

CHAPTER 58
THE PRISONS ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

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CHAPTER 58

THE PRISONS ACT

An Act to provide for the organisation of prisons, discipline, powers and duties of prison officers, and for matters related thereto.

[15th January, 1968]

[GN. No. 380 of 1967]

Acts Nos.
34 of 1967
29 of 1968
41 of 1969
13 of 1972
13 of 1991
5 of 1995
9 of 1996
9 of 2002
10 of 2004

PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Prisons Act.

Interpretation
Acts Nos.
13 of 1972
Sch.
5 of 1995 Sch.

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

“adult prisoner” means any prisoner of the apparent age of eighteen years or more;

“appellant prisoner” means any convicted criminal prisoner who is detained 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 decisions in regard to which has not been given;

“civil prisoner” means a debtor, a person ordered to be detained in custody under the provisions of the Mental Health Act or a detainee under the Preventive Detention Act;

“convicted criminal prisoner” means any criminal prisoner under sentence of a court or court-martial or a Special

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- Cap. 20 Tribunal and includes a person detained in prison under section 33 of the Criminal Procedure Act;
- “court martial” means the court martial established under
- Cap. 192 the National Defence Act;
- “criminal prisoner” means any person duly committed to custody under a writ, warrant or order of any court or authority exercising criminal jurisdiction or by order of a court-martial or a special tribunal;
- “deserter” means a prison officer who absents himself from duty without reasonable cause for a period of fourteen days or more;
- “medical officer” means the medical officer appointed by the Chief Medical Officer or other officer authorised by him to be the medical officer of a prison, or, where no medical officer has been so appointed, means the medical officer of the district in which the prison is situated, or in his absence any other medical officer employed by the Government;
- “Minister” means the Minister responsible for prisons;
- “non-pensionable officer” means a prison officer who does
- Cap. 371 not hold a pensionable office under the Public Service Social Security Fund Act or any written law amending or replacing the same or whose service in a pensionable office does not qualify for a pension under any such law;
- “officer-in-charge” means a prison officer appointed by the Commissioner to be in charge of a prison;
- Ord No. 24 of 1933 “the Ordinance” means the Prisons Ordinance repealed by section 106;
- “Principal Commissioner” means the Principal Commissioner of Prisons, and includes any officer discharging the functions of Principal Commissioner.
- “prison” means a prison established or deemed to have been established under section 23;
- “prison officer” means any member of the Tanzania Prisons Service of whatever rank;
- “prisoner” means any person, whether convicted or not, under detention in any prison;

“prohibited article” means an article the introduction or removal of which into or out of a prison is prohibited by this Act or by any regulations made thereunder;

“Senior Assistant Commissioner” means the Senior Assistant Commissioner of Prisons;

“senior prison officer” means a prison officer of or above such rank as the Minister may specify under subsection (2) of section 3;

“Service” means the Tanzania Prisons Service established by this Act;

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“Special Tribunal” means a Tribunal established under the Special Tribunals Act;

“subordinate prison officer” means a prison officer of or below such rank as the Minister may specify under subsection (2) of section 3;

“temporary prison officer” means a prison officer appointed under section 4;

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“unconvicted prisoner” means any person on remand or awaiting trial or, in cases of juveniles, awaiting admission to an approved school, or any person detained for safe custody under the Immigration Act, or the Preventive Detention Act, or any written law repealing and replacing any of the said Acts and includes any person detained for safe custody;

“visiting justice” means a person appointed to be a visiting justice under section 101;

“young prisoner” means a person between the apparent ages of sixteen and twenty-one years.

PART II

CONSTITUTION AND ADMINISTRATION OF SERVICE

Composition of
Service

3.-(1) The Tanzania Prisons Service shall consist of the members of the Service appointed or deemed to have been appointed under this Act.

(2) The Service shall consist of such ranks of senior and subordinate prison officers as the Minister may, by notice in the *Gazette*, specify, and prison officers shall have seniority as so specified.

Temporary prison officers

4.-(1) Whenever it is necessary for the safe custody of prisoners in any prison or hospital or being transported from one prison to another or for any other purpose, the Commissioner or, subject to the approval of the Commissioner, an officer-in-charge of a prison may appoint fit and proper persons as may be deemed expedient to act as temporary prison officers, upon such conditions as may be prescribed.

(2) A temporary prison officer shall, while so acting, be vested with the same powers, functions and responsibilities, perform the same duties and be subject to the same discipline and authority as a prison officer.

(3) Where in any prison the number of prison officers detailed for duty therein is insufficient to secure the good management and administration thereof, it shall be lawful for the officer-in-charge of such prison, with the consent of the Inspector-General of Police or his representative, to employ temporarily such number of police officers as he may consider necessary to perform the duties of prison officers in such prison.

(4) A police officer appointed in pursuance of subsection (3) shall have all the powers, functions and responsibilities and perform in respect of the prison for which he is so appointed all the duties of a prison officer of the class to which the officer-in-charge shall appoint and, for the purposes of this Act, shall be deemed to be a prison officer.

General powers of Commissioner

5.-(1) The Commissioner shall, subject to the orders and directions of the President, have the administrative command, superintendence, control and direction of the prisons and prison officers of Tanzania and, subject to this Act and to such regulations as may be made thereunder, and to any

other written law, may make such appointments, promotions, transfers and reductions in ranks and grades of subordinate officers as he may see fit.

(2) The Commissioner may, subject to the provisions of this Act and to the orders and directions of the Minister frame orders and regulations for the observance of all prison officers and may also frame orders for the general governance of such persons in relation to their enlistment, discharge, training, arms and accoutrements, clothing and equipment, place of residence, classification of particular services, as well as their distribution and inspection and may also frame such other orders and regulations relative to the said prison officers as he may deem expedient for preventing neglect or abuse, and for rendering such prison officers efficient in the discharge of their duties and for promoting discipline.

Commissioner to
inspect prisons

6. The Commissioner shall periodically visit and inspect, or cause to be visited and inspected, all prisons within Tanzania.

Powers of
Senior Assistant
Commissioner
and delegation of
powers
Act No.
13 of 1972 Sch.

7.-(1) The Senior Assistant Commissioner may, on the directions of the Commissioner, exercise any of the powers or perform any of the duties vested in or assigned to the Commissioner by this Act or any regulations made thereunder or by any other written law.

(2) The Commissioner may delegate any of the powers vested in him by this Act or any regulations made thereunder or save where a contrary intention appears therein, by any other written law, to an Assistant Commissioner.

Duties and
responsibilities of
officer-in-charge
of prison

8.-(1) The control of every prison shall be vested in the prison officer as may be appointed by the Commissioner to be in charge thereof.

(2) An officer-in-charge shall supervise and control all matters in connection with the prison to which he is appointed, and shall be responsible to the Commissioner for the conduct and treatment of the prison officers and prisoners under his control and for the due observance by prison officers and

prisoners of the requirements of this Act and of the regulations, instructions and orders issued thereunder.

(3) The officer-in-charge shall be charged with the safe custody of arms, accoutrements, ammunition, clothing and all other public stores and foodstuffs issued and delivered for the use of the prison, the prison officers and the prisoners under his control and with all public money for which he may be held accountable.

(4) Subject to the provisions of this Act and of any rules made thereunder, an officer-in-charge shall be charged with the safe custody of all valuables, money, articles of clothing and other property entrusted to his keeping as being the property of prisoners, and shall account for the same in case of their being lost or damaged otherwise than by unavoidable accident, theft, robbery or lawful use.

PART III

POWERS, DUTIES AND PRIVILEGES OF PRISON OFFICERS

General powers
and duties of
prison officers

9.—(1) A prison officer shall exercise such powers and perform such duties as are by law conferred or imposed on prison officers of his rank, and shall obey all lawful directions in respect of the execution of his office which he may, receive from his senior officers.

(2) The prison officer shall be deemed to be on duty at all times and may at any time be detailed for duty in any part of Tanzania.

Cases where
prison officer
have powers
and privileges of
police officers

10. While in charge of prisoners for the purpose of conveying any prisoner to or from a prison or for the purpose of apprehending any prisoner who may have escaped from a prison, or who may have escaped while being conveyed to or from a prison, or for the purpose of preventing the rescue of any prisoner or for the purpose of preventing an attack on a prison, a prison officer shall have all the powers and privileges of a police officer.

