



ST. HELENA

## CHAPTER 133

### **GAOLS ORDINANCE** and Subsidiary Legislation

#### **Non-authoritative Consolidated Text**

This is not an authoritative 'revised edition' for the purposes of the Revised Edition of the Laws Ordinance; it has been prepared under the supervision of the Attorney General for the purpose of enabling ready access to the current law, and specifically for the purpose of being made accessible via the internet.

Whilst it is intended that this version accurately reflects the current law, users should refer to the authoritative texts in case of doubt. Enquiries may be addressed to the Attorney General at Essex House, Jamestown [Telephone (+290) 2270; Fax (+290) 2454; email [pa.lawofficers@legallandlands.gov.sh](mailto:pa.lawofficers@legallandlands.gov.sh)]<sup>1</sup>

Visit our [LAWS page](#) to understand the St. Helena legal system and the legal status of this version of the Ordinance.

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<sup>1</sup> These contact details may change during 2011 or early in 2012. In case of difficulty, email [shgwebsite@sainthelena.gov.sh](mailto:shgwebsite@sainthelena.gov.sh) or telephone (+290) 2470.

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**CHAPTER 133****GAOLS ORDINANCE**

*(Ordinances 3 of 1960, 4 of 1974 and 17 of 1978)*

AN ORDINANCE FOR THE REGULATION OF GAOLS AND FOR OTHER PURPOSES CONNECTED THEREWITH.

**Commencement**

*[7 June 1960]*

**Short title**

1. This Ordinance may be cited as the Gaols Ordinance.

**Interpretation**

2. In this Ordinance, unless the context otherwise requires—  
“**common gaol**” means any gaol commonly used for the confinement of prisoners sentenced by any Court in St. Helena;  
“**prison officer**” means any person employed in the service of the gaols;  
“**special gaol**” means any place specially set apart for the confinement of prisoners sent to St. Helena under or by virtue of any Act of Parliament.

### Appointment of goals

3. The Governor may from time to time appoint any place in St. Helena to be a common gaol or a special gaol.

### Officers

4. The Governor may appoint a Superintendent of Gaols and other officers to execute duties in connection with any gaol.

### Official visitors

5.<sup>2</sup> The Chief Justice, every Justice of the Peace and the Members of the Executive Council shall be official visitors, to all gaols.

### Power to make rules

6.<sup>3</sup> The Governor in Council may make rules for the regulation and management of gaols, the maintenance of good order therein, the classification, treatment, employment, discipline and control of persons required to be detained therein, and the punishment of offences against such rules:

Provided that any rules made under this section shall not contain provision for the infliction of corporal punishment.

### Release

7. (1) In any sentence of imprisonment the word “**month**” shall, unless the contrary is expressed, be construed as meaning a calendar month.

(2) A prisoner whose sentence expires on Sunday, Christmas Day or Good Friday shall be discharged on the preceding day.

### Death

8. The Superintendent of Gaols shall give immediate notice of the death of any prisoner to the Coroner, and the Coroner shall hold an inquest thereon.

### Sickness

9. If a certificate signed by a government medical officer and by the Sheriff is delivered to the Superintendent of Gaols stating that the removal of a prisoner to hospital is necessary, the prisoner shall be so removed.

### Escape

10. Any prisoner who escapes or is unlawfully absent from a gaol, or who escapes from or leaves any officer under whose charge he may be, shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding two years.

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<sup>2</sup> Section 5 amended by Ord. 4 of 1974

<sup>3</sup> Section 6 amended by Ord. 17 of 1978

### **Aiding escape**

**11.** Any person who aids a prisoner in escaping or attempting to escape from gaol, or who with intent to facilitate the escape of any prisoner conveys anything into a gaol or to a prisoner, or places anything outside a gaol with a view to its coming into the possession of a prisoner, or who harbours or conceals or assists in harbouring or concealing any prisoner, shall be liable to imprisonment for a term not exceeding two years.

### **Allowing escape**

**12.** Any officer who knowingly and wilfully allows a prisoner to escape shall be liable to imprisonment for a term not exceeding three years.

### **Forbidden articles**

**13.** Any person who unlawfully conveys or attempts to convey into a gaol or to a prisoner any article shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding £5.

### **Unlawful absence**

**14.** Where any person sentenced to imprisonment is unlawfully at large during the period for which he is liable to be detained in pursuance of a sentence, no account shall be taken, in calculating the period for which he is liable to be so detained, of any time during which he is so at large.

### **Violence**

**15.** Any person who resists or assaults, or aids or incites any other person to resist or assault any prison officer in the execution of his duty, shall be liable to imprisonment for a term not exceeding three months or to a fine not exceeding £20.

### **Young prisoners**

**16.** The Governor may release on conditional licence any prisoner serving a term of imprisonment who was under twenty-one years of age at the commencement of his sentence, provided that—

- (a) such licence shall not have effect until the prisoner has become eligible for the remission of the remainder of his sentence on account of good conduct and industry in accordance with rules made under this Ordinance;
- (b) a person so licensed shall until the expiration of his sentence be under the supervision of another person who shall be specified in the licence, and shall comply with such requirements as may be stated in the licence;
- (c) the Governor may at any time vary or cancel any requirement stated in such licence;
- (d) if the Governor is satisfied that a person so licensed has failed to comply with any requirement specified in the licence, such person may be recalled and detained in a gaol until the expiration of his sentence.

## **GAOLS RULES**

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*(Legal Notices 10 of 1999, 16 of 2000 and 42 of 2013)*

#### PART I

#### PRELIMINARY

#### Commencement

*[22 June 1999]*

#### Short title

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

#### Interpretation

2. In these Rules—

“**adjudged term**” means the length of imprisonment by a court on passing sentence, and where it passes two or more sentences of imprisonment to be served consecutively by a prisoner, means the aggregate length of all those sentences;

**“Committee”** means the Visiting Committee established under Part V;

**“medical officer”**, in relation to gaols, means the Chief Medical Officer of the Government of St. Helena or other medical practitioner appointed by the Governor for the purposes of these Rules;

**“sentence”** means the sentence of imprisonment being served by a prisoner pursuant to an order of a court made upon his conviction for a criminal offence, and includes any such sentence being served in default of payment of a fine or other monetary penalty imposed by the court upon his conviction;

**“Superintendent”** means the Superintendent of Gaols appointed in accordance with section 4 of the Ordinance;

**“unconvicted prisoner”** means a prisoner awaiting a trial, a prisoner on remand, a prisoner committed for contempt of court, a prisoner convicted but not sentenced, or a prisoner under lawful temporary detention without charge, but does not include a prisoner detained for an indeterminate term at the pleasure of the Governor, and **“convicted prisoner”** shall be construed accordingly.

## PART II GENERAL

### Admission, search and briefing of prisoners

**3. (1)** Immediately upon the admission of a prisoner into gaol the Superintendent shall cause to be entered—

- (a) in the Prisoners Admission Book the name of the prisoner, whether he is convicted, and, if so, the date of commencement and expiration of his sentence, his age, height, weight and other details relevant to his identification;
- (b) in the Reconviction Book the name of every prisoner admitted into prison on a second or subsequent conviction; and
- (c) in the Prisoners Property Book any property found upon the prisoner at the time of his admission into gaol.

**(2)** Subject to Rule 16, immediately upon the admission of a prisoner into gaol the prisoner shall be searched by a Prison Officer of the same sex as the prisoner concerned, in as seemly a manner (out of sight of other prisoners) as is consistent for the discovery of anything concealed.

**(3)** Every prisoner shall be provided, within 24 hours of his admission into prison, with sufficient information about these Rules and any other matters which it is necessary for him to know, including the proper method of making requests and complaints.

**(4)** The Superintendent may require that any prisoner admitted into gaol be photographed and fingerprinted.

**(5)** A copy of these Rules shall be made available to any prisoner who requests it.

### Classification and separation of prisoners

**4. (1)** Subject to Rule 5 the Superintendent shall, at intervals of not more than three months, classify prisoners according to their age, temperament and record, with a view to categorising them in accordance with the security categorisation set out in the Schedule.

**(2)** In pursuance of subrule (1), the Superintendent shall keep, maintain and make available for inspection by the Governor or the Committee at their request a Prisoner's Categorisation Book.

(3) As far as reasonably possible, unconvicted prisoners shall be kept apart from convicted prisoners, unless any unconvicted prisoner is willing to associate with convicted prisoners.

### **Female prisoners**

5. (1) Female prisoners shall be kept entirely separate from male prisoners.

(2) The Superintendent may, subject to any conditions he thinks fit, permit a female prisoner to nurse or tend her child in prison, in which case everything necessary for the child's maintenance and care shall be provided there.

### **Privileges**

6. (1) For the encouragement of the good conduct, industry and rehabilitation of prisoners the Superintendent shall, subject to the approval of the Governor, establish a system of privileges for the gaol, including schemes for the employment of prisoners.

(2) The Governor shall determine how money earned under any approved scheme for the employment of prisoners shall be utilized, including what percentage may be paid to any prisoner who participates in any such scheme.

