

THE PRISONERS ACT, 1900
(Act III of 1900)

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1. Omitted vide A.O 1949.
2. Repealed vide Act No.X of 1914.
3. Repealed vide Act No.X of 1914.

[PRISONERS ACT, 1900

(Act III of 1900)

[2nd February, 1900]

AN

ACT

*to consolidate the law relating to Prisoners confined by
order of a Court*

WHEREAS it is expedient to consolidate the law relating to prisoners confined by order of a Court;

It is hereby enacted as follows :—

PART 1

PRELIMINARY

1.---(1) This Act may be called the Prisoners Act, 1900;

Short title and extent.

(2) ¹[It extends to the whole of Pakistan].

(3) ²[* * *]

2. In this Act., unless there is anything repugnant in the subject or context,---

Definitions.

(a) "Court" includes a Coroner and any officer lawfully exercising civil, criminal or revenueJurisdiction; and

¹. Substituted vide Act No.XXI of 1960.

². Repealed vide Act No.X of 1914.

- (b) "Prison" includes any place which has been declared by the ¹[Provincial Government], by general or special order, to be a subsidiary jail.

**PART-II
GENERAL**

3. The officer incharge of a prison shall receive and detain all persons duly committed to his custody, under this Act or other-wise, by any Court, according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law.

Officers incharge of prisonsto detain persons duty committed to their custody.

4. The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order of warrant to the Court by which the same was issued or made, together with a certificate endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

Officers incharge of prisons to return writs,etc, after execution or discharge.

PART-III— [PRISONERS IN THE RESIDENCY-TOWN.]

Omitted by A.O.,1949, Sch.

PART—IV.

²[EXECUTION OF SENTENCES]

¹. Substituted vide A.O, 1937.

². Substituted vide A.O, 1937

14. In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this Part to Prisons, etc, to be construed as referring also to Reformatory Schools.

15.¹ [Power of officers in charge of prisons to give effect to sentences of certain Courts:--

Officers in charge of prisons may give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal, whether within or without Pakistan, established by law.

16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement,²[****] pursuant of the sentence passed upon him.

Warrant of officer of such Court to be sufficient authority.

17. (1) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the ³[Provincial Government], by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this part.

(2) Pending a reference made under sub-section (1), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order –

1. Substituted vide Ord No. XXVII of 1981.
2. Omitted vide Ord No. XXVII of 1981.
3. Substituted vide A.O, 1937.

18.(1) Where a ¹[Court established by the authority of the ²[Federal Government] exercising, in or with respect to territory beyond the limits of ³[the Pakistan] ⁴[* * *],jurisdiction which ⁵[the ⁶[Government] has in such territory,-

Execution in the provinces, etc, of certain capital sentences not ordinarily executable there.

- (a) has sentenced any person to death, and,
- (b) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in ⁷[Pakistan] ⁸ [* * *],has issued its warrant for the execution of such sentence to the officer incharge of a prison in ⁹[Pakistan] ¹⁰ [* * *],

such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898.

(2)The prisons of which the officers incharge are to execute sentences under any such warrants as aforesaid ¹¹[shall in each Province be such as the Provincial Government] may, by general or special order, direct.

(3)A Court shall be ¹[deemed, for the purposes of this section, to be a Court established by the ²[Federal Government] if the presiding Judge, or if the Court

1. Substituted vide A.O, 1949.
2. Substituted vide A.L.O, 1975.
3. Substituted vide Ord No.XXVII of 1981.
4. Omitted vide A.O, 1964.
5. Substituted vide A. O., 1937.
6. Substituted vide A.O, 1961.
7. Substituted vide Ord.NO.XXVII of 1981.
8. Omitted vide A.O, 1964.
9. Substituted Ord. No.XXVII of 1981.
10. Omitted vide A.O, 1964.
11. Substituted vide A.O, 1937.

consists of two or more Judges, at least one of the Judges, is an officer of the³[Government] authorized to act as such Judge by⁴[X X X] the⁵[Federal Government]:

Provided that every warrant issued under this sub-section by any such tribunal shall, if the tribunal consists of more than one Judge, be signed by a Judge who is an officer of the⁶[Government]authorizedasaforsaid.

PART-V— PERSONS UNDER SENTENCE OF PENAL SERVITUDE].

⁷[* * *]

PART—VI

REMOVAL OF PRISONERS

28. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to ReformatorySchools or to detention therein.

References in this Part to prisons, etc, to be construed as referring also to Reformatory Schools.

⁸[29. (I) The⁹[Provincial Government] may, by general or special order, provide for the removal of any prisoner confined in prison -

Removal of Prisoners.

1. Substituted vide A.O, 1949.
2. Substituted vide Khyber Pakhtunkhwa A.L.O.
3. Substituted vide A.O, 1961.
4. Omitted vide Ord. "No. XXVII of 1981.
5. substituted vide Khyber Pakhtunkhwa. A. L. O.
6. Substituted vide A.O., 1961.
7. Substituted vide Act No.I of 1930.
8. Substituted vide A.O, 1937.
9. Sub. by A.O., 1937, for "G.G. in C."