Arrest of
deserters

11. A prison officer may, on reasonable suspicion that any person is a deserter, arrest such person without a warrant and shall forthwith take him before a magistrate.

Power to examine
persons or
vehicles

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

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

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

(4) Where on stopping and searching any vehicle or person under subsection (1), a prison officer finds any prohibited article or any property belonging to the Government in use in a prison he may arrest the person or the person in the vehicle who appears to have charge of the article or property and shall, as soon as practicable, cause such person to be handed over to a police officer or, in the absence of a police officer, to be taken to the nearest police station.

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

Use of force by
prison officer
Act No.
13 of 1972 Sch.

13.—(1) A prison officer may use such force against a prisoner as is reasonably necessary in order to make him obey lawful orders which he refuses to obey or in order to maintain discipline in a prison.

(2) A prison officer may use any weapon, including firearm, which may have been issued to him against a prisoner where such prisoner-

- (a) is escaping or attempting to escape and refuses, when called upon, to return;
- (b) is engaged with other persons in breaking out or attempting to break out of any part of a prison and continues to break out or to attempt to break out when called upon to desist;
- (c) is engaged with others in riotous behaviour in a prison and refuses to desist when called upon to do so; or
- (d) is endangering the life of, or is likely to inflict grave injury to, the prison officer or to any other prison officer or to any other person and the use of weapons is the only practicable way of controlling the prisoner.

(3) A prison officer shall not use weapons in any manner authorised in paragraphs (a), (b) and (c) of subsection (2), unless the officer has reasonable cause to believe that he cannot otherwise prevent the escape, breaking out or riotous behaviour, as the case may be, and has given a warning to such prisoner that he is about to use such weapons against him and such warning is unheeded.

(4) A prison officer shall not, in the presence of his senior officer, use his weapons against a prisoner as authorised under paragraphs (a), (b) or (c) of subsection (2) except under the orders of a senior officer:

Provided that, the use of a weapon under this section shall be aimed, as far as possible, to disable and not to kill.

(5) The powers conferred upon a prison officer may be exercised by him, subject to the limitations prescribed in this section, against any person who, not being a prisoner, is engaged in any activity to assist a prisoner in breaking out or attempting to break out of any part of the prison or in inciting, or taking part in any riotous behaviour in a prison or in inciting any person to commit any of the acts or in taking part in any of the activities specified in paragraph (d) of subsection (2).

Power to take
photographs,
finger prints, etc.

14.—(1) An officer-in-charge may cause photographs, measurements, footprints and casts thereof, palm prints or fingerprints to be taken of any prisoner by any prison officer or other person authorised by the Commissioner in that behalf.

(2) Where any person refuses to permit his photographs, measurements, footprints or casts thereof, palm prints or fingerprints to be taken, the officer may use or cause to be used such force as may be necessary to secure the photographs, footprints or casts thereof, palm prints or fingerprints.

(3) Photographs, measurements, footprints and casts thereof, palm prints and fingerprints of a prisoner who is subsequently acquitted and discharged shall be destroyed upon the prisoner's release by the court.

Non-liability for
act done under
authority of
warrant

15.—(1) Where the defence to any suit instituted against a prison officer is that, the act complained of was done in obedience to a certificate or warrant purporting to be issued by a court or other competent authority, the court shall, upon production of the certificate or warrant and upon proof that the act complained of was done in obedience to such certificate or warrant, enter judgment in favour of such prison officer.

(2) A proof of the signature on a certificate or warrant shall not be required unless the court has reason to doubt the genuineness thereof, and where it shall be proved that such signature is not genuine, judgment shall nevertheless be given in favour of the prison officer where it is proved that, at the time the act complained of was committed, he believed on reasonable grounds that the signature was genuine.

Leave of prison
officers

16. Prison officers shall, subject to the exigencies of the service, be granted leave in accordance with the regulations made under this Act.

PART IV

RETIREMENT BENEFITS WHICH MAY BE GRANTED TO NON-PENSIONABLE OFFICERS

Gratuities payable
after twelve
or more years'
service

17. A non-pensionable prison officer of or below the rank of prison officer grade I shall, on discharge after continuous good service extending over a period of not less than twelve years, be eligible to receive a gratuity calculated at the rate of two-thirds of a month's pay of the rank in which he was serving at the time of discharge for every completed year of service up to a maximum of twenty-one years.

Proportional
gratuities payable
in certain
circumstances
Act No.
13 of 1972 Sch.

18. When a non-pensionable prison officer below the rank of prison officer grade I-

- (a) dies;
- (b) is discharged as medically unfit for further service, such unfitness not having been caused by his own misconduct or negligence;
- (c) is discharged on account or reduction of establishment; or
- (d) having been enrolled in the Service before the eighth day of December, 1961, is required to retire from the service or ceases to serve therein in accordance with the provisions of section 25 of the Public Service Social Security Fund Act,

Cap. 371

before completing twelve years' continuous good service, the Principal Secretary to the Treasury may, on the recommendation of the Commissioner, authorise the payment to his estate or to him, of a proportional part of the gratuity which he would have earned under section 17 where he had completed the said period of service.

Gratuities earned
to be deemed part
of officer's estate

19. A gratuity which would have been due and payable to any non-pensionable officer had he taken his discharge under the provisions of this Act shall, in the event of his re-engaging for a further term and dying in the service before the completion of

such term, be deemed to have belonged to him for the purpose of payment to his estate.

PART V MEDICAL OFFICERS

Medical officers

20.—(1) There shall be a medical officer responsible for every prison.

(2) The medical officer shall be responsible for the health of all prisoners in a prison and shall cause all prisoners to be medically examined at such times as may be prescribed.

(3) A medical officer may, whether or not a prisoner consents thereto, take or cause to be taken such action, including the forcible feeding, inoculation, vaccination and any other treatment of the prisoner, whether of the like nature or otherwise, as he may consider necessary to safeguard or restore the health of the prisoner or to prevent the spread of disease.

(4) All actions of a medical officer, prison officer, medical orderly, or other person acting under subsection (3) or in pursuance of directions given thereunder, shall be lawful.

Medical
examination of
prisoners
Act No.
13 of 1972 Sch.

21.—(1) The medical officer shall examine every prisoner before or immediately after admission and prior to discharge, and shall record the state of health of the prisoner and such other particulars as may be prescribed, and until so examined every prisoner on admission shall, so far as is possible, be kept apart from other prisoners.

(2) The medical officer shall examine daily every prisoner in solitary confinement or hospital, or reported to him as being sick.

(3) The medical officer shall enter in a register, kept for the purpose, his comments on the cases sent to him for treatment.

Book to be kept
by medical officer
Act No.
13 of 1972 Sch.

22.—(1) The medical officer shall, on the death of any prisoner, record in the register, the following particulars, so far as they can be ascertained, namely:

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

Cap. 24

(2) This section shall not be construed as affecting the requirement for an inquest under section 6 of the Inquests Act.

PART VI

ESTABLISHMENT AND CONTROL OF PRISONS

Declaration and
classification of
prisons

23.—(1) The Minister may, by notice in the *Gazette*, declare any building, enclosure or place, or any part thereof, to be a prison for the purposes of this Act, and may, in a like manner, declare that, any prison shall cease to be a prison for the purposes of this Act and may classify prisons so declared into grades and may prescribe the privileges applicable to each class of prisons.

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

(3) In any writ, warrant or other legal instrument in which it may be necessary to describe a particular prison by any

description designating a prison by reference to the name of the place or town where it is situated, or other definite description, shall be valid and sufficient for all purposes.

Temporary
prisons

24. Whenever-

- (a) it appears to the Commissioner that the number of prisoners in any prison is greater than can conveniently be accommodated therein and that it is not convenient to transfer the excess number to some other prison; or
 - (b) owing to the outbreak of epidemic disease within a prison or for any other reason, it is desirable to provide for temporary shelter or safe custody of any prisoners,
- the Commissioner with the approval of the Minister may, direct for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely accommodated in the prison, and every such temporary prison shall be deemed to be a prison for the purposes of this Act.