### **Remission of sentence**

7.<sup>4</sup> (1) Subject to this Rule the Superintendent may, on account of a prisoner's good conduct and industry while in gaol, grant him a remission of portion of his sentence not exceeding one third of the prisoner's adjudged term, if his sentence is 30 days or more:

Provided that the Superintendent may, on granting any such remission, impose such conditions (if any) as appears to him to be desirable either generally or in a particular case, and any such conditions may be varied from time to time or cancelled.

(2) A prisoner referred to in subrule (1) shall be discharged when that part of the adjudged term of his sentence less the period of remission has been served.

(3) In calculating for the purposes of this Rule how much of the adjudged term of a sentence of a prisoner remains to be served, account shall be taken of the period during which that prisoner was, in respect of the offence for which he was convicted, remanded in custody by any court or by a Justice of the Peace either before conviction or subsequent to conviction and before the passing of the sentence, unless in passing sentence a court has specially directed that any such period shall not be taken into account.

(4) A prisoner eligible for remission of sentence under this Rule who commits any offence against gaol discipline may suffer total or partial loss of remission of his sentence as provided for in Rules 33 and 34, unless on account of his subsequent good conduct and industry the Superintendent directs otherwise.

(5) Where a prisoner who has been granted remission under paragraph (1), after his release fails to comply with any condition imposed under that paragraph, the Superintendent may, on the recommendation of, or after consultation with the Committee, withdraw such remission and recall such prisoner to gaol to continue to serve his sentence.

(6) The Superintendent may withdraw remission and recall a prisoner to gaol without consulting the Committee, in any case in which it appears to him that it is expedient in the public interest so to do before such consultation is practical.

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<sup>4</sup> Regulation 7 amended by LN 42 of 2013



(7) A person recalled to gaol under the provisions of this rule may make representations in writing to the Governor with respect to his recall and shall, on his return to gaol, be informed in writing of the reasons for his recall and his right to make such representations.

(8) The Governor shall refer to the Committee the case of a person recalled to gaol—

(a) who makes representations under paragraph (7); or

(b) who is recalled under paragraph (6) regardless whether or not such person makes representations under paragraph (7).

(9) If upon a reference made under paragraph (8) the Committee recommends the immediate release on remission of the prisoner, the Superintendent may give effect to that recommendation, but without prejudice to the power again to withdraw that remission and recall that person, under this Rule, if new circumstances appear to require it.

(10) On withdrawal of remission of any person under this Rule, such person shall be liable to be detained in pursuance of his sentence, and, if at large, shall be deemed to be unlawfully at large and may be arrested by any police officer or prison officer.

(11) This Rule shall not apply to any prisoner serving a sentence of imprisonment for life or ordered to be detained in prison for an indefinite term during the pleasure of the Governor.

### **Temporary release**

8. (1) The Superintendent may, subject to any conditions he sees fit to impose, authorise the temporary unsupervised release of a convicted prisoner, to enable him to engage in employment, to receive training, or to participate in any special activity, which would be of assistance to him in his transition to freedom.

(2)<sup>5</sup> Subrule (1) shall apply to any prisoner serving a sentence of 9 months or more before remission is taken into account if—

(a) the prisoner has served at least fifty percent of his remitted sentence and has demonstrated satisfactory behaviour as a prisoner;

(b) he has for himself, obtained or arranged, as the case may be, paid employment, self employment, training, or a special activity, which is consistent with him being required to spend his evenings and nights at the prison;

(c) he has demonstrated that such employment, training or special activity would assist in his rehabilitation.

(3) Any unauthorised absence by any prisoner from any employment, training or special activity permitted under this Rule, may lead to the immediate withdrawal of such prisoner's temporary release privileges.

(4) During any period of temporary release under subrule (1), a prisoner shall return to prison immediately at the conclusion of his session of work, training or special activity, for which such release is authorised under this Rule.

(5) The Governor shall determine how any money earned by a prisoner under this Rule shall be disposed of, including what proportions shall be applied towards his upkeep, retained to be available for his benefit upon his release, and be available for his personal use.

(6) A prisoner temporarily released under sub-rule (1) may be recalled to gaol at any time, whether the conditions of his release have been broken or not.

### **Requests by prisoners to see certain authorities**

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<sup>5</sup> Rule 8(2) amended by L.N. 16/2000

9. (1) Every request by a prisoner to see the Superintendent or the Committee shall be recorded in the Application Book by the Prison Officer to whom it is made and promptly communicated to the Superintendent.

(2) The Superintendent, as soon as practicable after he is informed of a request under subrule (1) shall—

- (a) if the request is addressed to himself, make himself available to hear it on every day other than Saturday, Sunday, or a public holiday;
- (b) if the request is addressed to the Committee, inform a member of the Committee of the request.

### Religious ministrations

10. (1) A prisoner shall be treated as being of the religious denomination stated on his record upon his admission into gaol or otherwise disclosed by him to a Prison Officer.

(2) The Superintendent shall approve the choice by any recognised religious denomination of a chaplain to a gaol or any minister of religion, and shall also approve the nomination of any substitute for the chaplain or a minister during the absence of the chaplain or minister.

(3) A chaplain or minister of religion shall—

- (a) interview every prisoner individually as soon as practicable after the prisoner's admission into and release from gaol;
- (b) unless other arrangements are made, read the burial service at the funeral of any prisoner of his denomination who dies in prison;
- (c) visit prisoners of his denomination as regularly as practicable; and
- (d) conduct divine service for the prisoners of his denomination at such intervals as may be approved by the Superintendent and on the special days of religious observance pertaining to his denomination.

(4) Where a prisoner belongs to a denomination for which no minister has been appointed, the Superintendent shall do what he reasonably can, if so requested by the prisoner, to arrange for him to be visited by a minister of that denomination.

(5) The Superintendent shall not require prisoners to do unnecessary work on any day that is their particular sabbath day.

(6) So far as is reasonably practicable, there shall be available for the personal use of every prisoner such religious books as are approved by the Superintendent for use in gaols.

### Illness and death of prisoners

11. (1) The medical officer shall have the care of the mental and physical health of the prisoners.

(2) Every request by a prisoner to see the medical officer shall be recorded in the Medical Book by the Prison Officer to whom it is made and promptly communicated to the medical officer.

(3) The medical officer may call another medical practitioner into consultation, and shall do so, if time permits, before performing any serious operation.

(4) If an unconvicted prisoner desires the attendance of a registered medical practitioner or dentist, and will pay any expense incurred, the Superintendent shall, if he is satisfied that there are reasonable grounds for the request, allow him to be attended by that practitioner or dentist, with or without the consultation of the medical officer.

(5) The medical officer shall report in writing immediately to the Superintendent on the case of any prisoner—

- (a) suffering from a contagious disease; or
- (b) whose health is likely to be injuriously affected by continued imprisonment or any conditions of imprisonment;

and the Superintendent shall thereupon without delay send a copy of the report to the Governor with his recommendation as to what requires to be done.

(6) The medical officer shall report in writing to the Superintendent on the case of any prisoner whose mental condition appears to require that special arrangements be made for the prisoner's supervision or care, and the Superintendent may approve any such arrangements.

(7) The medical officer shall inform the Superintendent if he suspects any prisoner of having suicidal intentions, and such prisoner shall thereupon be placed under special observation.

(8) If a prisoner dies, becomes seriously ill, sustains any severe injury or is removed to a hospital on account of mental or physical disorder, the Superintendent shall, if the address concerned is known to him, inform the prisoner's spouse or next of kin, and also any person whom the prisoner may reasonably have asked should be informed.

(9) If a prisoner dies, the Superintendent shall immediately notify the Coroner, the Committee, and the Governor.

### **Clothing of prisoners**

12. (1) An unconvicted prisoner may wear his own clothing and arrange for it to be supplied to him from outside the gaol, insofar as such clothing is adequate, clean and tidy, but this Rule shall otherwise apply to him as to a convicted prisoner.

(2) A convicted prisoner shall be provided with the clothing adequate for the climate and consistent with good health in accordance with a scale approved by the Superintendent.

(3) The clothing referred to in subrule (2) includes protective clothing for use at work where it is needed.

(4) Subject to subrule (5), a convicted prisoner shall only wear the clothing provided for him under this Rule unless the Superintendent directs otherwise.

(5) A prisoner required to be taken in custody to any court shall wear his own clothing or clothing different from that worn in gaol.

### **Food**

13. (1) Subject to any directions of the Governor, an unconvicted prisoner may arrange at his own expense for food to be supplied to him from outside the gaol.

(2) Subject to any directions of the Governor, or as advised by the medical officer, no convicted prisoner shall—

- (a) be allowed to have any food other than that ordinarily provided;
- (b) be given less food than is ordinarily provided:

Provided that the Superintendent in his discretion may permit a prisoner to receive prepared food.

(3) The food provided shall be wholesome, nutritious, well prepared and served, reasonably varied and sufficient in quantity.

(4) The Environmental Health Officer shall regularly inspect the food both before and after it is cooked, and shall report any deficiency or defect to the Superintendent.