- (a) under sentence of death, or
- (b) under, or in lieu of, a sentence of imprisonment ¹[* * *] or
- (c) in default of payment of a fine, or
- (d) in default of giving security for keeping the peace or for maintaining good behaviour,

to any other prison in ²[the Province, or, which the consent of the Provincial Government concerned, to any prison in ³[the other Province], ⁴[or, with the consent of the ⁵[Federal Government] to any prison maintained ⁶[by it for under its authority] in any part of ⁷[Pakistan].

⁸[(2) Subject to the orders, and under the control of the Provincial Government the ⁹[Inspector-General of Prisons] may in the like manner provide for the removal of any prisoner confined as aforesaid in a prison situate in the area for which he is appointed to any of the prison in such area.

¹⁰[(3)¹¹[The Central Government may, by general or special order, provide for the removal of any prisoner or class of prisoners confined in any prison to any other prison in Pakistan maintained by or under the authority of the ¹²[Federal Government] or of a Provincial Government with the consent to ¹³[* * *] of the Provincial Government concerned.]

30. (1) Where it appears to the ¹⁴[Provincial Government] that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the ¹⁵[Provincial Government] may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum

Lunatic prisoners
how to be dealt
with..

¹. Omitted vide Ord.No.XXVII of 1981.
². Substituted vide A.O. 1937.
³. Substituted vide A.O, 1964.
⁴. Added vide Ord.No.XII of 1942.
⁵. Now "Federal Government", See. P.O. of 1975.
⁶. Substituted vide A.O, 1949.
⁷. Substituted vide Act No.XXVI of 1951.
⁸. Substituted vide w.p Ord.No.XXV of 1962.
⁹. Substituted vide Khyber Pakhtunkhwa Act No. VI of 1977
¹⁰. Added vide Act XVII of 1953.
¹¹. Now "Federal Government", See. P.O. of 1975.
¹². Now "Federal Government", See P.O. of 1975.
¹³. Omitted vide A.O, 1964.
¹⁴. Substituted vide A.O, 1937.
¹⁵. Substituted vide A.O, 1937.

or other place of safe custody within the Province, thereto be kept and treated as the¹[Provincial Government] directs during the remainder of the term of which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the ²[Provincial Government] that the prisoner has become of sound mind, the³[Provincial Government] shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the Province, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of section ⁴[31 of Lunacy Act, 1912 (IV of 1912)] shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

⁵[(4) In any case in which the ⁶[Provincial Government] is competent under sub-section (1) to order the removal of a prisoner to a lunatic asylum or other place of safe custody within the Province, the ⁷[Provincial Government] may order his removal to any such asylum or place within ⁸[the other Province] ⁹[* * * *] by agreement with the ¹⁰[Provincial Government] of such other Pro-

1. Substituted vide A.O, 1937.

2. Substituted vide A.O, 1937.

3. Substituted vide A.O, 1937.

4. Substituted vide Ord.No.XXVII of 1987.

5. Substituted vide Act No.XXXVIII of 1920.

6. Substituted vide A.O, 1937.

7. Substituted vide A.O, 1937.

8. Substituted vide A.O., 1964.

9. Omitted vide Ord. No. XXVII. of 1981.

10. Substituted vide A.O. 1937.

vince ¹[* * * *]as the case may be; and the provisions of this section respecting the custody, detention, remand and discharge of a prisoner removed under sub-section (1) shall, so far as they can be made applicable, apply to a prisoner removed under this sub-section.]

31. [Removal of prisoners from territories under one Local Government to territories under another Rep. by the Amending Act, 1903 (I of 1903), s. 4 and Sch.III.

²[PART VII]

**PART VIII
DISCHARGE OF PRISONERS**

33. ³[A High Court], may, in any case in which it has recommended to a⁴[the President] the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

Release, on recognizance, by order of High Court, of Prisoners recommended for pardon.

PART—IX

**PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS
AND OBTAINING
THEIR EVIDENCE**

Attendance of Prisoners in Court

1. Omitted by order No.XXVII of 1981.
2. Omitted vide Ord No.XXVII of 1981.
3. Substituted vide Ord No.XXVI of 1960.
4. Substituted vide A.O, 1961.

34. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this Part to Prisons, etc, to be construed as referring also to Reformatory Schools.

35. Subject to the provisions of section 39, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, make an order in the form set forth in the first schedule, directed to the officer incharge of the prison.

Power for Civil Courts to require appearance of Prisoners to give evidence.

36. (1) Where an order under section 35 is made in any civil matter pending —

District Judge in certain cases to countersign orders made under section 35.

- (a) in a Court subordinate to the District Judge, or
- (b) in a Court of Small Causes ¹[* * *]

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,—

- (i) the District Judge to which the Court is subordinate, or
- (ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.