PART VII

ADMISSION AND CUSTODY OF PRISONERS

Admission of
prisoners
Act No.
10 of 2004 s. 21
Cap. 387

25.-(1) A prisoner shall not be admitted into a prison unless accompanied by a remand warrant, certificate warrant or other order of detention, warrant of conviction or of committal, or an order or direction made in pursuance to the provision of the Transfer of Prisoners Act.

(2) Subject to such conditions as may be prescribed, an infant child of a female prisoner may be received into prison with its mother.

(3) The officer-in-charge shall verify that the prisoner is the person named in the warrant, certificate or order, and that such warrant, certificate or order bears the signature and seal of the court or competent authority and in other respects complies with the requirements of the law.

(4) The officer-in-charge shall keep every such warrant, certificate or order or certified true copies thereof throughout the period during which the person referred to therein is in his custody.

(5) Upon the admission to prison of any person the officer-in-charge shall cause to be recorded such particulars regarding such person as may be prescribed.

Prisoner in custody of officer-in-charge

26. A prisoner who is being removed or transferred from one prison to another, shall, while outside the prison, be kept in the custody of the prisons officer directed to convey him and shall be deemed to be in the lawful custody of the officer-in-charge of the prison at which such prison officer is serving.

Detention of prisoners in police lock-ups or cells

27. A prisoner may be detained in a police lock-up or cell for a period not exceeding seven days in an area where a prison has not been established.

Male and female prisoners to be kept apart

28. Male and female prisoners shall be confined in separate prisons or separate parts of the same prison in such manner as to prevent their seeing or conversing or holding any communication with one another.

Classification of prisoners

29. A prisoner sentenced to imprisonment and admitted to prison shall be classified by the officer-in-charge in the manner prescribed.

Commencement and computation of sentence

30.—(1) A sentence of imprisonment shall take effect from the day on which the sentence was passed unless it is suspended under the provisions of any law or unless the offender is released on bail, in which case the sentence shall take effect from the day on which he surrenders himself or is taken into custody to undergo sentence.

(2) Whenever a capital sentence is commuted to a sentence of imprisonment the sentence shall be deemed to have commenced on the date the sentence of death was passed.

Execution of death sentence

31.—(1) Sentence of death shall be carried out in or within the precincts of a prison appointed by the Commissioner for the carrying out of sentences of death.

(2) The officer-in-charge, the medical officer and such prison officers as may be necessary shall be present at an execution of a sentence of death.

(3) A minister of the religious denomination to which the prisoner belongs may be present at the execution.

(4) A person shall not be present at an execution without the written authority of the Minister except those authorised in subsections (2) and (3) of this section.

PART VIII

OFFENCE BY PRISONERS

Prison offence

32. The Minister may prescribe what acts or omissions by prisoners shall be deemed to be prison offence and may prescribe which of such offences shall be minor prison offences and which shall be major prison offences.

Powers of prison officer- in-charge to punish prisoner

33.—(1) An officer-in-charge, where he is a senior prison officer, may punish any prisoner found after due inquiry by him to be guilty of a minor offence by awarding him one or more of the following punishments:

- (a) confinement in a separate cell on such punishment diet as may be prescribed and for a term not exceeding such period as may be prescribed;
- (b) forfeiture of remission not exceeding such term of remission earned as may be prescribed; or
- (c) forfeiture of some or all of the privileges for such period as may be prescribed.

(2) The officer-in-charge, if, he is a subordinate prison officer, may punish any prisoner found after due inquiry by him to be guilty of a minor prison offence by awarding him one or more of the following punishments:

- (a) confinement in a separate cell on such punishment diet as may be prescribed for a term not exceeding such period as may be prescribed;

- (b) forfeiture of remission not exceeding such term of remission earned as may be prescribed; or
- (c) forfeiture of some or all of the privileges for such period as may be prescribed.

(3) An officer-in-charge being a senior prison officer may punish any prisoner found after due inquiry by him to be guilty of a major prison offence by awarding him one or more of the following punishments:

- (a) corporal punishment with a cane, not exceeding such number of strokes as may be prescribed;
- (b) confinement in a separate cell on such punishment diet as may be prescribed for a term not exceeding such period as may be prescribed;
- (c) forfeiture of remission not exceeding such term of remission earned as may be prescribed; or
- (d) forfeiture of some or all of the privileges for such period as may be prescribed.

(4) A sentence of corporal punishment shall not be awarded except for an offence involving personal violence to a prison officer, and such sentence shall not be carried out unless it has been confirmed by the Commissioner.

Punishment of
prisoners by
Commissioner

34.—(1) The Commissioner may punish any prisoner found after due inquiry by him to be guilty of a prison offence.

(2) An officer-in-charge on finding a prisoner guilty of a major prison offence may, if he is of the opinion that in the circumstances of the case the powers of punishment he possesses are inadequate, transfer the case to the Commissioner for punishment.

(3) An officer-in-charge, if he transfers a case to the Commissioner under subsection (2), shall forward to the Commissioner—

- (a) a copy of the charge;
- (b) the record of all the evidence he has taken including the evidence of the prisoner;
- (c) the reasons why he has found the prisoner guilty; and

- (d) any representations the prisoner may wish to make to the Commissioner in regard to punishment.
- (4) The Commissioner on receipt of a record forwarded to him under subsection (3) may-
 - (a) punish the prisoner;
 - (b) reverse the finding of the officer-in-charge and acquit the prisoner; or
 - (c) require the officer-in-charge to take further evidence and submit it to him prior to his making a decision.
- (5) The Commissioner may award a prisoner one or more of the following punishments:
 - (a) corporal punishment with a cane not exceeding such number of strokes as may be prescribed;
 - (b) confinement in a separate cell on such diet and for such period as may be prescribed;
 - (c) forfeiture of remission not exceeding such term of remission earned as may be prescribed; or
 - (d) forfeiture of some or all of the privileges for such period as may be prescribed.

Right to apply for review

35.—(1) Where a prisoner is found guilty of a major prison offence by an officer-in-charge under the provisions of section 33, the officer shall inform the prisoner that he may, if he so wishes, have his case reviewed by the Commissioner and where the prisoner expresses a desire to have his case reviewed, the officer-in-charge shall transmit to the Commissioner a record of the proceedings in the prescribed form.

(2) On receipt of the record transmitted to him under the provisions of subsection (1) the Commissioner may-

- (a) reverse the finding of the officer-in-charge and acquit the prisoner;
- (b) require the officer-in-charge to take further evidence and submit it to him prior to his making a decisions; or
- (c) affirm the finding made by the officer-in-charge and-
 - (i) reduce the punishment;
 - (ii) increase the punishment; or
 - (iii) alter the nature of the punishment:

Provided that, the Commissioner shall not, on review award in respect of any prison offence a punishment greater than the punishment which the officer-in-charge who tried the prisoner could have lawfully awarded.

Magistrate may
punish persistent
offenders

36.—(1) A prisoner who is a persistent offender against prison discipline may, instead of being dealt with under the foregoing provisions of this Part, be brought before a magistrate and charged with any of the prison offence he has committed and the magistrate may, on convicting the offender, sentence him to a term of imprisonment not exceeding six months to run consecutively with the sentence then being served.

(2) Proceedings under this section shall not be taken against any prisoner in respect of any matter for which he has been punished under the provisions of section 33 or 34.

Prisoner's defence

37. Prisoner shall not be found to be guilty of a prison offence until he has had an opportunity of hearing the charge or charges against him and making his defence.

Medical
examination
before
punishment

38.—(1) A prisoner shall not be subjected to punishment diet until certified as medically fit to undergo such punishment by a medical officer or other person appointed for such purpose by the medical officer.

(2) Punishment diet shall not be combined with labour.

Corporal
punishment

39.—(1) Where corporal punishment is punishment prescribed for any offence the number of strokes shall not exceed ten in the case of persons of or under the apparent age of sixteen years, and eighteen in all other cases, and shall be inflicted with such type of cane and in such manner as may be prescribed.

(2) A sentence of corporal punishment imposed upon a prisoner by an officer-in-charge shall be subject to confirmation by the Commissioner, who may increase or reduce the number of strokes ordered to be inflicted, or may substitute any other punishment or punishments as he is authorised by this Act to award.