### **Alcohol and tobacco**

**14. (1)** No prisoner shall be allowed to have any intoxicating liquor except under a written order of the medical officer specifying the quantity and the name of the prisoner.

**(2)** No prisoner shall be allowed to smoke or have any tobacco except as a privilege under Rule 6 and in accordance with any directions of the Superintendent.

### Accommodation and hygiene

**15. (1)** No room or cell shall be used as sleeping accommodation unless certified by the Governor—

*(a)* as being capable of accommodating a specified maximum number of prisoners who may sleep or be confined at one time in the room or cell, which number shall not be exceeded without the authority of the Governor; and

*(b)* as being otherwise suitable for the confinement of any prisoner.

**(2)** Each prisoner shall be provided with a separate bed and with separate bedding adequate for warmth and health.

**(3)** Every prisoner shall be provided with toilet articles necessary for his health and cleanliness, which shall be replaced as necessary.

**(4)** Every prisoner shall be required to wash at proper times, have a shower on admission into prison and thereafter at least once per day and, in the case of a male prisoner not excepted by the Superintendent, to shave or be shaved daily, and to have his hair cut as may be necessary for neatness:

Provided that a prisoner shall not be required to have his hair cut or any beard or moustache usually worn by him shaved off if he keeps his hair, beard or moustache tidy, unless the medical officer directs this to be done for the sake of health or cleanliness.

**(5)** A female prisoner's hair shall not be cut without her consent except where the medical officer certifies in writing that this is necessary for the sake of health or cleanliness.

### Power of search

**16.<sup>6</sup> (1)** A Prison Officer shall have the power to search—

*(a)* any prisoner; or

*(b)* cell occupied by a prisoner,

for the purpose of ascertaining whether a prisoner has any prohibited or unauthorised article on his person or in his cell.

**(2)** A Prison Officer searching a prisoner or cell by virtue of this Rule—

*(a)* shall have every regard for decency and if conducting a strip search shall do so out of sight of other prisoners;

*(b)* may use reasonable force where necessary; and

*(c)* may seize and detain any prohibited or unauthorised article found on the prisoner or in his cell during the course of the search.

**(3)** In this Rule “**prohibited or unauthorised article**”, in relation to a prison, means any article which the prisoner is not authorised by these Rules or by the Superintendent to have in his possession or, as the case may be, in his possession in any particular part of the gaol.

**(4)** The Superintendent may authorise the medical officer—

*(a)* to conduct, with or without the consent of the prisoner, an intrusive bodily search of a prisoner for the purpose of discovering any prohibited or unauthorised article; and

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<sup>6</sup> Rule 16 amended by L.N.16/2000

- (b) to obtain samples from a prisoner of such bodily fluids as may be necessary to detect illness or drug abuse,

Provided that no sample other than urine or saliva may be obtained from the prisoner without his consent.

(5) For the purposes of sub-Rules (1) and (2) a prisoner shall be searched only by prison officers of the same sex as the prisoner.

### **Daily exercise**

**17. (1)** A prisoner not engaged in outdoor work shall be given exercise in the open air for not less than one hour each day, if health permits:

Provided that exercise consisting of physical training may be given indoors instead of in the open air.

(2) The period of exercise referred to in subrule (1) may be reduced in special circumstances by the Superintendent.

(3) The medical officer shall decide upon the fitness of every prisoner for exercise and physical training, and may excuse a prisoner from or modify, any activity on medical grounds

### **Work**

**18. (1)** A convicted prisoner shall be required to do useful work, for not more than 8 hours a day, and arrangements shall be made to allow prisoners to work, where possible, outside the cells and in association with one another.

(2) The medical officer may excuse a prisoner from work on medical grounds, and no prisoner shall be set to do work which is not of a class for which he has been passed by the medical officer as being fit.

(3) No prisoner shall work in the service of another prisoner or a Prison Officer, or for the private benefit of any person, without the authority of the Governor.

(4) An unconvicted prisoner may, if he wishes, with the approval of the Superintendent, do work as if he were a convicted prisoner.

(5) Prisoners may be paid for their work at rates approved by the Governor, either generally or in relation to particular cases.

(6) Every prisoner shall be searched immediately on return from outside work.

(7) Prisoners at work outside the prison shall at all times be under supervision of a Prison Officer or of a person approved by the Superintendent as being responsible for the supervision of any prisoner.

(8) No prisoner categorised as a Category A or B prisoner in terms of the Schedule shall be permitted to work outside the prison except with the consent of the Governor.

### **Education and social welfare**

**19. (1)** Every prisoner able to benefit from the educational facilities at a gaol shall be encouraged to do so.

(2) Programmes of daytime and evening educational classes may be arranged and, subject to the directions of the Superintendent, reasonable facilities may be afforded to prisoners who wish to do so at their own expense to improve their education by correspondence courses or private study, or to practise handicrafts in their spare time.

(3) Special attention shall be paid to the education of illiterate prisoners, and if necessary, they shall be taught to read and write within the hours normally allotted to work.

(4) Subject to the direction of the Superintendent, every prisoner shall be allowed to have library books and exchange them at the Public Library.

### **Outside contacts and aftercare**

**20. (1)** The Superintendent shall endeavour to facilitate such relations between a prisoner and his family as are desirable in the best interests of both.

(2) A prisoner shall be encouraged and assisted to establish and maintain such relations with persons and agencies outside gaol as may, in the opinion of the Superintendent, best promote the interests of his family and his own social rehabilitation.

(3) From the beginning of a prisoner's sentence, consideration shall be given, whenever possible, in consultation with the appropriate aftercare organisation, to the prisoner's future and the assistance to be given to him after his release.

### **Letters and visits**

**21. (1)** The Superintendent may, with a view to securing discipline or the prevention of crime, or in the interests of any persons, impose restrictions, either generally or in a particular case, upon the communications to be permitted between a prisoner and other persons.

(2) Except as provided by this Rule, a prisoner shall not be permitted to communicate with any person outside the gaol, or that person with him, without the leave of the Superintendent.

(3) Except as provided by this Rule, every letter or communication to and from a prisoner may be read or examined by the Superintendent or a Prison Officer deputed by him, and the Superintendent may, at his discretion, stop any letter or communication on the ground that its contents are objectionable or could lead to a breach of gaol security.

(4) Every visit to a prisoner shall take place within the sight and, except as provided by Rule 22, the hearing of a Prison Officer, unless the Superintendent otherwise directs.

(5) The Superintendent may give directions, generally or in relation to any visit or class of visit, concerning the days and times when prisoners may be visited.

(6) An unconvicted prisoner may send and receive as many letters and receive as many visits as he wishes within such limits and subject to such conditions as the Superintendent may direct, either generally or in a particular case.

(7) A convicted prisoner shall be entitled—

(a) to send and receive a letter on his admission into prison and thereafter once a week; and

(b) to receive a visit every Saturday between the hours of 1pm and 4pm.

(8) The Superintendent may allow a prisoner an additional letter or visit where necessary for his welfare or that of his family.

(9) The Superintendent may allow a prisoner entitled to a visit to send and receive a letter instead.

(10) The Superintendent may defer the right of a prisoner to a visit until the expiration of any period of cellular confinement.

(11) The Committee may allow a prisoner an additional letter or visit in special circumstances, and may direct that a visit may extend beyond the normal duration.

(12) The Superintendent may allow additional letters and visits in relation to any class of prisoner.

(13) A prisoner shall not be entitled under this Rule to receive a visit from any person other than a relative or friend, except with the leave of the Superintendent.

**Visits and communications in connection with legal and other proceedings**

**22. (1)** A police officer may, on production of an order issued by or on behalf of the Chief of Police<sup>7</sup>, interview any prisoner willing to see him.

**(2)** A person detained in gaol in default of payment of a sum of money, may communicate with, and be visited at any reasonable time on a weekday by, any relative or friend to arrange for payment in order to secure his release from prison.

**(3)** The legal adviser of a prisoner in any legal proceedings, civil or criminal, to which the prisoner is a party, shall be afforded reasonable facilities for interviewing him in connection with those proceedings out of hearing but in the sight of a Prison Officer.

**(4)** A prisoner's legal adviser may, with the leave of the Superintendent, interview the prisoner in connection with any legal business in the sight and hearing of a Prison Officer.

**(5)** A prisoner who is a party to any legal proceeding may correspond with his legal adviser in connection with the proceedings and unless the Superintendent has reason to suppose that any such correspondence contains matter not relating to the proceedings it shall not be read or stopped under Rule 21(1).

**(6)** A prisoner shall on request be provided with any writing materials necessary for the purpose of subrule (5).

**(7)** Subject to any directions given in the particular case by the Superintendent a registered medical practitioner selected by or on behalf of a prisoner who is a party to legal proceedings shall be afforded reasonable facilities for examining him in connection with the proceedings, and may do so out of hearing but in the sight of a Prison Officer.

**(8)** Subject to any directions of the Superintendent, a prisoner may correspond with a lawyer or lay advocate for the purpose of obtaining legal advice concerning any course of the action in relation to which the prisoner may become a party to civil proceedings, or for the purpose of instructing the lawyer or lay advocate to issue such proceedings.

