

Seychelles

Prisons Act

Chapter 180

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Seychelles

Prisons Act Chapter 180

Commenced on 16 December 1991

[This is the version of this document as it was at 1 June 2020 to 11 November 2021.]

[Act 18 of 1991; Act [16 of 2008](#); Act [6 of 2016](#); Act [8 of 2016](#); S.I. 115 of 1995; S.I. 30 of 2002; S.I. 40 of 2006; S.I. 58 of 2010; S.I. 2 of 2012]

Part I – Preliminary

1. Short title

This Act may be cited as the Prisons Act.

2. Interpretation

In this Act—

"**appellant prisoner**" means any convicted prisoner who is confined in a prison as a result of a conviction which is the subject matter of an appeal which has been entered or lodged but the decision in regard to which has not been given;

"**civil prisoner**" means any prisoner other than a convicted prisoner;

"**convicted prisoner**" means any prisoner committed to custody under the writ, warrant or order of any court or authority exercising criminal jurisdiction or by order of a court martial and includes a prisoner sentenced to imprisonment in default of a payment of a fine or other sum imposed by such court or authority or a prisoner detained under section 10(1) of the Transfer of Prisoners Act, 2010;

"**prison**" means any prison established under [section 3](#);

"**prisoner**" means any person confined in a prison;

"**Superintendent**" means the Superintendent of Prison appointed under [section 4](#)

"**unconvicted person**" means a debtor and any person on remand or awaiting trial or detained in safe custody or for want of sureties who has not been convicted by any court;

"**young person**" means a person under the age of 18 years.

Part II – Prisons and staff

3. Establishment of prisons

- (1) There shall be prisons established in Seychelles for the confinement of prisoners under this Act.
- (2) For the purposes of subsection (1), the President may, by order published in the *Gazette*, declare any place in Seychelles to be a prison.

4. Prison officers

- (1) There shall be a Superintendent of Prisons for Seychelles and such other prison officers as may be necessary.

- (2) Every prison where women are confined shall have a sufficient number of women prison officers.
- (3) The Superintendent shall be appointed by the President and other prison officers shall be appointed according to the procedures applicable to employees in the public service and shall have such ranks and such designations as may be prescribed.

5. Superintendent

- (1) The Superintendent shall, subject to the orders and directions of the Minister, have the administrative command superintendence, control and direction of the prisons and other prison officers.
- (2) In the exercise of his functions under subsection (1), the Superintendent may—
 - (a) issue orders to be called Prison Standing Orders not inconsistent with the provisions of the Act;
 - (b) visit and inspect prisons.

6. Functions of other prison officers

- (1) Every prison officer shall perform such functions as may be prescribed and shall obey all such lawful directions in respect of the performance of his functions as he may receive from prison officers above his rank.
- (2) Subsection (1) shall not apply to the Superintendent.

7. Supply of weapons

- (1) Prison Officers may be supplied with weapons for use, when so permitted under the Act, in the performance of their functions under this Act.
- (2) Notwithstanding anything to the contrary in the Firearms and Ammunition Act, the President may authorise the supply and possession of firearms and ammunition to or by prison officers above such rank as he may determine.
- (3) Where a prison officer ceases to be a prison officer he shall forthwith deliver to the Government the weapons supplied to him under this section.

8. Use of weapons

- (1) Subject to subsections (2) to (5), a prison officer may use the weapons supplied to him under [section 7](#) against any prisoner when such prisoner—
 - (a) is escaping or attempting to escape;
 - (b) is engaged in any combined outbreak or in any attempt to force or break open the outside door or gate or enclosure wall of the prison and the prison officer may continue to use the weapons so long as such combined outbreak or attempt is actually prosecuted;
 - (c) is using violence to any prison officer or other person.
- (2) A prison officer shall not use the weapons against a prisoner as authorised under subsection (1)
 - (a) unless he has reasonable grounds to believe that he cannot otherwise prevent the escape of the prisoner or unless he has given a warning to the prisoner that he is about to use the weapons against him.
- (3) A prison officer shall not use the weapons against a prisoner as authorised under subsection (1)(c) unless he has reasonable ground to believe that the prison officer or other person is in danger of life or death or that other grievous bodily harm is likely to be caused to the prison officer or other person.