(3) A sentence of corporal punishment shall not be carried out unless the medical officer has certified that the prisoner is fit to undergo such punishment.

(4) A medical officer may give such directions for the prevention of injury to the health of the prisoner ordered to receive corporal punishment as he may deem necessary, and such directions shall be complied with before the punishment is inflicted, and where, during the course of the infliction of such punishment, the medical officer directs it to be discontinued, it shall be so discontinued.

(5) Corporal punishment shall not be inflicted upon any female prisoner, male prisoner under sentence of death or over the age of forty-five years, any civil prisoner, or any prisoner imprisoned as a vagrant.

Segregation of
prisoner

40. Whenever it appears to the officer-in-charge that it is desirable for the good order and discipline of the prison for a prisoner to be segregated and not to work or associate with other prisoners, it shall be lawful for such officer to order the segregation of such prisoner for such period as may be considered necessary.

Register of
punishments

41. The officer-in-charge shall cause to be entered in a register, which shall be open for inspection by the visiting justices, a record of all punishments imposed upon prisoner punished, his name, the nature of his offence, and the nature and extent of his punishment.

Prisoners subject
to discipline and
regulations

42. A prisoner shall be subject to prison discipline and regulations during the whole time of his imprisonment whether he is or is not within the precinct of any prison.

Powers of
officers holding
disciplinary
inquiries

43.-(1) A prison officer inquiring into a disciplinary offence alleged to have been committed by prisoners shall have power to summon and examine witnesses on oath or affirmation and to require the production of all documents relevant to such inquiry and to adjourn any hearing.

(2) A person summoned as a witness under subsection (1) who fails to attend at the time and place mentioned in the summons or on adjournment, or refuses to answer any question lawfully put to him commits an offence and on conviction shall be liable by a court of competent jurisdiction to a fine not exceeding one hundred shillings or to imprisonment for a term not exceeding one month or to both:

Provided that, a witness shall not be obliged to answer any question which may tend to incriminate him or render him liable to any penalty.

PART IX

PRIVILEGES OF PRISONERS AND REMISSION OF SENTENCE

Religion of
prisoners

44. The religious denomination or sect of every prisoner shall be recorded and the prisoner shall be treated as a member of such religious denomination or sect, and the facilities for worship shall be provided as may be prescribed.

Appointment of
prison ministers

45. The Minister may, appoint by notice in the *Gazette* ministers or priests of any religion or sect to be prison ministers.

Visits and letters

46. The privileges of prisoners to receive and send letters and to receive visitors shall be such as may be prescribed.

Postage of letters
written by
prisoners

47. The Government shall bear the cost of postage of letters written by prisoners.

Approach to
visiting justice

48. A prisoner may bring to the notice of any visiting justice who is visiting the prison any matter which he considers should be brought to the visiting justice's attention.

Remission of
part of sentence
of convicted
criminal prisoner
Act No.
29 of 1968 s. 2

49.—(1) Convicted criminal prisoners sentenced to imprisonment may, by industry and good conduct, earn a remission of one-third of their sentence or sentences:

Provided that, in no case shall any remission be granted to a prisoner sentenced to imprisonment for life or detained at the President's pleasure.

(2) For the purpose of giving effect to subsection (1), a convicted criminal prisoner shall, on admission, be credited with the full amount of remission to which he would be entitled at the end of his sentence or sentences where he lost no remission of sentence.

(3) A prisoner shall not earn any remission in respect of any period-

- (a) spent in hospital, where his stay in hospital is caused by his own negligence or where he is certified by the medical officer to be malingering; or
- (b) while undergoing confinement as a punishment in a separate cell.

(4) A prisoner shall lose the whole of the remission to which he would otherwise be entitled under this section if a prisoner-

- (a) is punished for a prison offence;
- (b) is serving a sentence for a scheduled offence under the Minimum Sentences Act; or
- (c) escapes or attempts to escape from prison.

(5) The Commissioner shall have the power to restore in whole or part any remission forfeited as a punishment for a prison offence but not otherwise.

Cap. 90

Additional special
remission

50. Notwithstanding the provisions of section 49, on the recommendation of the Commissioner, the President may grant a further remission on the grounds of exceptional merit, permanent ill-health or any other ground.

Review of
sentence

51.-(1) The Commissioner shall submit to the President a report on the general condition and conduct of the following prisoners at the times stated:

- (a) young prisoners serving indeterminate sentences as soon as the prisoner has completed one year of the sentence and thereafter annually;

(b) adult prisoners serving fixed sentences of eight years or more as soon as the prisoner has completed four years of his sentence and thereafter at quadrennial intervals; and

(c) adult prisoners serving indeterminate sentences as soon as the prisoner has completed one year of his sentence and thereafter at quadrennial intervals.

(2) Nothing in this section shall be deemed to prohibit the President from directing that, the reports shall be submitted at more frequent intervals or the Commissioner from submitting reports as and when he may consider desirable.

(3) The provisions of this section shall not apply to criminal lunatics or prisoners receiving treatment in mental hospitals.

Eligibility for
release on
community
service
Act No.
9 of 2002 Sch.

52.—(1) Where an officer-in-charge of a prison is satisfied that a prisoner under his custody is eligible for release on community service under the Community Service Act, he shall advise the prisoner of the eligibility and if the prisoner consents to the certification being made for his release on community service, he shall certify the matter to the court of competent jurisdiction for arrangement to be made for the release of the prisoner on community service.

(2) The court to which the matter has been certified under subsection (1) of this section, shall cause an inquiry to be carried out in accordance with the provisions of the Community Service Act, and where satisfied that a community service order should be made, it shall proceed to make the order and issue release warrant in accordance with the provisions of this Act.

Cap. 291

PART X REMOVAL OF PRISONERS

Removal of
prisoners
between prisons

53.—(1) The Commissioner may order that any prisoner shall be removed from one prison to another, and whenever any prisoner is removed to any prison other than that named in the

warrant or order under which he may have been imprisoned, such warrant or order, together with an order of removal, either endorsed on the warrant or order or separate therefrom, shall be deemed sufficient authority for the removal of such prisoner to the prison named in the order of removal and for his detention therein, and, in the case of convicted criminal prisoners, for the carrying out of the sentence or any part thereof which may remain unexecuted.

(2) Where on the removal of any prisoner from any prison the officer-in-charge is unable to provide a prison officer as escort for such prisoner, it shall be lawful for the officer-in-charge of the prison from which the prisoner is to be removed, to deliver the prisoner to any police officer who may be detailed for such duty, and thereupon such police officer shall have the same powers and be subject to the same responsibilities, discipline and penalties and to the same authority as a prison officer would have and be subject to in like circumstances.

Removal of sick
prisoners to
hospital

54.—(1) In the case of serious illness of a prisoner confined in a prison where adequate facilities do not exist for the treatment of sick prisoners, the medical officer may order his removal to a Government hospital and in cases of emergency such removal may be ordered by the officer-in-charge without consultation with the medical officer.

(2) A prisoner who is removed to a hospital under subsection (1) shall be deemed to be under detention in the prison from which he is so removed.

(3) Whenever the medical officer considers that, the health of a prisoner removed to a hospital under subsection (1) no longer requires his detention therein he shall notify the officer-in-charge of the prison from which the prisoner was removed and the officer-in-charge of that prison shall thereupon cause such prisoner to be returned to the prison where he is still liable to be confined therein.

Medical officers
and staff to take
precautions to
prevent escape

55.—(1) A medical officer-in-charge of a hospital and the persons employed therein shall take every reasonable precaution to prevent the escape of any prisoner who may at any time be under treatment therein, and it shall be lawful for such officer and persons to take such measures for the preventing of the escape of any such prisoner as may be necessary:

Provided that, nothing shall be done under the authority of this subsection which, in the opinion of the medical officer-in-charge of such hospital, is likely to be prejudicial to the health of such prisoner.

(2) Subject to subsection (3) of section 49 the period during which the prisoner has been detained in a hospital under this section shall be deemed part of his term of imprisonment.

Measures for
further security
of prisoners in
hospital

56.—(1) Where the officer-in-charge considers it desirable to take special measures for the security of a prisoner undergoing treatment in a hospital, it shall be lawful for him to give such prisoner into the charge of such prison officers or temporary prison officers as the officer-in-charge may see fit.