**Custody outside prison**

**23. (1)** A person being taken to or from a gaol in custody shall be exposed as little as possible to public observation, and proper care shall be taken to protect him from curiosity and insult.

**(2)** A prisoner required to be taken in custody anywhere outside a prison shall be kept in the custody of a Prison Officer or police officer.

**Prisoners' property**

**24. (1)** Subject to any directions of the Superintendent, an unconvicted prisoner may have supplied to him at his own expense and retain for his own use, books, newspapers, writing material and any other means of occupation, except any that appear objectionable to the Visiting Committee or, pending consideration by them, to the Superintendent.

**(2)** Anything, other than cash or other property, which he is allowed to retain for his own use, shall be taken into the Superintendent's custody. An inventory of the prisoner's property shall be kept, and he shall be required to sign it, after having a proper opportunity to see that it is correct.

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<sup>7</sup> Gazette Notice No. 63 of 1 July 2011: Title changed to Director of Police

(3) Any cash, which a prisoner has at a gaol, shall be paid into a bank account in the prisoner's name opened or approved by the Superintendent, who shall have custody of the book giving access to the account.

(4) Any article belonging to a prisoner which remains unclaimed for a period of more than three years after he leaves prison, or dies, may be sold or otherwise disposed of, and the net proceeds of any sale shall be paid into the St. Helena Government's Consolidated Fund.

(5) The Superintendent may confiscate any unauthorised article found in the possession of a prisoner after his admission into gaol, or concealed or deposited anywhere within the gaol.

### Money and articles received by post

25. (1) Any money or other article (other than a letter or other communication) sent to a convicted prisoner through the post office shall be dealt with in accordance with the provisions of this Rule, and the prisoner shall be informed of the manner in which it is dealt with.

(2) Any cash shall, at the discretion of the Superintendent be—

(a) dealt with in accordance with Rule 24(3) of these Rules; or

(b) returned to the sender; or

(c) in a case where the sender's name and address are not known, paid into the St. Helena Government's Consolidated Fund:

Provided that in relation to a prisoner committed to prison in default of payment of any sum of money, the prisoner shall be informed of the cash and, unless he objects to it being so applied, it shall be applied in or towards the satisfaction of the amount due from him.

(3) Any security for money shall, at the discretion of the Superintendent—

(a) be delivered to the prisoner or placed with his property at the gaol; or

(b) be returned to the sender; or

(c) in a case where the sender's name and address are not known or the article is of such a nature that it would be unreasonable to return it, be sold or otherwise disposed of, and the net proceeds of any sale applied in accordance with subrule (2).

### PART III DISCIPLINE

### Removal from association

26.<sup>8</sup> (1) Where it appears desirable, for the maintenance of good order and discipline or in his own interests, that a prisoner should not associate with other prisoners, either generally or for particular purposes, the Superintendent may arrange for such prisoner's removal from association accordingly.

(2) A prisoner shall not be removed under this Rule for a period of more than 24 hours without the authority of a member of the Committee. An authority given under this subrule shall be for a period not exceeding one month, but may be renewed from month to month.

(2) The Superintendent may arrange at his discretion for such a prisoner to resume association with other prisoners, and shall do so if in any case the medical officer so advises on medical grounds.

<sup>8</sup> Rule 26 amended by L.N. 16/2000



### Use of force

**27. (1)** A Prison Officer in dealing with a prisoner shall not use force unnecessarily and, when the application of force to a prisoner is necessary, no more force than is necessary shall be used.

**(2)** No Prison Officer shall act deliberately in a manner calculated to provoke a prisoner.

### Temporary confinement

**28.** The Superintendent may order a refractory or violent prisoner to be confined temporarily in a special cell (if available), but a prisoner shall not be so confined as a punishment, or after he ceases to be refractory or violent.

### Restraints

**29. (1)** The Superintendent may order a prisoner to be put under restraint where this is necessary to prevent the prisoner from injuring himself or others, damaging property or creating a disturbance.

**(2)** Notice of such an order shall be given without delay to a member of the Committee, and to the medical officer.

**(3)** On receipt of the notice, the medical officer shall inform the Superintendent whether he concurs in the order. The Superintendent shall give effect to any recommendations, which the medical officer may make.

**(4)** A prisoner shall not be kept under restraint longer than is necessary, nor shall he be so kept for longer than 24 hours without a direction in writing given by a member of the Committee. Such a direction shall state the grounds for the restraint and the time during which it may continue.

**(5)** Particulars of every case of restraint under the foregoing provisions of this Rule shall be forthwith recorded.

**(6)** Except as provided by this Rule, no prisoner shall be kept under restraint otherwise than for safe custody during removal, or on medical grounds by direction of the medical officer. No prisoner shall be put under restraint as a punishment.

### Offences against discipline

**30.** A prisoner commits an offence against discipline if he—

- (a)** mutinies or incites another prisoner to mutiny;
- (b)** commits an assault;
- (c)** detains any person against his will;
- (d)** denies access to any part of the prison to any Prison Officer;
- (e)** fights with any person;
- (f)** intentionally endangers the health or personal effects of others or, by his conduct, is reckless whether such health or personal safety is endangered;
- (g)** intentionally obstructs an officer in the execution of his duty;
- (h)** escapes from gaol or legal custody;
- (i)** fails—
  - (i)** to return to prison when he should return after being temporarily released under Rule 8;

- (ii) to comply with any condition upon which he is so released;
- (j) has in his possession—
  - (i) any prohibited article; or
  - (ii) a greater quantity of any article than he is authorised to have;
- (k) sells or delivers to any person any prohibited article;
- (l) sells or, without permission, delivers to any person any article which he is allowed to have only for his own use;
- (m) takes improperly any article belonging to any other person or to the prison;
- (n) intentionally or recklessly sets fire to any part of the gaol or any other property, whether or not his own;
- (o) destroys or damages any part of the gaol or any other property other than his own;
- (p) absents himself from any place where he is required to be or is present at any place where he is not authorised to be;
- (q) is disrespectful to the Superintendent or to any Prison Officer or to any person visiting the prison;
- (r) uses threatening, abusive or insulting words or behaviour;
- (s) intentionally fails to work properly or, being required to work, refuses to do so;
- (t) disobeys any lawful order;
- (u) disobeys or fails to comply with any Regulation applying to him;
- (v) makes any false and malicious allegation against a Prison Officer;
- (w) repeatedly makes groundless complaints;
- (x) in any way offends against good order and discipline;
- (y) attempts to commit, or incites another prisoner to commit, or assists another prisoner to commit, any of the foregoing offences.

### **Disciplinary charges**

**31. (1)** Where a prisoner is to be charged with an offence against discipline, the charge shall be laid as soon as possible, and, save in exceptional circumstances, within 48 hours of the discovery of the offence.

**(2)** A prisoner who is to be charged with an offence against discipline may be kept apart from other prisoners pending adjudication of his case.

**(3)** Every charge shall be inquired into by the Superintendent.

**(4)** Save in exceptional circumstances, every charge shall be first inquired into not later than the next day, not being a Saturday, Sunday or public holiday, after it is laid.

### **Rights of prisoners charged**

**32. (1)** Where a prisoner is charged with an offence against discipline, he shall be informed of the charge as soon as possible and, in any case, before the time when it is inquired into by the Superintendent.

**(2)** At any enquiry into a charge against a prisoner, he shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.

### **Punishments**

**33. (1)** If he finds a prisoner guilty of an offence against discipline, the Superintendent may, subject to Rule 35, impose one or more of the following punishments—

- (a) a caution;
- (b) forfeiture for a period not exceeding 28 days of any privileges under Rule 6;

- (c) exclusion from associated work for a period not exceeding 14 days;
  - (d) stoppage of earnings for a period not exceeding 28 days;
  - (e) cellular confinement for a period not exceeding 3 days;
  - (f) forfeiture of remission of sentence for a period not exceeding 28 days;
  - (g) in the case of an unconvicted prisoner, forfeiture for any period of the right under Rule 24(1) to have the articles there mentioned;
  - (h) in the case of an unconvicted prisoner guilty of escaping or attempting to escape, forfeiture of the right to wear his own clothing under Rule 12(1).
- (2) If a prisoner is found guilty of more than one offence, punishments may be ordered to run consecutively.
- (3) In the case of an offence against discipline committed by a prisoner who was under the age of 21 years when it was committed, subrule (1) shall have effect but—
- (a) the maximum period of forfeiture of privileges shall be 14 days; and
  - (b) the maximum period of stoppage of earnings shall be 14 days.

### Referrals to Visiting Committee

**34. (1)** Where on an enquiry held pursuant to Rule 31(3) the Superintendent decides that, if the prisoner were found guilty, the punishments provided under Rule 33 would, having regard to the nature and circumstances of the offence, be inadequate, the Superintendent may refer the charge to the Committee.

(2) Where a charge is referred to the Committee, the Chairman shall summon a special meeting at which not more than five nor fewer than two members shall be present.