- (4) A prison officer shall not, in the presence of another prison officer of a rank above his rank, use the weapons against a prisoner as authorised under subsection (1)(a) or (b) except under the orders of the officer of the rank above his rank.
- (5) The use of weapons under this section shall be as far as possible to overpower and not to kill.

9. Prison officers deemed to be police officers

Every prison officers while acting as such shall have all the powers, authority, protection and privileges of a police officer.

10. Entry of cells at night

Except in case of sickness and emergency, a prison officer shall not enter a cell of a prisoner at night unless he is accompanied by another prison officer.

11. Cells of female prisoners

A male prison officer shall not enter or remain in cell in which a female prisoner is confined unless he is accompanied by a female prison officer.

12. Restrictions on gainful employment or receipt of fee or gratuity

- (1) A prison officer shall not engage himself in any employment for gain or reward except with or connected with the Government or have any interest, direct or indirect, in any contract for the supply of goods to a prison.
- (2) A prison officer shall not receive any fee or gratuity from prisoners, discharged prisoners, friends of prisoners or visitors to prisoners for or in connection with the performance of his functions under the Act.

13. Detailment of police officers for duty in prisons

The Commissioner of Police may, from time to time, at the request of the Superintendent, detail any police officer to serve in the capacity of an escort or of a guard in or around any prison for the purpose of ensuring the safe custody of any prisoner and any police officer so detailed, shall while performing such functions, be deemed to be a prison officer.

14. Certain public officers deemed to be prison officers

Any officer of a Government Department engaged in the supervision of out-door labour of prisoners shall, while so engaged, be deemed to be a prison officer.

15. Restrictions on resignation

- (1) A prison officer appointed under [section 4](#), below the rank of Superintendent, shall not resign from his service in a prison unless expressly authorised by the Superintendent to do so or unless he gives to the Superintendent not less than three months notice in writing of his intention.
- (2) Notwithstanding subsection (1), the Minister may in any particular case dispense with the notice required under subsection (1) or reduce the period of notice.

16. Non liability for act done under authority of a warrant

- (1) Where the defence to any proceedings instituted against a prison officer is that the act complained of was done in obedience to a warrant purporting to be issued by a court or other competent authority, the court in which the proceedings are instituted shall, upon production of the warrant

and upon proof that the act complained of was done in obedience to such warrant, enter judgment in favour of the prison officer.

- (2) In any proceedings referred to in subsection (1), it shall not be necessary to prove the signature on the warrant unless the court has reason to doubt the genuineness of the signature.
- (3) If in any proceedings referred to in subsection (1) it shall be proved that the signature is not genuine, judgment shall nevertheless be given in favour of the prison officer if it is proved that at the time the act complained of was committed, he believed on reasonable grounds that the signature was genuine.

17. Medical Officer of Prisons

- (1) Every prison shall have a Medical Officer of Prisons who shall be a government medical officer.
- (2) The Medical Officer of Prisons shall be detailed for duty in the prison by the chief executive officer of the Ministry responsible for health in consultation with the chief executive officer of the Ministry responsible for prisons.
- (3) The Medical Officer of Prisons shall, subject to the control of the Superintendent, have the general care of health of the prisoners and shall perform such other duties as may be prescribed.
- (4) The Medical Officer of Prisons, while acting as such, shall have all the powers, authority, protection and privilege of a prison officer of a rank below that of the Superintendent.
- (5) In the temporary absence of the Medical Officer of Prisons the chief executive officer of the Ministry responsible for health may, at the request of the Superintendent and in accordance with subsection (2), detail any government medical officer to perform the duties of the Medical Officer of Prisons.

18. Prison Welfare Officers

- (1) The Minister may appoint one or more Prison Welfare Officers.
- (2) A Prison Welfare Officer shall attend to the welfare of prisoners whilst in, and after their release from, a prison and shall perform such other duties as may be assigned to him by the Minister.
- (3) A Prison Welfare Officer may, with notice to the Superintendent, visit a prison and shall have access to every prisoner therein.
- (4) The Superintendent shall provide facilities for the performance of the duties of a Prison Welfare Officer.