(2) One of the prison officers or temporary prison officers referred to in subsection (1) shall always be with the prisoner day and night and the prison officers or temporary prison officers shall be vested with full powers and authority to do all things necessary to prevent the prisoner from escaping and shall be answerable for his safe custody until such time as he is handed over to the officer-in-charge on his discharge from hospital or until such time as his sentence expires, whichever may first occur.

Prison officer not
liable for escape
of prisoners in
hospital

57. Where a prisoner escapes during such time as he is in any hospital or mental hospital, a prison officer shall not be held answerable therefor unless the prisoner shall have been in the personal custody of such officer, and a medical officer, other officer or employee of a hospital shall not be held answerable therefor unless it is shown that he, has helped such prisoner to escape or has wilfully neglected to take reasonable precautions to prevent his escape.

Removal of
prisoners of
unsound mind
Act No.
41 of 1969 Sch.

58.—(1) Whenever a medical officer is of the opinion that any prisoner, other than a remand prisoner, is of unsound mind, he shall prepare and transmit to the district court or to a court of resident magistrate having jurisdiction over the area in which the prison is situate, a report and recommendation for the treatment of the prisoner in a mental hospital, and the court may, on receipt of such a report and recommendation, by order, direct that such prisoner be removed to any mental hospital in Tanzania and be retained therein, and such order shall be sufficient authority for the reception of the prisoner and for his detention in such mental hospital until removed or discharged as hereinafter provided.

(2) Whenever a medical officer is of the opinion that any person remanded in prison is of unsound mind, he shall make and transmit to the court that remanded him a written report of that person's condition and the court shall thereupon proceed in accordance with the provisions of the Criminal Procedure Act.

(3) Where any prisoner is removed to a mental hospital under subsection (1) is, in the opinion of the person in charge of such mental hospital, no longer of unsound mind, the person in charge shall notify the officer-in-charge of the prison from which the prisoner was removed and the prisoner shall be delivered into the custody of the officer-in-charge of that prison if he is still liable to be confined therein and, if not so liable, shall be released.

(4) The period during which a prisoner other than a remand prisoner has been detained in a mental hospital under this section shall be reckoned as part of his term of imprisonment.

59. Prisoners who are certified by the medical officer to be suffering from active leprosy shall, by order made by the Commissioner, be transferred to the nearest prison for persons with leprosy.

Removal of
convicted
prisoners with
leprosy

Removal of
persons required
as witnesses

60.—(1) Whenever the presence of any person confined in a prison is required by any court or other competent authority, the court or competent authority may issue an order addressed to the officer-in-charge requiring production before the court or other competent authority of the person in custody at the time and place to be named in the order, and the officer-in-charge shall cause the person to be moved as directed and shall provide for the safe custody of the person during his absence from prison.

(2) A person removed from a prison in pursuance of an order made under subsection (1) shall, whilst outside the prison, be kept in the custody as the officer-in-charge may direct and whilst in that custody shall be deemed to be in lawful custody:

Provided that, this section shall not prohibit the officer-in-charge from handing over to police custody prisoners who are required to attend any court and prisoners taken into police custody for that purpose shall remain under police supervision until returned to the prison or discharged by the court.

Medical
examination
before removal

61.—(1) A prisoner prior to being removed to any other prison shall be examined by the medical officer.

(2) A prisoner shall not be so removed unless the medical officer certifies that he is free from any illness rendering him unfit for removal.

PART XI

TRAINING AND TREATMENT OF PRISONERS

Training,
treatment and
employment of
prisoners

62. A prisoner sentenced to imprisonment and detained in prison shall, subject to the provisions of this Act and subject to any special order of the court, be employed, trained and treated, whether he is in or is not within the precincts of any prison, in such a manner as the Commissioner may determine, and for that purpose, the prisoner shall, at all times, perform such labour, tasks and other duties as may be assigned to him by the officer-in-charge or any other prison officer in whose charge he may be.

- Women prison officers **63.** A prison or any portion of a prison established or used for the admission, detention, training and treatment of female prisoners shall have a sufficient number of women prison officers, and the Commissioner shall determine whether a woman prison officer shall be in charge thereof.
- Employment of women prisoners **64.** A woman prisoner shall only be employed on labour which is suitable for women.
- Medical officer may excuse labour, tasks or other duties **65.** The medical officer may order any prisoner to be excused from labour or to perform light labour and a prisoner ordered to perform light labour shall be required to perform the labour for which he is considered fit by the medical officer.
- Clothing, bedding and dietary scales **66.**—(1) Subject to the provisions of section 77, a prisoner shall be supplied with and shall wear such prison clothing as may be determined by the Commissioner.
 (2) A prisoner shall be provided with separate bedding adequate for warmth and health as may be determined by the medical officer and be prescribed by regulations.
 (3) A child of a female prisoner admitted to prison shall be provided with all necessities.
 (4) The dietary scale for prisoners shall be prescribed.
- Gratuity to prisoner **67.** A prisoner may be paid gratuity by the Government in accordance with the rates prescribed.
- Confinement of convicted criminal prisoners **68.**—(1) Subject to any regulations made under this Act, convicted criminal prisoners may be confined either in association in wards or individually in cells or partly in wards and partly in cells.
 (2) Cells and wards shall be illuminated at night and be under the constant supervision of a prison officer.
- Isolation cells **69.**—(1) There shall be provided in every prison, where practicable and necessary, sufficient isolation cells of a pattern

approved by the Commissioner and the cells shall be used for the following purposes only:

- (a) to confine a prisoner sentenced to confinement in a separate cell in accordance with the provisions of section 33 or 34;
- (b) to confine a prisoner in accordance with the provisions of section 71; and
- (c) to segregate any prisoner where desirable in the interests of the administration of justice and no ordinary single cell shall be available for the purpose.

(2) Isolation cells shall be furnished with the means of enabling a prisoner when confined therein to communicate at any time with a prison officer.

Separation of prisoners

70. Subject to the requirements of sections 28 and 76, the Commissioner may order the separation from each other of the groups of convicted criminal prisoners classified under the provisions of section 29.

Application of solitary confinement and mechanical restraint

71. Whenever the officer-in-charge considers it urgently and absolutely necessary, with reference to the character of the prisoner or the state of the prison or other place in which the prisoner is or is deemed to be under detention, for the safe custody of any prisoner that he should be subject to restraint and in addition be confined in an isolation cell he may order such prisoner to be so confined and shall be restrained in such manner as may be prescribed:

Provided that, a prisoner who is receiving medical treatment in any hospital shall not be confined or restrained under the provisions of this section unless the medical officer certifies that, the prisoner is fit to be so confined or restrained.

Prisoner under sentence of death

72. A prisoner under sentence of death shall be confined apart from other prisoners in a special cell or ward and the treatment of prisoner under sentence of death shall be such as may be prescribed.

Persons
sentenced to
short term
may opt for
extramural penal
labour in lieu of
imprisonment
Act No.
9 of 1996 Sch.

73.-(1) Where a person is sentenced by any court to imprisonment for a term or terms not exceeding twelve months, or is liable to be committed to prison for non-payment of fine or costs, he may, before the committal or penal forthwith thereafter declare to the court, or if he is no longer in the custody of the court, to the officer-in-charge of the prison in which he is, or is to be, detained, that he desires to undertake public work outside the prison, unless he is excluded from so declaring by the judgment of the court which sentenced him.

(2) In all cases in which a person is entitled under subsection (1) to declare his desire to undertake public work outside the prison, the court shall inform that person of his right to make such declaration:

Provided that, any failure of the court to inform that person of his right to make such declaration, shall not in any way invalidate the proceedings or any order made by the court.

(3) Notwithstanding any declaration made under subsection (1), the court shall in every case issue the appropriate warrant of committal.

(4) Where a declaration has been made under subsection (1) that a person desires to undertake public work outside the prison, the court or the officer-in-charge of the prison, shall notify the administrative officer-in-charge of the area of such declaration.