(3) The Committee shall inquire into the charge, and if it finds the prisoner guilty it may, subject to subrule (4), impose one or more of the following punishments—

- (a) a caution;
- (b) forfeiture or postponement for any period of any privileges under Rule 6;
- (c) stoppage of earnings for a period not exceeding 56 days;
- (d) exclusion from associated work for a period not exceeding 56 days;
- (e) forfeiture of remission of sentence of a period not exceeding 120 days;
- (f) the punishments referred to in Rule 33(1)(g) and (h).

(4) If a prisoner is found guilty of more than one offence, punishments may be ordered to run consecutively, but where forfeiture of remission is concerned the total period forfeited shall not exceed 180 days.

(5) In the case of an offence against discipline committed by a prisoner who was under the age of 21 years when it was committed, subrule (3) shall have effect but—

- (a) the maximum period of forfeiture or postponement of privileges shall be 28 days;
- (b) the maximum period of exclusion from associated work and stoppage of earnings shall be 28 days;
- (c) the maximum period of forfeiture of remission of sentence shall be 90 days; and
- (d) the maximum period of forfeiture of remission arising from punishments ordered to run consecutively on charges arising from an incident shall be 135 days.

### Particular punishments

**35. (1)** A punishment of stoppage of earnings may, instead of forfeiting all a prisoner's earnings for a specified period not exceeding 28 or 56 days, as the case may be, may be expressed so as to forfeit a proportion (not being less than one half) of his earnings for a period not exceeding a correspondingly greater number of days.

(2) No punishment of cellular confinement shall be imposed unless the medical officer has certified that the prisoner is in a fit state of health to be so dealt with.

(3) In the case of an offence against discipline committed by an unconvicted prisoner, a punishment of prospective or contingent forfeiture of remission may be made:

Provided that such punishment shall have effect only if a sentence of imprisonment is imposed upon conviction of the prisoner, in which case it shall have effect even if the sentence is stated to be reduced by the period during which the prisoner was an unconvicted prisoner.

### **Suspension, remission and mitigation of punishments**

**36. (1)** Subject to any directions of the Governor, the power to impose a punishment (other than a caution) under this Part, shall include the power to suspend up to six months the operation of the punishment unless, within the period of the suspension, the prisoner commits another offence against discipline.

(2) Where a prisoner upon whom a suspended punishment is imposed commits another offence against discipline, the Superintendent or Committee, as the case may be, may—

- (a) direct that the suspended punishment take effect;
- (b) direct that it take effect subject to a specified reduction of its period or amount;
- (c) suspend the operation of the suspended punishment for a further period of up to six months; or
- (d) give no directions with respect to the suspended punishment.

(3) The Governor may quash any finding of guilt and may remit any punishment or mitigate it either by reducing it or by substituting another, which is, in his opinion, less severe.

(4) Subject to any directions of the Governor, the Committee may remit or mitigate any punishment imposed by the Superintendent.

## **PART IV**

### **FUNCTIONS AND CONDUCT OF PRISONS OFFICERS**

#### **General duties of Prisons Officers**

**37. (1)** It shall be the duty of every Prison Officer to conform to these Rules, to assist and support the Superintendent in their observance, and to obey the lawful instructions of the Superintendent.

(2) A Prison Officer shall inform the Superintendent promptly of any abuse or impropriety, which comes to his knowledge.

#### **Search of Prison Officers**

**38.** A Prison Officer shall submit himself to be searched in the gaol if so required by the Superintendent.

#### **Dealings with prisoners**

**39. (1)** No Prison Officer shall take part in any business or pecuniary transaction with or on behalf of a prisoner without leave of the Superintendent.

(2) No Prison Officer shall, without the knowledge of the Superintendent, communicate with any person whom he knows to be a relative or friend of a prisoner.

**Communications to the press, etc.**

**40. (1)** No Prison Officer shall make, directly or indirectly, any unauthorised communication to a representative of the press or any other person concerning matters that have become known to him in the course of his duty.

**(2)** No Prison Officer shall, without authority, publish any matter or make any public pronouncement relating to the gaol administration.

**Code of discipline**

**41.** The Governor may approve a code of discipline that shall have effect in relation to the conduct of all Prison Officers.

PART V  
THE VISITING COMMITTEE

**Constitution and proceedings of Visiting Committee**

**42. (1)** For the purpose of exercising the functions conferred upon it by these Rules, there shall be a body to be known as the Visiting Committee which shall consist of a chairman and not less than two or more than six other members appointed by the Governor.

**(2)** A person appointed to be a member of the Committee shall hold office for such term, not exceeding two years, as may be determined by the Governor at the time of appointment, but any member shall be eligible for reappointment and may at any time resign his office by notice in writing to the Governor.

**(3)** At any meeting of the Committee any three members shall constitute a quorum.

**(4)** The chairman shall preside at meetings of the Committee but in the event of his absence from any meeting the members present shall appoint any other member to preside at that meeting.

**(5)** No person interested in any contract for the supply of goods or services to a gaol shall be a member of the Committee.

**(6)** The Committee shall meet at the gaol once each month or, if it resolves for reasons specified in the resolution that less frequent meetings are sufficient, not less than eight times over a period of 12 months.

**(7)** The proceedings of the Committee shall not be invalidated by any vacancy in the membership or any defect in the appointment of a member.

**(8)** Decisions of the Committee shall be reached by a majority of the members present and voting, and in the case of an equality of votes the Chairman or member presiding shall have a casting vote.

**(9)** The Committee shall otherwise regulate its procedure as it thinks fit.

**Duties of Committee**

**43. (1)** The Committee shall satisfy itself as to the state of gaols and the treatment of prisoners and in particular it shall—

- (a)** hear any complaint or request that a prisoner wishes to make to it or any member;
- (b)** arrange for the food of the prisoners to be inspected by a member of the Committee at frequent intervals;

- (c) inquire into any report made to it that a prisoner's health, mental or physical, is likely to be injuriously affected by any conditions of his imprisonment;
- (d) inquire into and report upon any matter into which the Governor may ask them to inquire;
- (e) direct the attention of the Superintendent to any matter it considers calls for his attention, and report to the Governor on any matter which it considers expedient to report upon;
- (f) inform the Governor immediately of any abuse that comes to its knowledge.

(2) The Committee shall, in a case of any abuse or neglect by a Prison Officer of his functions involving any prisoner, immediately report the matter to the Superintendent who shall have power to suspend him until such time as an enquiry into the matter has been completed.

### **Visiting of gaols**

44. (1) The members of the Committee shall arrange a rota whereby at least one member visits a gaol at least once in every month.

(2) A member of the Committee shall have access to the records of any prisoner.

### **Annual report**

45. The Committee shall make an annual report to the Governor at the end of each year concerning the state of gaols and their administration, and including any recommendations it considers appropriate.

## **PART VI SUPPLEMENTARY**

### **Control of access to and viewing of gaols**

46. (1) Any person entering or leaving a gaol may be stopped, examined and searched.

(2) The Superintendent may direct the removal from a gaol of any person who does not leave upon being required to do so.

(3) No person outside a gaol shall be permitted to view it unless authorised by the Superintendent.

(4) No person viewing a gaol shall be permitted to take a photograph or make sketch of the gaol, nor to communicate with a prisoner unless authorised by the Superintendent.

### **Delegation by Superintendent**

47. Where by these Rules powers and duties are conferred or imposed upon the Superintendent, he may, unless expressly prohibited from so doing, depute any subordinate officer to exercise such powers and perform such duties on his behalf, subject to such conditions, exceptions and qualifications as he may prescribe.

## **PART VII RELEASE ON LICENCE**

### Early release on licence

**48.**<sup>9</sup> (1) The Governor, if recommended to do so by the Committee in consultation with the Superintendent, may order the release on licence of a person serving a sentence of imprisonment of three years or more after that person has served not less than one-third of his sentence.

(2) Any person released on licence under this rule shall comply with such conditions (if any) as may from time to time be specified in the licence.

(3) A licence granted to a prisoner under this rule may be made subject to such conditions (if any) as appear to the Governor to be desirable either generally or in any particular case, and any such conditions may be varied from time to time or cancelled. Before imposing, varying or cancelling any conditions, unless so doing upon the recommendation of the Committee, the Governor shall consult with the Committee.

### Revocation of licences

**49.**<sup>10</sup> (1) (a) The Governor, on the recommendation of, or after consultation with the Committee, may revoke any licence granted to a prisoner and recall him to gaol to continue to serve his sentence.

(b) The Governor, if the Committee shall so recommend, shall revoke a licence in a case in which the person subject to the licence has failed to comply with any condition thereof.

(2) The Governor, without consulting the Committee, may revoke any licence granted to a prisoner and recall him to gaol to serve his sentence, in any case in which it appears to him that it is expedient in the public interest so to do before such consultation is practical.

(3) A person recalled to gaol under the provisions of this rule may make representations in writing to the Governor with respect to his recall and shall, on his return to gaol, be informed in writing of the reasons for his recall and his right to make such representations.

(4) The Governor shall refer to the Committee the case of a person recalled to gaol under sub-rule (1) who makes representations under sub-rule (3), and shall refer to the Committee the case of a person recalled to gaol under sub-rule (2) whether or not that person makes representations with respect to his recall.