Part III – Prisoners, their custody, removal and discipline

19. Confinement and lawful custody of prisoners

- (1) No person shall be confined in a prison except under the authority of a remand warrant, a warrant or order of detention or a warrant of conviction or committal.
- (2) The Superintendent may permit a child of a female prisoner to be detained with her in a prison if the child is being breast-fed by her and is less than 18 months in age.
- (3) Any person confined under subsection (1) shall be in the lawful custody of the Superintendent while he is confined in, or is being taken to or from any prison and while he is working, or is for any other reason, outside the prison in the custody or under the control of a prison officer.

20. Register, search, medical examination etc of prisoners

- (1) The Superintendent shall maintain a register of prisoners which shall contain such particulars as may be prescribed.

- (2) Regulations may provide for the search, medical examination, measuring and photographing of prisoners, taking of finger prints, palm prints, footprints, and other records of prisoners, the safe custody of the personal effects of prisoners, classification, hours of labour, mode of employment, diet, clothing, maintenance, release, treatment and correction of prisoners, and the persons to whom any measurements, photographs, finger prints, palm prints, footprints or other records of prisoners are to be sent or supplied.

21. Classification and separation of prisoners

- (1) Male and female prisoners shall be confined in separate parts of a prison so as to prevent the prisoners of one sex from seeing or communicating with prisoners of the other sex.
- (2) Prisoners of each sex shall be divided into distinct classes, namely—
 - (a) young persons;
 - (b) adults;
 - (c) prisoners awaiting trial;
 - (d) convicted prisoners;
 - (e) civil prisoners;
 - (f) first offenders; and
 - (g) recidivists.
- (3) As far as the prison accommodation renders it practicable—
 - (a) young persons shall be kept apart from adults;
 - (b) prisoners awaiting trial shall be kept apart from convicted prisoners;
 - (c) civil prisoners shall be kept apart from convicted prisoners;
 - (ca) drug dependent persons convicted under the Misuse of Drugs Act shall be kept apart from other prisoners;
[section 21(3) inserted by section 2(a) of Act 6 of 2016 w.e.f. 20 April 2016]
 - (d) first offenders shall be kept apart from recidivists.

22. Discipline

- (1) Every prisoner shall be subject to prison discipline during the whole period of imprisonment whether he is or is not within the precincts of the prison.
- (2) Regulations may provide for prison discipline, prison offences, their trial and punishment, both in respect of prisoners and prison officers.

23. Incident of infectious or contagious diseases in prisons

- (1) Where the incidence of an infectious or contagious disease in a prison in the opinion of the Superintendent, renders it necessary, any prisoner confined in the prison may be removed to any other prison or place although such place may not have been declared under [section 3](#) to be a prison.
- (2) Any prison or place to which a prisoner is removed under subsection (1) shall, during the continuance of the prisoner in that prison or place, be deemed to be a part of the prison from which he was removed.

- (3) Where the prison from which a prisoner is removed under subsection (1) or any prisoner so removed, as the case maybe, is declared by the Medical Officer of Prisons to be free of any infectious or contagious disease, the prisoner so removed shall be taken back to the prison from which he was removed, if still liable to be confined therein.

24. Sick prisoners

- (1) Where in the opinion of the Medical Officer of Prisons or, in the case of emergency, in the opinion of the Superintendent, a prisoner requires treatment in a hospital, the prisoner may be removed to a Government hospital for treatment.
- (2) A prisoner removed to a Government hospital under subsection (1) shall, so long as he remains in the hospital, be deemed to be in lawful custody.
- (3) The medical officer in charge of a hospital to which a prisoner is removed under subsection (1) shall take such measures as are necessary to prevent the escape of the prisoner from the hospital which in the opinion of the medical officer are not likely to be prejudicial to the health of the prisoner.
- (4) Where due to the gravity of the offence for which a prisoner is confined in a prison or for any other reason, the Superintendent considers it to be desirable to take special measures for the security of the prisoner under treatment in a hospital, he may give such prisoner into the charge of fit and proper persons not being less than two in number who are hereby vested with power and authority to do all things necessary to prevent the prisoner from escaping from the hospital.
- (5) Where the medical officer in charge of a hospital to which a prisoner is removed under subsection (1) certifies that the prisoner does not require treatment in the hospital, the prisoner shall be taken back to the prison from which he was removed, if still liable to be confined therein.