(5) Where the administrative officer, after taking into consideration the work which may be available and the character, record or reputation of such person, is satisfied that, he can usefully be employed on work outside the prison, that person shall not be imprisoned or, if he is already imprisoned shall be released and shall be employed under the supervision of the public officer or other person as the administration officer may appoint and without remuneration on such public work as may be prescribed and as may be specified by the administrative officer.

(6) Subsection (4) and (5) shall not make it obligatory for the administrative officer to permit any person to work outside a prison.

Medical
certificate on
death of persons

74.—(1) On the death of a person detained in a prison, the officer-in-charge shall cause immediate notice of such death to be given to the medical officer.

(2) The medical officer, on receipt of the notice, shall cause the dead prisoner to be medically examined in a manner he considers necessary and issue a certificate stating the cause of the death and shall cause the certificate to be delivered to the nearest coroner.

(3) The coroner shall report to the Commissioner the result of the inquest held.

(4) The Commissioner shall also cause an inquiry to be held as to any death in any prison from other than natural causes and report to the Minister.

PART XII

DETENTION AND TREATMENT OF UNCONVICTED AND CIVIL PRISONERS

Detention of
remand prisoners

75. The officer-in-charge shall detain a person remanded to prison according to the terms of the warrant of committal issued by a court or competent authority and shall cause that person to be delivered to such court or competent authority at the time named and according to the terms of such warrant.

Segregation
of civil and
unconvicted
prisoners

76. Civil and unconvicted prisoners shall and as far as conditions permit be kept apart from other classes of prisoners and they may be permitted to associate together in an orderly manner under such conditions as the Commissioner may direct.

Maintenance
of unconvicted
prisoners from
private sources

77.-(1) An unconvicted prisoner may be permitted to maintain himself and to purchase or receive from private sources at proper hours food, bedding, clothing or other necessities, subject to examination and to such other conditions as the Commissioner may direct.

(2) A food, bedding, clothing or other necessities belonging to an unconvicted prisoner shall not be given, hired, loaned or sold to any other prisoner and a prisoner contravening the provisions of this section shall be liable to lose the privilege of purchasing or receiving food, clothing or other necessities from private sources for such time as the officer-in-charge may think proper.

(3) Where a civil or unconvicted prisoner is unable to receive clothing, bedding or food supplies or where such food is in the opinion of the officer-in-charge unsatisfactory, the prisoner shall receive the regular prison diet, clothing and bedding.

(4) A civil or unconvicted prisoner shall not be given or be compelled to wear prison clothing unless-

- (a) the prisoner's dress is insufficient or improper or is in an unsanitary condition; or
- (b) the prisoner's dress is required as an exhibit; and
- (c) he is unable to procure other suitable clothing from any other source.

(5) A debtor may in addition to the supply of bedding be issued with a bedstead or be permitted to supply himself with a bedstead.

Employment
of civil and
unconvicted
prisoners

78.-(1) A civil and unconvicted prisoner shall be required to keep his cells, precincts of cells, furniture, clothing and utensils clean and other employment may be given to them at their own request.

(2) An appellant prisoner shall be required to keep his cell, furniture, clothing and utensils clean and to perform such labour as the Commissioner, with the approval of the Minister, may direct.

PART XIII

DISCHARGE AND RELEASE OF PRISONERS

Discharge of
prisoners

79.—(1) An officer-in-charge shall be responsible for the due discharge of all prisoners immediately upon their becoming entitled to discharge.

(2) A prisoner under treatment by the medical officer shall not be discharged from prison, except at his own request and where, in the opinion of the medical officer, the discharge can be effected without danger to the health of the prisoner.

(3) A prisoner shall be discharged before noon on the date on which he is entitled to be discharged, but should that date fall on Sunday, or public holiday, he shall be discharged before noon on the day preceding such date.

(4) The officer-in-charge of a prison in an area or district in which the public transport services are irregular may, on the authority of the Commissioner, discharge a prisoner who has to travel by public transport on the date on which the public transport leaves the area or district immediately before the day on which the prisoner is entitled to be discharged.

Release before
expiration of
sentence

80.—(1) Where a person who is ordered to be expelled, deported or removed from the United Republic under the provisions of any law in force is serving a sentence of imprisonment, the Minister may direct that such person may be released from the prison in which he is serving sentence for the purpose of being placed on board the vehicle, vessel or aircraft in which he is to be removed from the United Republic, in which case, that sentence shall be deemed to have terminated at the time of the release:

Provided that, person shall be kept in custody whilst being conveyed to the vehicle, vessel or aircraft and whilst so kept shall be deemed to be in lawful custody.

(2) In default of the direction by the Minister, the person shall be expelled, deported or removed from the United

Republic after the completion of the sentence of imprisonment imposed upon him.

Discharge of prisoners in area other than that in which they usually reside

81. Where a prisoner, on completion of his sentence is discharged from any prison situated in an area other than that in which he usually resides, he shall be provided at Government expense with-

- (a) a travel warrant to his home; and
- (b) subsistence allowance for the period of the journey.

PART XIV

OFFENCES IN RELATION TO PRISONS AND PRISONERS AND PENALTIES FOR CERTAIN SPECIFIC OFFENCES

Penalty for unauthorised wearing of uniforms, etc.
Act No.
13 of 1991 Sch.

82. A person who-

- (a) wears any uniform or distinctive badge or button of the Service, or anything so closely resembling any such uniform, badge or button as to be likely to deceive; and
- (b) is not an officer of the Service entitled by reason of his appointment, rank or designation to wear such uniform, badge or button; or
- (c) has not been granted permission by the Commissioner to wear such uniform, badge or button,

commits an offence and on conviction shall be liable to a fine not exceeding five thousand shillings.

Penalty for aiding escapes

83. A person who-

- (a) aids any prisoner in escaping or attempting to escape from any prison;
- (b) for the purpose of facilitating the escape of any prisoner supplies or agrees or attempts to supply or aids, incites or encourages any other person in supplying a prisoner with any mask, dress, disguise or any other articles, instrument, implement, matter or thing;
- (c) conveys or causes to be conveyed into or out of any prison or any place where prisoners may come to work,

any letter or token encouraging or inciting any prisoner to escape or to contravene any regulation or showing a desire to aid any prisoner to escape or to contravene any regulation; or

- (d) harbours or conceals or assists in harbouring or concealing an escaped prisoner,

commits an offence and on conviction shall be liable to imprisonment for seven years.

Penalty for loitering in vicinity of prison, etc.

84.-(1) A person who-

- (a) is found loitering on any prison property or within one hundred yards of any prison or any other place where prisoners may be, for the purpose of imprisonment or labour, and who fails to depart therefrom upon being warned so to do by any prison officer;
- (b) without lawful authority holds or attempts to hold any communication with any prisoner;
- (c) wilfully rides, drives or leads any animal or vehicle through any group of prisoners outside a prison;
- (d) in any manner wilfully interferes with any prisoner or group of prisoners;
- (e) without the authority in writing of the Commissioner-
 - (i) sketches or photographs any prison, portion of a prison, prisoner or group of prisoners, whether within or outside any prison; or
 - (ii) causes any sketch or photograph of a prison, portion of a prison, prisoner or group of prisoners to be published in any manner; or
- (f) published a false information concerning the behaviour or experience in prison of any prisoner or ex-prisoner or concerning the administration of any prison, knowing the same to be false, or without taking reasonable steps to verify such information,

commits an offence and on conviction shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both.

Penalty for
trafficking
Act No.
13 of 1991 Sch.

85.-(1) A person who without lawful authority-

- (a) conveys, supplies or causes to be supplied or conveyed to any prisoner, whether within or outside a prison, or hides or places for the use of any prisoner, any document, letter or intoxicating liquor, tobacco, bhang, drug, opiate, money, clothing, provisions or any other article whatsoever;
- (b) brings or attempts to bring by any means whatever into a prison or places or attempts to place where prisoners shall labour, a letter or document or intoxicating liquor, tobacco, bhang, drug, opiate, money, clothing, provisions or any other article whatsoever;
- (c) brings or attempts to bring out of any prison, or conveys from any prison any letter or document or other article; or
- (d) communicates with any prisoner without lawful authority,

commits an offence and on conviction shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

(2) A prison officer or other person employed in the Service who, without lawful authority-

- (a) allows a letter, document, intoxicating liquor, tobacco, bhang, drug, opiate, money, clothing, provisions or any other article to be supplied or conveyed to any prisoner or to be hidden or placed for his use;
- (b) allows a letter, document, intoxicating liquor, tobacco, bhang, drug, opiate, money, clothing, provisions or any other article intended to be sold or used therein to be brought or conveyed into a prison or to be placed where prisoners shall labour;
- (c) allows a letter, document or other article to be brought out of a prison; or
- (d) enters into or attempts to enter into a business transaction with a prisoner,

commits an offence and on conviction shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both.