(5) If upon a reference made under sub-rule (4) the Committee recommends the immediate release on licence of a prisoner whose case is referred to it under sub-rule (4), the Governor may give effect to that recommendation, but without prejudice to the power again to recall that person, under the provisions of this Rule, if new circumstances appear to require it.

(6) On the revocation of the licence of any person under this Rule he shall be liable to be detained in pursuance of his sentence, and, if at large, shall be deemed to be unlawfully at large and may be arrested by any police officer or prison officer.

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## SCHEDULE

(Rule 4(1))

### SECURITY CATEGORISATION

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<sup>9</sup> Rule 48 inserted by L.N. 16/2000

<sup>10</sup> Rule 49 inserted by L.N. 16/2000

## CATEGORY A

A prisoner who must be held in accommodation to the highest level of security available and whose escape would be a danger to the public or the police.

## CATEGORY B

A prisoner who needs to be held in accommodation to the highest level of security available but whose escape must be made as difficult as possible.

## CATEGORY C

A prisoner who does not have the resources or inclination to escape but who cannot be held in open accommodation.

## CATEGORY D

A prisoner who is not considered to be a security risk and who can serve his sentence in open accommodation.

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**COLONIAL PRISON SERVICE MEDAL REGULATIONS**

*(Legal Notices 20/1956 and 2/1978)*

Under the authority of Clause 10 of the Royal Warrant dated 28th October 1955, approving the creation of a medal to be designated “The Colonial Prison Service Medal”, the Governor hereby makes the following Regulations—

**Service required**

1.<sup>11</sup> The Colonial Prison Service Medal will be granted as a reward for long service and good conduct to all ranks in the Prison Service of St. Helena, who on or after the 28th October, 1955, shall have completed eighteen years’ continuous service as hereinafter defined.

A Clasp will also be granted to a recipient of the Medal on his completing twenty-five years’ qualifying service, and a further Clasp on completing thirty years’ qualifying service. For each Clasp so awarded a small silver rose may be added to the ribbon when worn alone.

**Continuity of service**

2.<sup>12</sup> Qualifying service in the Prison Service of other Colonies or Territories under Her Majesty’s Protection may be allowed to reckon towards the required period of qualifying service, if the total period of such service amounts to not less than eighteen years: provided, however, that where service has been rendered in more than one such territory as aforesaid an interval not exceeding twelve months between any two periods of service shall not be regarded as breaking the continuity of such service: provided also that a break in service not exceeding six calendar months in any one such territory shall not be regarded as breaking the continuity of such service.

Previous service in the police force of St. Helena may also be allowed to reckon towards the required period of qualifying service provided that such police force service is continuous with prison staff service in St. Helena.

**Exemplary character**

3. For the purpose of these Regulations service shall only be reckoned as qualifying service if it is certified that the character and conduct of the person recommended for the grant of the Medal or Clasp has been exemplary.

The term “**exemplary character**” shall not be held to apply to any member of the Prison Service who, during the last 16 years of his service, may have been found guilty of insubordination, insobriety, sleeping on duty, or other misconduct incurring reduction in rank or censure by the Governor.

**Recommending authority**

4. Recommendations for the award of the Medal or Clasp shall be submitted by the Officer in Charge of the Prison to the Governor. The medal will be awarded on the authority of the Governor and a notification of such award shall be published in the *Government Gazette*.

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<sup>11</sup> Regulation 1 amended by L.N. 2/1978

<sup>12</sup> Regulation 2 amended by L.N. 2/1978

**Forfeiture and restoration**

5. (a) A recipient of the Medal or Clasp who is convicted of a criminal offence or is dismissed or removed from the Prison Service for misconduct shall forfeit the Medal and Clasp unless the Governor shall otherwise direct.

(b) A Medal or Clasp so forfeited may be restored to the recipient by the Governor at his discretion.

(c) A notice of forfeiture or restoration shall in every case be published in the Government *Gazette*.

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**THE COLONIAL PRISONERS REMOVAL ORDER IN COUNCIL, 1907. 1907 NO. 742.**

AT THE COURT AT BUCKINGHAM PALACE,  
THE 9th DAY OF SEPTEMBER, 1907.

Present,

*The King's Most Excellent Majesty*

*Lord President*

*Sir Charles Hardinge*

*Lord Denman*

*Mr. Harcourt*

His Majesty by virtue and in exercise of the powers in this behalf vested in him by the Colonial Prisoners Removal Act, 1884, is pleased, by and with the advice of His Privy Council, to make the following Order as to the removal and return of prisoners and criminal lunatics under the said Act—

**I.** Every prisoner removed under the said Act from a British Possession to the United Kingdom for the purpose of undergoing the residue of a sentence involving confinement in a prison combined with hard labour, shall, in the United Kingdom, be dealt with as follows, that is to say.

If the original period of his sentence did not exceed two years, in the same manner as if he had been sentenced in the United Kingdom to imprisonment with hard labour for the same period.

And if the original period of his sentence exceeded two years, in the same manner, as nearly as may be, as if he had been sentenced in the United Kingdom to penal servitude for the same period.

**II.** Every prisoner removed under the said Act from one British Possession to another British Possession for the purpose of undergoing the residue of a sentence shall in such last-mentioned British Possession be dealt with in the same manner as if he had there been sentenced to such punishment authorized by the law thereof as in the opinion of the Secretary of State signing the Order of Removal shall most nearly correspond to the punishment to which he was sentenced in the first mentioned British Possession, and for the same period.

**III.** If the prisoner or criminal lunatic is to be removed to the United Kingdom—

(1) A Secretary of State shall make out and sign the Order of Removal in duplicate and shall send one copy to the Governor of the Colony from which the prisoner is to be removed, and the Governor shall thereupon make out and sign in duplicate a Notification of Concurrence in the Order of Removal.

(2) One copy of the Order of Removal shall be retained in the Colony and the other copy shall be transmitted by the Secretary of State to the Home Office for record.

(3) One copy of the Notification of Concurrence shall be retained in the Colony and attached to the Order of Removal and the other shall be sent to a Secretary of State and shall by him be transmitted to the Home Office for record.

**IV.** If the prisoner or criminal lunatic is to be removed to a British Possession—

(1) A Secretary of State shall make out and sign the Order of Removal in triplicate and shall send one copy to the Governor of each Colony concerned, who shall thereupon make out and sign in triplicate a Notification of Concurrence in the Order of Removal.

(2) The Governor of the Colony from which the prisoner is to be removed shall retain the copy of the Order of Removal and one copy of the Notification of Concurrence which he shall attach to the Order of Removal, and shall send the second copy of the Notification to the Governor of the Colony to which the prisoner is to be removed, and the third copy of Notification to a Secretary of State.

(3) The Governor of the Colony to which the prisoner is to be removed shall retain the copy of the Order of Removal and one copy of the Notification of Concurrence which he shall attach to the Order of Removal, and shall send the second copy of the Notification to the Governor of the Colony from which the prisoner is to be removed, and the third copy of notification to a Secretary of State.

Provided that the above procedure shall not apply to the removal of a prisoner or criminal lunatic from one British Possession to another in pursuance of an agreement made between such Possessions and sanctioned by Order in Council under the provisions of the Colonial Prisoners Removal Act, 1869.

**V.** A Removal Warrant duly made out and signed shall be transmitted with every prisoner or criminal lunatic who is removed. The Warrant shall be handed over with the prisoner or criminal lunatic to every person from time to time authorized to receive him in custody for the purpose of giving effect to the Order of Removal.

**VI.** The forms in the Schedule to this Order or forms to the like effect varied as circumstances may require may be used under the said Act.

**VII.** This Order shall commence and come into operation on the first day of November, 1907.

**VIII.** The Order in Council of the thirteenth day of December one thousand eight hundred and eighty nine made under the Colonial Prisoners' Removal Act 1884, shall continue in force until the commencement of this Order, and shall thereupon be revoked without prejudice to anything lawfully done thereunder.

**IX.** This Order may be cited as “The Colonial Prisoners’ Removal Order in Council 1907”.

A. W. Fitzroy.

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SCHEDULE REFERRED TO IN THE FOREGOING ORDER IN COUNCIL

I. ORDER OF REMOVAL OF A PRISONER

*Colonial Prisoners’ Removal Act, 1884*

Whereas A.B. was on the ..... day of ..... convicted before the ..... Court of ..... of the crime (or offence) of ..... and sentenced to penal servitude (or imprisonment, *or*, as the case may be) for the term of ..... years (or for life), and is now undergoing the said sentence in the Colony (*or* Protectorate, *or* ..... ) of ..... :

And whereas it is likely that the life (or health) of the said A.B. will be endangered (*or* permanently injured) by further imprisonment in the said Colony (*or* Protectorate, *or* ..... ) :

[*Or* whereas the said A.B. belonged at the time of committing the said offence to the Royal Navy (*or* to His Majesty’s regular military forces)]:

[*Or* whereas the said offence was committed wholly (*or* partly) beyond the limits of the said Colony (*or* Protectorate, *or* ..... )]:

[*Or* whereas by reason of there being no prison in the said Colony (*or* Protectorate, *or* ..... ) in which the said A.B. can properly undergo his sentence (*or*, for other reasons to be stated) the removal of the said A.B. is expedient for his safe custody (or for more efficiently carrying his sentence into effect)]:

[*Or* whereas the said A.B. belongs to a class of persons who under the law of the said Colony (*or* Protectorate, *or* ..... ) are subject to removal under the Colonial Prisoners’ Removal Act, 1884]:

Now I do hereby in pursuance of the Colonial Prisoners’ Removal Act, 1884, with the concurrence of the Government of the said Colony (*or* Protectorate, *or* ..... ) [and the Government of the Colony (*or* Protectorate, *or* ..... ) of ..... ], order that the said A.B. be removed to the United Kingdom [*or* to the Colony (*or* Protectorate, *or* ..... ) of ..... ] there to undergo the residue of his said sentence (with such variations of the conditions thereof as are or shall be provided by any regulations in force for the time being under the said Act) in accordance with the said Act.