25. Compliance with court orders

- (1) Where an order issued by a court directs the production in the court of a prisoner, the Superintendent shall cause the prisoner to be produced in court as directed.
- (2) Where a court authorises in writing a probation officer to remove from prison a prisoner confined therein for the purpose of making inquiries at the direction of court, the Superintendent shall hand over the prisoner to the custody of the probation officer who shall be responsible for the safe custody of the prisoner till he is returned to the prison.
- (3) In subsection (2) a "probation officer" means a probation officer appointed under the Probation of Offenders Act.

26. Prisoners may be removed from one prison to another or, in certain circumstances, to some other place

- (1) A prisoner may be removed from one prison to any other prison from time to time at the discretion of the Superintendent.
- (2) Wherever in the opinion of the Superintendent the number of prisoners in a prison is greater than the number that can be conveniently confined therein and that it is not convenient to remove under subsection (1) the excess number to some other prison, the Superintendent may, with the approval of the Minister, remove the excess number of prisoners to any other place to be confined therein although such other places has not been declared under [section 3](#) to be a prison and that other place shall, during the continuance of the prisoners therein, be deemed to be a part of the prison from which he was removed.

27. Prisoners in custody of persons other than prison officers

A prisoner shall, whilst being removed from one prison to another or whilst at work outside the prison or whilst being removed from or taken back to a prison under [section 24](#) or [section 25](#), be deemed to be, if he

is not in the custody of prison officer, in the lawful custody of the person in whose custody he was at the time.

28. Prisoners liable to work at labour

- (1) Subject to subsection (2), every prisoner confined in a prisoner pursuant to a warrant of conviction, other than appellant prisoners whose sentence has been suspended under section 318 of the Criminal Procedure Code, shall be liable to work at such labour within or outside the precincts of the prison as may be directed by the Superintendent and so far as practicable such labour shall take place in association or outside cells.
- (2) Where the Medical Officer of Prisons so orders, a prisoner shall not be required to perform any labour or any labour other than light labour, as the case may be.
- (3) Appellant prisoners whose sentence has been suspended under section 318 of the Criminal Procedure Code and prisoners other than those referred to in subsection (1) shall be liable to keep their cells, precincts of cells, furniture, clothing and utensils clean and to any other employment that may be given at their request.

29. Penal labour in lieu of imprisonment

- (1) A person sentenced to imprisonment for a period not exceeding 2 months or committed to prison for non-payment of a fine or costs not exceeding R 500 may, before or immediately after his confinement in prison under this Act, apply to the court sentencing or committing him to undertake public work outside prison in lieu of imprisonment, unless he is excluded from so applying by the judgment of the court.
- (2) The court may, if satisfied that a person applying under subsection (1) can be usefully employed in work outside the prison and is not undergoing any other term of imprisonment, order the person to be employed without remuneration under the supervision of such public officer or other person as the court may appoint on such public work as may be prescribed.
- (3) Where an order is made under subsection (2) in respect of a prisoner, the Superintendent shall release the prisoner.
- (4) The period of work ordered under subsection (2) shall be equal to the term of imprisonment the person in respect of whom the order is made is liable under the sentence and the daily task on which the person is employed shall be such as, having regard to his physical capacity, he can complete in six hours of labour.
- (5) If a person in respect of whom an order has been made under subsection (2) fails to present himself at the appointed hour or absents himself from his task or fails to accomplish a day's task or is otherwise found to be unsatisfactory in his conduct, the court may order that he shall undergo the imprisonment to which he was liable subject nevertheless to a deduction of the number of days on which he has completed the daily task.

Part IV – Remissions, licences and supervision orders

30. Remission of sentence

- (1) Subject to subsections (2) and (3), a person sentenced, whether by one sentence or by consecutive sentences, to imprisonment for a period exceeding 30 days, including a person sentenced to imprisonment in default of payment of a fine or other sum of money, may, on the ground of his industry and good conduct while in prison be granted a remission of one third of the period of his imprisonment.
- (2)(a) Subsection (1) shall not apply to a prisoner—
 - (a) serving a sentence of imprisonment for life; or

- (b) serving a sentence of imprisonment for an offence of an aggravated nature under the Misuse of Drugs Act, 1990; or