Prohibited
articles

86.—(1) A person who without lawful authority brings or introduces in a manner prohibited article into a prison, or who without lawful authority takes out or removes a prohibited article from a prison, commits an offence and on conviction shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both.

(2) For the purpose of this section, a “prohibited article” means an article contained in the list which shall be and remain fixed in a conspicuous place outside every prison and signed by the Commissioner or by the officer-in-charge on his behalf and shall list all the articles which the Commissioner has designated to be prohibited articles and the list shall be written in English and Kiswahili.

(3) Whether or not any criminal or disciplinary proceedings are commenced against any person, a prison officer may seize any article found to be unlawfully in a prison and the officer-in-charge may order its confiscation and declare it to be forfeited to the Government.

Unlawful
possession of
prison articles

87. A person who-

- (a) is found in possession of an article or property which has been supplied to a prison officer for use on duty, and who fails to account satisfactorily for the possession thereof;
- (b) without due authority purchases or receives any article or property referred to in paragraph (a) from any prison officer; or
- (c) aids and abets a prison officer to sell or dispose of the article or property referred to in paragraph (a),

commits an offence and on conviction shall be liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or to both.

Incitement
and abetting of
desertion, mutiny
and sedition
Act No.
13 of 1991
Sch

88.—(1) A person who by any means—

- (a) directly or indirectly procures, persuades, attempts to procure or persuade a prison officer to desert;
- (b) aids, abets or is accessory to the desertion of a prison officer; or
- (c) having reason to believe that a man is a deserter, harbours such deserter or aid him in concealing himself or assists in his rescue from lawful custody,

commits an offence and on conviction shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

(2) A person who directly or indirectly instigates, commands, counsels, or solicits a mutiny, sedition or disobedience to a lawful command of a prison officer to any other prison officer or maliciously endeavours to seduce any prison officer from his allegiance or duty commits an offence and on conviction shall be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding five years or to both.

(3) A prison officer who—

- (a) takes part in a mutiny involving the use of violence or the threat of violence; or
- (b) incites any other prison officer or a member of the Tanzania People's Defence Forces or the National Service or the Police Force to take part in a mutiny, whether actual or intended,

commits an offence and on conviction shall be liable on by a Special Tribunal to suffer death or to imprisonment for life or for any lesser period.

(4) A prison officer who, in a case not falling within subsection (3), takes part in a mutiny or incites a person as is referred to in paragraph (b) of subsection (3) to take part in a mutiny, whether actual or intended, commits an offence and on conviction shall be liable by a Special Tribunal to imprisonment for life or any lesser period.

(5) In this section—

“mutiny” means a combination between two or more members of the Service acting independently or in league with members of the Tanzania People’s Defence Forces or the National Service or the Police Force or between persons at least two of whom are members of the Service or such other Service or Force, to overthrow or resist lawful authority in any such Service or Force or disobey such authority in circumstances as to make the disobedience subversive of discipline.

Desertion

89. A prison officer who-

- (a) leaves the Service or withdraws himself from duty otherwise than in accordance with the provisions of a written law governing retirement from Service or withdrawal from duty; or
- (b) is a deserter,

commits an offence and on conviction shall be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months or to both.

Penalty for
receiving or
demanding
money or other
consideration
from prisoner
Act No.
13 of 1991 Sch.

90. Money or other consideration shall not on a pretext be offered, paid, given or proposed by or on behalf of a prisoner, either on or during his entrance into, committal to or continuance in or discharge from a prison, to a prison officer or other person employed in the Service and a prison officer or other person employed in the Service receiving or demanding a money or other consideration or undertaking any service in consideration of receiving or the promise of receiving a money or other consideration, commits an offence and on conviction shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

Penalty for selling
or supplying
articles to
prisoners
Act No.
13 of 1991
Sch

91.—(1) A prison officer and a person acting for or employed by a prison officer shall not—

- (a) sell or supply, or receive directly or indirectly any benefit advantage from the sale or supply of an article to or for the use of a prisoner or for the use of the Prisons Department; or
- (b) directly or indirectly have an interest in a contract or agreement for the sale or supply for any such article referred under paragraph (a).

(2) A prison officer shall not directly or indirectly—

- (a) have any pecuniary interest in the purchase of a supplies for the use of the Prisons Department or receive a discount, gift or other consideration from a contractor for or seller of such supplies;
- (b) have a pecuniary dealing with a prisoner; or
- (c) on behalf of a prisoner, hold an unauthorised communication with any person.

(3) A prison officer who contravenes any provisions of this section commits an offence and on conviction shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both.

Penalty
for issuing
unauthorised
testimonial
Act No.
13 of 1991 Sch.

92. A prison officer who, without the permission of the Commissioner, gives a certificate or testimonial to or in respect of a prisoner as regard his conduct in prison or otherwise commits an offence and on conviction shall be liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding one year or to both.

Penalty for giving
unauthorised
information
Act No.
13 of 1991 Sch.

93. A prison officer who, without the permission of the Commissioner, gives to the press or other person an information concerning a prison or a prisoner or an information deriving from an official source connected with or related to the Service commits an offence and on conviction shall be liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding one year or to both.

General penalty
Act No.
13 of 1991 Sch.

94.—(1) There may be annexed to the breach of a regulation made under this Act such penalty not exceeding two thousand shillings or such term of imprisonment not exceeding six months or to both, as the Minister may think fit.

(2) A person who commits any offence under this Act or contravenes or fails to comply with the provisions of any regulations made thereunder shall, where a penalty is not specifically provided, on conviction be liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months or to both.

Power to
prosecute under
other laws not
affected

95. For the avoidance of doubt, it is hereby declared that, this Act shall not exempt a prisoner or prison officer or other person from being prosecuted and punished under any other written law for any offence made punishable by this Act:

Provided that, a person shall not be tried twice for the same offence.

Power to arrest

96. When a person, in the presence of a prison officer, commits an offence specified in this part and refuses on demand by such prison officer to state his name and residence, or gives a name or residence which the prison officer knows or has reason to believe to be false, the prison officer may arrest him and without undue delay hand him over to a police officer and thereupon the police officer shall proceed as if the offence had been committed in his presence.

Publication of
penalties

97. The officer-in-charge shall cause to be affixed in a conspicuous place outside the prison a notice in Kiswahili and English setting forth the acts prohibited under sections 82 to 87 and section 91 of this Act and the penalties incurred by their commission.

PART XV

MISCELLANEOUS PROVISIONS

Provisions of this Act as to treatment and conduct of prisoners to be made available to prisoners

98.—(1) The provisions of this Act and of the regulations made thereunder in so far as they relate to the treatment and conduct of prisoners shall be made available to a prisoner at his request.

(2) The officer-in-charge shall advise every prisoner immediately on admission to prison of the provisions of subsection (1).

(3) Where a prisoner requesting information on the provisions referred to in subsection (1) and is unable to read or understand the language in which those provisions have been made, the contents of the provisions shall be explained to him.

Evidence of age

99. Whenever under this Act, the age of any person is in question, his detention in a prison, whether he is under or over the age prescribed by this Act, shall not be deemed to have been unlawful where, when the detention order was made, he appeared within the limits of the age prescribed by this Act.

Limitation of actions

100.—(1) Notwithstanding the provisions of other written law, a civil action against the Government or any person for anything done or omitted in pursuance of any provisions of this Act shall not be commenced after the expiration of six months immediately succeeding the act or omission complained of, or in the case of a prisoner, after the expiration of six months immediately succeeding the date of his release from prison, but in no case shall any action be commenced after the expiration of one year from date of the act or omission complained of.