Given under the hand of the undersigned, one of His Majesty's Principal Secretaries of State, this ..... day of ..... 19.....

## II. NOTIFICATION OF CONCURRENCE IN ORDER OF REMOVAL OF A PRISONER

### *Colonial Prisoners' Removal Act, 1884*

Whereas an Order as been made under the Colonial Prisoners' Removal Act, 1884, by one of His Majesty's Principal Secretaries of State for the removal of A.B. a prisoner now in custody in the Colony (*or* Protectorate *or* ..... ) of ..... to the United Kingdom [*or* the Colony (*or* Protectorate *or* ..... ) of ..... ] : .....

Now I, the Governor (*or* Lieutenant Governor *or* the Officer Administering the Government) of the Colony (*or* Protectorate *or* ..... ) of ....., with the advice of the Executive Council of the said Colony (*or* Protectorate *or* ..... ) hereby concur in the said Order of Removal.

As witness my hand this ..... day of ..... 19.....

## III. WARRANT FOR REMOVAL OF A PRISONER

### *Colonial Prisoners' Removal Act, 1884.*

To C.D., the Keeper of the Prison and to E.F., and G.H.

Whereas an Order has been made under the Colonial Prisoners' Removal Act, 1884, by one of His Majesty's Principal Secretaries of State, with the concurrence of the Government of the Colony (*or* Protectorate, *or* ..... ) of ..... [and the Government of the Colony (*or* Protectorate, *or* ..... ) of ..... ] for the removal of A.B. a prisoner now in the custody of you, the said C.D., under a sentence of penal servitude (*or* imprisonment *or*, as the case may be), for the term of ..... years from the ..... day of ..... (*or* for life), to the United Kingdom [*or* to the Colony (*or* Protectorate *or* ..... )] of ..... there to undergo the residue of the said sentence.

Now I do hereby, in pursuance of the said Act, order you, the said C.D., to deliver the body of the said A.B., into the custody of the said E.F., and G.H., or one of them; and I do hereby, in further pursuance of the said Act, authorize you, the said E.F., and G.H., or either of you, to receive the said A.B., into your custody, and to convey him to the United Kingdom [*or* to the Colony (*or* Protectorate *or* ..... ) of ..... ], and to deliver him to such person or persons as shall be empowered by one of His Majesty's Principal Secretaries of State [*or* by the Governor of the said Colony

(*or* Protectorate, *or* .....)] to receive him for the purpose of giving effect to the said Order of Removal.

And for so doing this shall be your warrant.

Given under the hand of the undersigned, one of His Majesty's Principal Secretaries of State (*or* Governor of .....), this ..... day of ..... 19.....

#### IV. WARRANT OF RECEPTION OF A PRISONER

##### *Colonial Prisoners' Removal Act, 1884*

Whereas ..... was on the ..... day of ..... 19....., convicted in the ..... Court of ..... of the crime of ..... and sentenced to .....

And whereas in pursuance of the provisions of the Colonial Prisoners' Removal Act, 1884, an Order has been made by one of His Majesty's Principal Secretaries of State, with the concurrence of the Government of the Colony (*or* Protectorate *or* ..... of ..... [and of the Government of this Colony (*or* Protectorate *or* .....)] for the removal of the said ..... to the United Kingdom [*or* to this Colony (*or* Protectorate *or* .....)], there to undergo the residue of his sentence; and whereas the Governor of the Colony (*or* Protectorate *or* ..... of ..... by a warrant under his hand ordered the said ..... to be conveyed to the United Kingdom [*or*, this Colony (*or* Protectorate *or* .....)] and delivered to such person or persons as shall be empowered by one of His Majesty's Principal Secretaries of State [*or* the Governor of this Colony (*or* Protectorate *or* .....)] to receive him for the purpose of giving effect to the said Order of Removal.

Now I, the Right Honourable ..... one of His Majesty's Principal Secretaries of State [*or* the Governor of the Colony (*or* Protectorate *or* ..... of .....)] hereby authorize and empower the Governor of H.M. Prison ..... and all persons acting under his orders, to receive and detain the said ..... for the purpose of giving effect to the said Order of Removal; and I further authorize and empower the Governor of any other of H.M. Prisons to which the said ..... may be removed from ..... Prison and all persons acting under his orders to receive and detain the said ..... for the purpose of undergoing the residue of his sentence in such Prison.

Given under the hand of the undersigned, one of His Majesty's Principal Secretaries of State (*or* Governor of .....) this ..... day of ..... 19.....

## V. ORDER FOR THE RETURN OF A PRISONER TO A BRITISH POSSESSION

*Colonial Prisoners' Removal Act, 1884*

Whereas A.B. was on the ..... day of ..... 19....., convicted before the ..... Court of ..... of the crime (*or* offence) of ..... and sentenced to penal servitude (*or* imprisonment, *or* as the case may be), for the term of ..... years (*or* for life).

And whereas the said A.B. has been removed, under the Colonial Prisoners' Removal Act, 1884, from the Colony (*or* Protectorate, *or* ..... ) of ..... to ..... and is now undergoing his said sentence in the United Kingdom (*or* the Colony *or* Protectorate, *or* ..... ) of .....

Now I, ..... [with the advice of the Executive Council of the said Colony (*or* Protectorate, *or* ..... ) of .....] hereby, in pursuance of the said Act, order that the said A.B. shall be returned to the said Colony (*or* Protectorate, *or* ..... ) of ....., there to undergo the residue (*or* for the purpose of being there discharged at the expiration) of his said sentence.

Given under the hand of the undersigned, one of His Majesty's Principal Secretaries of State [*or* Governor (*or* Lieutenant Governor *or* Officer Administering the Government) of the Colony (*or* Protectorate, *or* ..... ) of .....] this ..... day of ..... 19.....

## VI. – WARRANT FOR RETURN OF A PRISONER TO A BRITISH POSSESSION

*Colonial Prisoners' Removal Act, 1884*

To C.D. the Governor (*or* ..... ) ..... of the ..... Prison, and to E.F., and G.H.

Whereas A.B., having been sentenced by the ..... Court of ..... to penal servitude (*or* imprisonment, *or* as the case may be) for the term of ..... years from the ..... day of ..... 19....., (*or* for life) has under an order duly made under the Colonial Prisoners' Removal Act, 1884, been removed to the United Kingdom [*or* to the Colony *or* Protectorate, *or* of .....] and is now in the custody of you the said C.D. undergoing his said sentence.

And whereas an Order has been made under the said Act by one of His Majesty's Principal Secretaries of State [*or* by the Government of the said



Colony (*or* Protectorate *or* ..... ) of ..... ] for the return of the said A.B. to the said Colony (*or* Protectorate, *or* ..... ) of ..... there to undergo the residue (*or* for the purpose of being there discharged at the expiration of his said sentence.

Now I do hereby in pursuance of the said Act order you the said C.D., to deliver the body of the said A.B., into the custody of the said E.F., and G.H., *or* one of them; and I do hereby, in further pursuance of the said Act, authorize you the said E.F., and G.H., *or* either of you, to receive the said A.B., into your custody, and to convey him to the Colony (*or* Protectorate, *or* ..... ) of ..... and to deliver him to such person or persons as shall be empowered by the Governor of the said Colony (*or* Protectorate, *or* ..... ) to receive him for the purpose of giving effect to the said order of return.

And for so doing this shall be your warrant.

Given under the hand of the undersigned one of His Majesty's Principal Secretaries of State (*or* Governor of ..... ) this ..... day of ..... 19.....

## VII. ORDER OF REMOVAL OF A CRIMINAL LUNATIC

### *Colonial Prisoners' Removal Act, 1884*

Whereas A.B. is in custody in the Colony (*or* Protectorate, *or* ..... ) of ..... as a criminal lunatic having been charged with the offence of ..... and found to have been insane at the time of such offence (*or* to be unfit on the ground of insanity to be tried for such offence) [*or* having been convicted of the offence of ..... and sentenced to penal servitude (*or* imprisonment, *or* ..... ) for the term of ..... years from the ..... day of ..... 18 ..... (*or* for life), and afterwards certified (*or* lawfully proved) to be insane]: .....

