Service or the security of a prison which is not specially provided for in paragraphs 1, 2, 3, 4, 5, 6 and 7.

27. Firing any rifle without just cause or order.

28. Being unduly familiar with prisoners.

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**History:** Act 17/2006

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### **Cross References**

Constitution

Criminal Procedure Code Act, Cap. 122

Extradition Act, Cap. 124

Identification of Offenders Act, Cap. 127

Justices of the Peace Act, Cap. 17

Mental Health Act, Cap. 308

Penal Code Act, Cap. 128

Public Procurement and Disposal of Public Assets Act, Cap.

205 Public Finance Management Act, Cap. 171