[section 30(2)(b) inserted by section 2(b) of Act 6 of 2016 w.e.f. 20 April 2016]

- (2)* detained in custody during the President's pleasure.
- (3) Where a remission granted under subsection (1) to a prisoner results in the reduction of his period of imprisonment to a period less than 30 days, the prisoner shall not be released from prison until he has served a period of 31 days imprisonment.
- (4) For the purpose of giving effect to subsection (1), each prisoner on the commencement of his sentence shall be credited with the full period of remission which he would be entitled to under that subsection and shall only lose such remission as a punishment for idleness, lack of industry or other offence against prison discipline.
- (5) The preceding provisions of this section shall be without prejudice to the prerogative of mercy vested in the President under the Constitution.

31. Licences to be at large

- (1) Where a prisoner who—
 - (a) is serving a sentence of imprisonment of or exceeding 2 years; and
 - (b) has served not less than one half of the sentence; and
 - (c) has been of good behaviour while serving the sentence,the Superintendent may, with the approval of the Minister, grant the prisoner a licence to be at large in Seychelles or in any part of Seychelles as may be specified in the licence.
- (2) Any licence granted under subsection (1) may, with the approval of the Minister, be revoked or altered by the Superintendent.
- (3) Where a licence is granted under subsection (1), the prisoner shall be released from the prison and shall not be liable to serve the unexpired period of the sentence in respect of which the licence is granted unless the licence is revoked under subsection (2) of this section or forfeited under [section 33](#).

32. Form and conditions of licences to be at large

- (1) A licence granted under [section 31](#) to a prisoner (in this section and in [section 33](#) referred to as the "licence holder") shall be in such form as may be prescribed and shall be subject to the following conditions—
 - (a) the licence shall contain the finger prints of the licence holder and shall be produced by the licence holder when called upon by a police officer to do so;
 - (b) the licence holder shall not associate with notoriously bad characters such as reputed thieves, house-breakers, receivers of stolen property and the like;
 - (c) the licence holder shall not lead an idle or dissolute life without visible means of earning an honest livelihood;
 - (d) the licence holder shall at the time of his release under [section 31](#) (3) inform the Superintendent of his place of residence after release and shall after his release proceed to such place and, unless he is prevented by reasonable cause, report personally to the officer-

Note: The numbering of section 30(2)(2) in the Act as gazette appears to be a typographical error and it has accordingly been formatted as section 30(2)(c).

in-charge of the police station nearest to his place of residence within 48 hours of his arrival at such place and notify him of his place of residence and shall continue to report to him personally once in every month thereafter during the unexpired period of the sentence in respect of which the licence is granted;

- (e) where the licence holder intends to change his place of residence, he shall give 48 hours notice of his intention, either personally or by letter, to the officer-in-charge of the police station to whom he is liable to report under paragraph (d) and where such change of residence is from one area of a police station to an area of another police station he shall also report and continue to report in accordance with paragraph (d) to the officer-in-charge of the police station closest to the place of residence to which he has changed his residence.
 - (f) where the licence granted under [section 31](#) is a licence to be at large in a part of Seychelles, the licence holder shall not enter or reside in any other part of Seychelles during the unexpired period of the sentence in respect of which the licence is granted;
 - (g) any other conditions which the Superintendent may, with the approval of the Minister, specify in the licence.
- (2) If a licence holder satisfies the Superintendent that he has lost the licence through no fault of his, he shall be issued with a duplicate of the licence.

33. Breach of conditions of a licence to be at large

- (1) A licence holder who fails to comply with any conditions of the licence granted to him under [section 31](#) is guilty of an offence and, without prejudice to his liability to serve any unexpired period of the sentence in respect of which the licence is granted, shall be liable on conviction to imprisonment for three months and shall have the licence forfeited.
- (2) Where a licence granted under [section 31](#) is revoked by the Superintendent under subsection (2) of that section, the licence holder may be arrested by any police officer without a warrant and produced before the Superintendent.
- (3) Where a licence granted under [section 31](#) is forfeited by a court, the court shall commit the licence holder to the custody of the Superintendent.
- (4) Where a licence holder is produced before the Superintendent under subsection (2) or committed to his custody under subsection (3), the licence holder shall be liable to serve the unexpired period of the sentence in respect of which the licence was granted.