And whereas it is likely that the life (*or* health) of the said A.B. will be endangered (*or* permanently injured) by further detention in custody in the said Colony (*or* Protectorate, *or* ..... ) : .....

[*Or* Whereas the said A.B. belonged at the time of the said offence to the Royal Navy (*or* to His Majesty's regular military forces)]: .....

[*Or* Whereas by reason of there being no asylum in the said Colony (*or* Protectorate, *or* ..... ), in which the said A.B. can be properly or conveniently detained and dealt with as a criminal lunatic, his removal to the United Kingdom (*or* to the Colony (*or* Protectorate, *or* ..... ) of ..... ) is expedient]: .....

[*Or* Whereas the said A.B. belongs to a class of persons who, under the law of the said Colony (*or* Protectorate, *or* ..... ) are subject to

removal under the Colonial Prisoners' Removal Act, 1884]:

Now I do hereby in pursuance of the Colonial Prisoners' Removal Act, 1884, with the concurrence of the Government of the said Colony (*or* Protectorate, *or* ..... ) [and the Government of the Colony (*or* Protectorate, *or* ..... ) of ..... ] order that the said A.B. be removed to the United Kingdom [*or* to the Colony (*or* Protectorate, *or* ..... ) of ..... ] there to be detained in custody as a criminal lunatic, and dealt with in the same manner as if he had there become a criminal lunatic.

Given under the hand of the undersigned, one of His Majesty's Principal Secretaries of State this ..... day of ....., 19.....

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#### VIII. NOTIFICATION OF CONCURRENCE IN ORDER OF REMOVAL OF A CRIMINAL LUNATIC

##### *Colonial Prisoners' Removal Act, 1884*

Whereas an Order has been made under the Colonial Prisoners' Removal Act, 1884, by one of His Majesty's Principal Secretaries of State for the removal of A.B., a criminal lunatic now in custody in the Colony (*or* Protectorate *or* ..... ) of ..... to the United Kingdom [*or* the Colony (*or* Protectorate, *or* ..... ) of ..... ]: .....

Now I, ..... the Governor (*or* Lieutenant-Governor, *or* Officer Administering the Government) of the Colony (*or* Protectorate, *or* ..... ) of ..... with the advice of the Executive Council of the said Colony (*or* Protectorate, *or* ..... ) hereby concur in the said Order of Removal.

As witness my hand this ..... day of ..... 19.....

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#### IX. WARRANT FOR REMOVAL OF CRIMINAL LUNATIC

##### *Colonial Prisoners' Removal Act, 1884*

To C.D. the keeper of ..... Lunatic Asylum,

and to E.F., and G.H.

Whereas an Order has been made, under the Colonial Prisoners' Removal Act, 1884, by one of His Majesty's Principal Secretaries of State with the concurrence of the Government of the Colony (*or* Protectorate, *or* ..... )

of ..... [and the Government of the Colony (*or* Protectorate, *or* .....)] of .....], for the removal of A.B., a criminal lunatic now in the custody of you, the said C.D., to the United Kingdom [*or* the Colony (*or* Protectorate, *or* .....)] of .....] to be there dealt with in the same manner as if he had become a criminal lunatic in the United Kingdom [*or* the said Colony (*or* Protectorate, *or* .....)] of .....]: .....

Now I do hereby, in pursuance of the said Act, order you the said C.D., to deliver the body of the said A.B., into the custody of the said E.F., and G.H., or one of them; and I do hereby, in further pursuance of the said Act, authorize you, the said E.F. and G.H., or either of you, to receive the said A.B., into your custody, and to convey him to the United Kingdom [*or* to the Colony (*or* Protectorate, *or* .....)] of .....], and to deliver him to such person or persons as shall be empowered by one of His Majesty's Principal Secretaries of State [*or* the Governor of the said Colony (*or* Protectorate *or* .....)] to receive him for the purpose of giving effect to the said Order of Removal.

Given under the hand of the undersigned, one of His Majesty's Principal Secretaries of State (*or* the Governor of .....) this ..... day of ..... 19.....

#### X. WARRANT OF RECEPTION OF A CRIMINAL LUNATIC

##### *Colonial Prisoners' Removal Act, 1884*

Whereas ..... is in custody in ..... as a criminal lunatic, having been charged with the offence of ..... and found to be insane at the time of such offence (*or* to be unfit on the ground of insanity to be tried for such offence) [*or* having been convicted of the offence of ..... and sentenced to ..... and afterwards certified (*or* lawfully proved) to be insane]: .....

And whereas in pursuance of the provisions of the Colonial Prisoners' Removal Act, 1884, an Order has been made by one of His Majesty's Principal Secretaries of State, with the concurrence of the Government of the Colony (*or* Protectorate, *or* .....)] of ..... and of the Government of this Colony (*or* Protectorate, *or* .....)] for the removal of the said ..... to the United Kingdom [*or* this Colony (*or* Protectorate, *or* .....)] there to be detained as a criminal lunatic until he shall have ceased to be a criminal lunatic, or shall otherwise lawfully be discharged : .....

And whereas the Governor of the Colony (*or* Protectorate, *or* .....)] of ..... by a Warrant under his hand, ordered the said ..... to be conveyed to the United Kingdom [*or* to this Colony (*or* Protectorate, *or* .....)] and delivered to such person or persons as shall be empowered by one of His Majesty's Principal Secretaries of State [*or* the Governor of this Colony (*or* Protectorate, *or* .....)] to receive him

for the purpose of giving effect to the said Order of Removal: .....

Now I, the Right Honourable ..... one of His Majesty's Principal Secretaries of State [*or* the Governor of the Colony (*or* Protectorate, *or* .....)] hereby authorize and empower the Medical Superintendent of the ..... Lunatic Asylum, and all persons acting under his orders, to receive and detain the said ..... in the same manner as if he had become a criminal lunatic in the United Kingdom [*or* this Colony (*or* Protectorate, *or* .....)] until His Majesty's pleasure be further known concerning him.

Given under the hand of the undersigned, one of His Majesty's Principal Secretaries of State (*or* the Governor of .....) this ..... day of ..... 19.....

#### XI. ORDER FOR THE RETURN OF A CRIMINAL LUNATIC TO A BRITISH POSSESSION

##### *Colonial Prisoners' Removal Act, 1884*

Whereas A.B., having been in custody in the Colony (*or* Protectorate, *or* .....), of ..... as a criminal lunatic, has been removed, under the Colonial Prisoners' Removal Act, 1884, to, and is now in custody as a criminal lunatic in, the United Kingdom [*or* the Colony (*or* Protectorate, *or* .....)] of .....:

And whereas I [*or* the Government of the said Colony (*or* Protectorate, *or* .....)] of ..... consider that the said A.B. has become sufficiently sane to be tried for the offence with which he was charged in the said Colony (*or* Protectorate, *or* .....)] of .....

Now I [with the advice of the Executive Council of the said Colony (*or* Protectorate, *or* .....)] hereby, in pursuance of the said Act, order that the said A.B., be returned to the said Colony (*or* Protectorate, *or* .....)] there to be dealt with in the same manner as if he had not been removed therefrom.

Given under the hand of the undersigned, one of His Majesty's Principal Secretaries of State [*or* the Governor (*or* Lieutenant-Governor, *or* Officer Administering the Government of the Colony (*or* Protectorate, *or* .....)] of ..... this ..... day of ..... 19.....

#### XII. WARRANT FOR RETURN OF A CRIMINAL LUNATIC TO A BRITISH POSSESSION

##### *Colonial Prisoners' Removal Act, 1884*

To C.D., the ..... of the ..... Lunatic Asylum,  
and to E.F., and G.H.

Whereas A.B., having been in custody as a criminal lunatic in the Colony  
(*or* Protectorate, *or* ..... ) of ..... has under an  
order duly made under the Colonial Prisoners' Removal Act, 1884, been  
removed to the United Kingdom [*or* to the Colony (*or* Protectorate, *or*  
..... ) of .....] and is now in the custody of you  
the said C.D. as a criminal lunatic:

And whereas an order has been made under the said Act by one of His  
Majesty's Principal Secretaries of State [*or* by the Government of the said  
Colony (*or* Protectorate, *or* ..... ) of .....] for the return of the said A.B. to the said Colony (*or* Protectorate, *or*  
..... ) of .....]

Now I do hereby, in pursuance of the said Act, order you the said C.D., to  
deliver the body of the said A.B., into the custody of the said E.F. and G.H. or  
one of them; and I do hereby, in further pursuance of the said Act, authorize  
you the said E.F. and G.H. or either of you, to receive the said A.B. into your  
custody, and to convey him to the Colony (*or* Protectorate, *or* ..... )  
of ..... and to deliver him to such person or persons as shall be  
empowered by the Governor of the said Colony (*or* Protectorate, *or*  
..... ) to receive him for the purpose of giving effect to the said  
order of return.

And for so doing this shall be your warrant.

Given under the hand of the undersigned, one of His Majesty's Principal  
Secretaries of State (*or* Governor of ..... ) this .....  
day of ..... 19.....

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