(2) Notice in writing of every action, referred to in subsection (1) stating the cause and the details of the claim, shall be given to the defendant at least one month before the commencement of the action.

Appointment and
powers of visiting
justices

101.—(1) A Regional Commissioner may, with the approval of the Minister, appoint by notice in the *Gazette*, fit and proper persons to be visiting justices for his region.

(2) Minister and Judge of the High Court shall be an *ex officio* visiting justice of all prisons in Mainland Tanzania.

(3) Regional Commissioner shall be an *ex officio* visiting justice of all prisons in his region.

(4) Member of the National Assembly shall be an *ex officio* visiting justice of all prisons in their respective constituencies.

(5) District Commissioner, magistrate and justices of the peace shall be an *ex officio* visiting justices of all prisons within their respective areas of jurisdiction.

(6) A visiting justice may at any time visit a prison in respect of which he is a visiting justice:

Provided that, a woman visiting justice shall not visit that part of a prison set aside for the detention of male prisoners unless she is escorted at all time by a male prison officer.

(7) A visiting justice to a prison may appoint a chairman and may act as a board of visiting justice and may, at the end of each year or at other convenient time, render a report to the Commissioner on the state of the prison to which they are visiting justices.

(8) On the completion of each visit every visiting justice may enter in a book to be kept for such purpose remarks, suggestion or recommendations as he may deem appropriate and the officer-in-charge shall advise the Commissioner of all observations so entered.

Disposal of
deceased's estate

102.—(1) The Commissioner shall cause to be kept a personal record of every prison officer and every prisoner, and shall cause to be recorded therein the name or names of the person or persons to whom in the event of the prison officer or prisoner dying without having made a valid will, any money or other personal property should be paid or delivered.

(2) In the event of a prison officer dying while in the Service or a prisoner dying while in custody, a report of the death and

any part of the money or property shall be made to the District Commissioner of the district in which that person resides and the District Commissioner shall cause to be paid or delivered that money or property to the person or persons nominated by the prison officer or prisoner under subsection (1):

Provided that, in a case where the Commissioner considers that the money and other personal property could be handled more conveniently by the Administrator-General, he shall deliver the money and property to the Administrator-General, who shall likewise cause that money or property to be paid or delivered to the person or persons nominated by the prison officer or prisoner under subsection (1).

(3) A person having in his charge or control a pay, gratuity, allowance or other monies or personal property belonging to a prison officer or prisoner who dies while in the Service or in custody, shall pay or deliver the same to the District Commissioner or to the Administrator-General, who shall dispose of the same in accordance with the provisions of subsection (2).

(4) In all cases where the monies or other personal property of the deceased or a part thereof shall have been paid or delivered to a person under the provisions of this section, a creditor of the deceased shall have the same rights and remedies against that person as if that person had received the same as the legal personal representative of the deceased.

Rewards for
apprehension of
escaped prisoners

103.—(1) The Commissioner may offer monetary rewards to persons who give information leading to the apprehension of a prisoner who has escaped from custody.

(2) A person who gives information or who leading to the apprehension of a prisoner apprehends, secures and hands over or causes to be handed over to a prison officer or police officer any such prisoner, and has incurred any expense in connection with the giving of the information or the apprehension, shall be paid such expenses and may, in addition, be paid a sum of money as a reward as the Commissioner may determine.

(3) A payment of any sum as a reward shall not be made under the authority of this section to any prison officer or police officer, unless, in the opinion of the Commissioner, exceptional circumstances exist as to justify payment being made.

Prison Officers
Rewards and
Fines Fund
Cap. 298

104.—(1) All fines imposed under the provisions of the Public Service Act or any regulations made or deemed to have been made under this Act for an offence against discipline shall be paid to the Treasury to be placed to the credit of a fund to be called the Prison Officers Rewards and Fines Fund.

(2) A payment shall not be made from the Prison Officers Rewards and Fines Fund except upon the authority of the Commissioner.

(3) The Commissioner may sanction payments from the Prison Officers Rewards and Fines Fund for any of the following purposes:

- (a) assistance to the wives or families of deceased subordinate prison officers and subordinate prison officers discharged from the Service as medically unfit for further service;
- (b) contributions towards prizes to be given at athletic meetings, assaults-at-arms and similar events organised by or for the benefit of the Service;
- (c) payments to subordinate prison officers as rewards for meritorious acts or service in the execution of duty;
- (d) expenditure for the benefit and advancement of authorised recreation and sport and other branches of activity organised within the Service; and
- (e) expenditure for the benefit and development of the Service as a whole.

Powers of
Minister to make
regulations

105.—(1) The Minister may make regulations for the better carrying into effect the provisions and purposes of this Act and without prejudice to the generality of the foregoing, may make regulations providing for-

- (a) the duties, powers and responsibilities of prison officers including the duties, powers and responsibilities of particular classes of such officers;
- (b) the duties, powers and responsibilities of temporary prisoners officers;
- (c) the rates of remuneration or allowances which may be payable to ministers of religion appointed under the provision of section 45;
- (d) the duties of medical officers, the records and books to be kept by medical officers, the medical inspection of prisons and prisoners, the prevention of contagious diseases in prisons, and the preservation of the health of prisoners;
- (e) the duties and powers of visiting justices, the appointment of prison visitors and the regulation of visits to prisoners;
- (f) the measuring, photographing and taking of fingerprint impressions or other records of prisoners confined in any prison or otherwise detained in custody including detailed personal statistics and histories and for requiring full and truthful answers to all questions put to such persons with the object of obtaining such statistics and histories, and the persons, if any, to whom such measurements, photographs, fingerprint impressions or other records are to be sent or supplied;
- (g) the execution of condemned prisoners;
- (h) the disposal of products of prison labour;
- (i) the disposal by sale or otherwise of the effects of any prisoner who has died, escaped or failed to claim or receive such effects or the private effects of a prison officer who has died or deserted the Service;
- (j) the searching of prisoners and prison officers and other persons;
- (k) the classification of prisons and prisoners into categories and their separation accordingly;

- (l) the custody, correction, clothing, documentation, discharge, employment, hours of labour, use of force, instruction, academic, technical, spiritual, maintenance, mechanical restraint, management, organisation, privileges, solitary confinement and treatment of prisoners;
- (m) the management and organisation, housing, maintenance, employment, treatment and discharge of persons released to extra-mural penal employment under the provisions of section 73;
- (n) the days and hours during which work or labour by prisoners may be suspended;
- (o) the acts or omissions of prisoners which shall be deemed to be prison offence and the penalties which may be awarded;
- (p) the provisions of a suitable diet and dietary scales including punishment diets for prisoners and prescribing conditions under which diet and scales may be varied, the prohibition of drugs, tobacco and alcoholic drinks;
- (q) the payment to prisoners for work done while in prison;
- (r) the removal to and detention in a mental hospital of prisoners suspected to be of unsound mind;
- (s) the treatment of prisoners under sentence of death;
- (t) the disposal of bodies of prisoners who have died;
- (u) the establishment of prisoners aid societies and associations in connection with discharged prisoners and the appointment of officers responsible for the after-care of prisoners;
- (v) the subsidising and encouragement of institutions, societies and individuals approved by the Minister as furthering the objects of this Act;
- (w) the payment of *ex gratia* payments to prisoners whose earning capacity is affected as the result of an accident or injury received in prison;
- (x) the accommodation of prisoners, including cell and ward equipment and barbering;

- (y) the award of gratuities to prisoners, the appointment, privileges and duties of convict leaders;
- (z) the application and infliction of corporal punishment;
- (aa) the manner in which regulations shall be applied;
- (bb) the control of uniform, accoutrement, arms and other security measures;
- (cc) the granting of leave of absence to prisoners and matters relating to welfare of prisoners;
- (dd) anything which by this Act may or is to be prescribed generally for the effective administration of this Act, for the good management, discipline and governance of prisons and the prisoners therein whether in, about or beyond the limit of such prisons.

(2) Notwithstanding anything to the contrary in this section the Minister may make different regulations in respect of different classes or groups of prisons, prisoners or prison officers or in respect of particular prisons.

Repeal
Ord. No.
24 of 1933
Omitted

106. [Repeal the Prisons Ordinance].

107. [Omitted].