34. Compulsory supervision order

- (1) The Superintendent—
 - (a) shall, in the case of a prisoner who having been sentenced to imprisonment on not less than 2 previous occasions, is serving a sentence of imprisonment for a term of or exceeding 3 years;
 - (b) may, with the approval of the Minister, in the case of any other prisoner where he considers it necessary or desirable in the interests of rehabilitation of that prisoner so to do, make an order to be known as a compulsory supervision order, providing for the compulsory supervision of the prisoner by a Prison Welfare Officer for any period not exceeding one year after his release from the prison.
- (2) The compulsory supervision order shall be in such form and subject to such terms and conditions as may be prescribed and shall take effect on the release from prison of the prisoner in respect of whom it is made.
- (3) Any person who fails to comply with any of the terms and conditions of a compulsory supervision order made in respect of him is guilty of an offence and shall be liable on conviction to a term of imprisonment for three months or equal to the period of remission of sentence, if any, granted to

him under [section 30](#) in respect of the sentence of imprisonment he was serving immediately before the making of the compulsory supervision order, whichever is greater.

- (4) On a conviction for an offence under subsection (3), the compulsory supervision order, the breach of which was complained of, shall cease to be operative during the period of imprisonment for that offence and on his release from prison thereafter, shall be operative for the balance period of the order remaining, if any, on the date of conviction.

Part V – Special prisons

35. Special prisons

- (1) Where the President* is of opinion that in the interest of security and public safety, special prisons be established for the confinement of prisoners, the President* may, by order published in the *Gazette*, declare any place in Seychelles to be a special prison.
- (2) Any place declared under subsection (1) shall in this Act be referred to as a "special prison" and any person confined therein shall in this Act be called a "special prisoner".
- (3) A special prison shall be under the administrative command, superintendence, control and direction of such officers as the President* may appoint.
- (4) The President* may direct the Superintendent to transfer to a special prison any prisoner and the Superintendent shall comply with that direction.
- (5) Every special prisoner shall be in the lawful custody of the officer-in-charge of the special prison in which he is confined.
- (6) The officer-in-charge of a special prison shall comply with any order made by a court requiring the presence in court of any special prisoner and the special prisoner shall, while being taken to or from court, be in the lawful custody of the person to whose charge he is committed for the purpose.
- (7) The provisions of this Act, or of any Prison Standing Order issued under [section 5\(2\)\(a\)](#), regulating the discipline of, visits and communication to, and the general care of the health of, prisoners shall not apply to special prisoners.
- (8) The officer-in-charge of any special prison may, issue standing orders under this subsection regulating the discipline of, visits and communication to and the general care of the health of, special prisoners.
- (9) For the purpose of conveying any prisoner or special prisoner to or from a special prison or apprehending any prisoner or special prisoner who may have escaped from a special prison or while being conveyed to or from a special prison, every person appointed under subsection (3) and every person to whose custody a special prisoner is committed under subsection (6) shall, while engaged in any duty relevant to his functions, have the powers of a police officer and it shall be lawful for any such person to exercise in respect of any prisoner or special prisoner the powers conferred on a prison officer for the use of weapons under [section 8](#).
- (10) The officer - in - charge of a special prison shall be responsible for the release of special prisoners immediately upon their becoming entitled to release from confinement in a prison.
- (11) [Section 45\(2\)](#), (3) and (4) shall apply to release of special prisoners as they apply to the release of prisoners.

Note: By virtue of the Transfer of Statutory Functions (Prisons) Order, 2012, as from 9 July 2012, the power vested in the President pursuant to s 35(1), (3) and (4) is transferred to the Minister of Home Affairs and Transport, and any function authorised or required to be done by the President pursuant to the provisions of the Prisons Act in relation to any functions transferred under paragraph 2 of that Order shall be done by that Minister

Part VI – Prisons Advisory Board and Prisons Reward Fund

36. Prisons Advisory Board

- (1) There shall be a Prisons Advisory Board consisting of 5 members appointed by the Minister.
- (2) The members of the Prisons Advisory Board shall be persons who, in the opinion of the Minister, are knowledgeable in prison welfare.
- (3) The members of the Prisons Advisory Board shall hold office for a period of 2 years but shall be eligible for reappointment.

37. Functions of the Board

- (1) The Prisons Advisory Board shall—
 - (a) advise the Minister on matters relating to prison welfare;
 - (b) investigate complaints relating to prison welfare referred to it by the Minister;
 - (c) make recommendations for any remedial action in respect of complaints investigated by it under paragraph (b).
- (2) For the discharge of any functions of the Prisons Advisory Board, any member of the Board may, with notice to the Superintendent, enter any prison and shall have free access to every part of it and to every prisoner.
- (3) All matters before the Prisons Advisory Board shall be determined by consensus of the members of the Board.
- (4) If any matter before the Prisons Advisory Board cannot be determined by a consensus of the members of the Board, the opinion of the members on the matter shall be placed before the Minister for his decision.
- (5) Subject to this section, the Prisons Advisory Board shall regulate its own proceedings.

38. Prisons Reward Fund

- (1) There shall be a Prisons Reward Fund which shall be under the Control and Management of the Superintendent.
- (2) All fines imposed on prison officers for any prison offences shall be credited into the Fund.
- (3) The moneys of the Fund may be paid, with the approval of the Minister, as rewards to prison officers for good conduct, good service and for such other purposes as the Superintendent may deem beneficial to prison officers.
- (4) Superintendent shall keep proper accounts of the Fund and shall prepare, in respect of each financial year, a statement of accounts in such form as the Minister may direct.
- (5) The accounts and statement of accounts of the Fund shall be audited by an auditor appointed annually by the Minister.
- (6) The Superintendent shall, as soon as the accounts and the statement of accounts of the Fund have been audited, forward to the Minister a copy of the statement together with a copy of any report of the auditor.

Part VII – Miscellaneous

39. Maintenance of civil prisoners and unconvicted person

- (1) The Superintendent may permit a civil prisoner or an unconvicted person to maintain himself in prison and for that purpose to purchase or receive from private sources at proper hours moderate quantities of food, clothing, bedding or other necessaries but subject to examination and other conditions as may be prescribed.
- (2) Any food, clothing, bedding or other necessaries purchased or received by a civil prisoner or an unconvicted person under subsection (1) shall not be given, hired or sold to any other person confined in the prison.
- (3) Any person who contravenes subsection (2) is guilty of an offence and shall be liable on conviction to imprisonment for 3 months.
- (4) When a person convicted of an offence under subsection (3) is a civil prisoner or an unconvicted person the Superintendent shall revoke the permission, if any, granted under subsection (1).
- (5) A civil prisoner or an unconvicted person who is not permitted under subsection (1) to maintain himself in prison or does not seek permission to do so, shall be maintained as any other prisoner.

40. Prisoners under sentence of death

- (1) Every prisoner sentenced to death shall be confined in some safe place within the prison and apart from other prisoners and shall be placed under constant observation both by day and night.
- (2) Except on the written authority of the Superintendent, no person other than a prison officer, the Medical Officer of Prisons or a minister of the religious denomination to which the prisoner belongs shall have access to the prisoner.
- (3) All executions shall be attended by the Superintendent, the Medical Officer of Prisons, and, at the request of the prisoner, may be attended by a minister of the religious denomination to which he belongs.

41. Report on life and long term prisoners

- (1) The Superintendent shall submit to the Minister a special report on the general conditions of every prisoner serving a term of imprisonment for life or for a term exceeding 3 years, at the end of every 2 years of such imprisonment.
- (2) The Minister shall forward the report submitted under subsection (1) together with his observations thereon to the President and the President may, in the exercise of his powers under the Constitution, give such directions on the matter as he shall think fit.
- (3) Notwithstanding subsection (1) the President may require the Minister to forward to him a report on any prisoner referred to in that subsection at intervals less than 2 years.

42. Visits and communication

- (1) Visits and communications to the prisoners shall be regulated as prescribed.
- (2) Notwithstanding subsection (1)—
 - (a) where a prisoner is seriously ill and desires to be visited by any relative or friend the Superintendent may, on the recommendation of the Medical Officer of Prisons, permit a visit to the prisoner by such relative or friend;

- (b) all prisoners awaiting trial and all prisoners sentenced to pay fines who desire to pay the fines shall be allowed all reasonable opportunity to communicate with their legal advisers, relatives or friends for the purpose of the trial or payment of fines and for these purposes may, subject to inspection by the Superintendent, write or receive letters.

42A. Examination of visitors to a prison

- (1) Any person upon entering the prison premises shall proceed to be examined by the prison officers on duty and the person shall declare and hand over to the prison officer all articles and any cell phone or other devices which may be used for communication or any charger, sim card, battery or such other related accessories which he may have on his person or in his possession.
- (2) The prison officer shall make an inventory of the articles handed over under subsection (1) and return the same to its owner when he is about to exit the prison premises.

[section 42A inserted by section 2(a) of Act 8 of 2016 w.e.f. 20 April 2016.]

43. Examination of articles taken into or out of prison and powers of arrest

- (1) Any prison officer may examine anything carried into or out of prison and for that purpose may stop and search any person reasonably suspected of carrying into or out of prison any such thing.
- (2) Where anything is carried into or out of prison in contravention of this Act, the prison officer shall detain it and inform the Superintendent forthwith.
- (3) Any prison officer may arrest any person who—
 - (a) commits in his presence any offence under this Act;
 - (b) is found to have in his possession anything carried into or out of prison in contravention of this Act;
 - (c) being a person referred to in paragraph (a) or (b)—
 - (i) refuses on demand to give his name and address; or
 - (ii) gives a name and address which the prison officer knows or has reason to believe is false.
- (4) Where a prison officer arrests a person under subsection (3) he shall without unnecessary delay hand over the person to a police officer who shall deal with him according to law.

44. Offences

Any person who—

- (a) brings any article contrary to [section 39](#);
- (b) fails to allow himself to be examined or declare or hand over to the prison officer all articles under [section 42A](#);
- (c) brings, throws or attempts by any means to introduce into any prison or to give any prisoner any liquor, tobacco or any article whatsoever; or
- (d) communicates with any person in contravention of the provisions of this Act or any regulations made thereunder,

is guilty of an offence and is liable on conviction to imprisonment for 2 years or to a fine SCR20,000 or to both such imprisonment and fine.

[section 44 amended by section 2(b) of Act 8 of 2016 w.e.f. 20 April 2016]

44A. Offence of possessing cell phone, etc., in prison

- (1) Any prisoner who is found in possession of any cell phone or any other devices which may be used for communication, or any charger, sim card, battery or such other related accessories or who brings or attempts to bring into prison any cell phone or any such like devices which may be used for communication or any charger, sim card, battery or such other related accessories commits an offence.
- (2) Any person who brings, throws, or attempts by any means to introduce into prison or to give any prisoner any cell phone or any other devices which may be used for communication or charger, sim card, battery or such related accessories commits an offence.
- (3) Any prisoner who contravenes subsection (1) or any person who contravenes subsection (2) is guilty of an offence and is liable on conviction to imprisonment for 2 years or to a fine of SCR20,000 or to both such imprisonment and fine.
- (4) Where a prisoner is convicted under this section, the term of imprisonment shall, notwithstanding anything in the Criminal Procedure Code, commence after the expiration of any previous sentence of imprisonment the prisoner was serving at the time of the commission of the offence under subsection (1).

[section 44A inserted by section 2(c) of Act 8 of 2016 w.e.f. 20 April 2016]

45. Release of prisoners

- (1) The Superintendent shall be responsible for the release of prisoners immediately upon their becoming entitled to release.
- (2) Subject to subsection (3) all prisoners shall be released by noon of the day of which they are entitled to be released.
- (3) Where the day on which a prisoner is entitled to be released falls on a public holiday, he shall be released by noon of next preceding working day.
- (4) In this section "working day" means any day of the week which is not a public holiday.

46. Regulations

The Minister may make regulations for carrying into effect the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, may make regulations for—

- (a) matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed or for which regulations are required to be made;
- (b) the management, regulation and maintenance of prisons.

47. Transitional

- (1) Any place which immediately before the commencement of the Act was a prison or a special prison shall be deemed to be a prison or special prison established or declared under this Act.
- (2) Every person who immediately before the commencement of this Act was a prison officer or an officer of a special prison shall be deemed to be a prison officer and an officer of a special prison under this Act.