(2) Every order submitted to the District Judge under subsection (1) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his

¹. Omitted vide A.O, 1949.

opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

37. Subject to the provisions of section 39, any Criminal Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is a High Court, or, if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court to which it is subordinate, is material in any matter pending before it, or if a charge of an offence against such person is made or pending, make an order in the form set forth in the first or second schedule, as the case may be, directed to the officer in charge of the prison:

Provided that if such Criminal Court is inferior to the Court of a Magistrate of the first class, the order shall be submitted to, and countersigned by, the ¹[Session Judge] to whose Court such Criminal Court is subordinate or within the local limits of whose jurisdiction such Criminal Court is situated.

38. Where any person, for whose attendance an order as in this Part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it is made or countersigned to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person is confined, and that Magistrate shall cause it to be delivered to the officer incharge of the prison in which the person is confined.

39. (1)Where a person is confined ²[***] in a prison more than one hundred miles distant from the place where any Court, sub-ordinate to a High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence isso required shall, if he thinks that such person should be removed under this Part for the purpose of giving evidence in such Court, and if the prison is within the local limits of the appellate jurisdiction of the High Court to which such Court is subordinate,

Power for certain Criminal Courts to require attendance of Prisoner to give evidence or answer to charge.

Order to be transmitted through Magistrate of the district or sub-division in which person is confined

Procedure where removal is desired of person confined more than one hundred miles from place where evidence is required.

¹. Substituted vide Ord.No.XXVII of 1981.

². Omitted vide A.O, 1949.

apply in writing to the High Court, and the High Court may, if it thinks fit, make an order in the form set forth in the first schedule, directed to the officer incharge of the prison.

(2) The High Court making an order under sub-section (1) shall send it to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person named therein is confined, ¹[* * *] and such Magistrate ²[**] shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

40. Where a person is confined in a prison beyond the local limits of the appellate jurisdiction of a High Court, any Judge of such Court may, if he thinks that such person should be removed under this Part for the purpose of answering a charge of an offence or of giving evidence in any criminal matter in such Court or in any Court subordinate thereto; apply in writing to the ³[Provincial Government] of the territories within which the prison is situate, and the ⁴[Provincial Government] may, ⁵[* * *] direct that the person be so removed, subject to such rules regulating the escort of prisoners as the ⁶[Provincial Government] may prescribe.

Persons confined beyond limits of appellate jurisdiction of High Court.

41. Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in or near the Court until he has been examined or until the Judge or presiding office or the Court authorizes him to be taken back to the prison in which he was confined.

Prisoner to be brought up.

¹. Omitted vide A.O, 1949.
². Omitted, *ibid*.
³. Substituted vide A.O, 1937.
⁴. Substituted vide A.O, 1937.
⁵. Omitted vide Khyber Pakhtunkhwa Ord.No.III of 1985.
⁶. Substituted, *ibid*.

42. ¹[* * *] The ²[Provincial Government] may, by notification in ³[.***]the ⁴[Official Gazette], ⁵[***] direct that any person or any class of persons shall not be removed from the prison in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Part, other than those contained in sections 44 to 46, shall not apply to such person or class of persons.

Power to Government to exempt certain prisoners from operation of this part.

43. in any of the following cases, that is to say,—

Officer incharge of prison when to abstain from carrying out order.

- (a) Where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer incharge of the prison in which he is confined, shall apply to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the prison is situate, and if such Magistrate, by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed; or

- (b) Where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer incharge of the prison in which he is confined, shall apply to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the prison is situate, and if such Magistrate, by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed; or

¹. Repealed Act No.XXXVIII of 1920.
². Substituted vide A.O, 1937.
³. Repealed vide Act No.XXXVIII of 1920.
⁴. Substituted vide A.O, 1937.
⁵. Repealed vide Act No.XXXVIII of 1920.

- (c) Where the person named in any such order is under committal for trial ; or
- (d) where the person named in any such order is under a remand pending trial or pending a preliminary investigation; or
- (e) where the person named in any such order is in custody for a period which would expire before the expiration of the time required for removing him under this Part and for taking him back to the prison in which he is confined ;

The officer incharge of the prison shall abstain from carrying out the order, and shall send to the Court from which the order has been issued a statement of the reason for so abstaining.

Provided that such officer as aforesaid shall not so abstain where—

- (i) the order has been made under section 37; and
- (ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity unfit to be removed and
- (iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

Commissions for Examination of Prisoners

44. In any of the following cases, that is to say, —

Commissions
for
examination of
Prisoners.

(a) where it appears to any Civil Court that the evidence of person confined in any prison within the local limits the appellate jurisdiction of such Court, if it is a High Court, or if it is not a High Court, then within the local limits of the appellate jurisdiction of the High Court which it is subordinate, who, for any of the causes mentioned in section 42 or section 43, cannot be removed, is material in matter pending before it; or

(b) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so situate and more than ten miles distant from the place at which such Court is held, is material in any such matter; or

(c) where the District Judge declines, under section 36, to countersign an order for removal the Court may, if it thinks fit, issue a commission, under the provisions of the ¹[Code of Civil Procedure 1908,(V of 1908)] for the examination of the person in the prison in which he is confined.

45. Where it appears to a High Court that the evidence of a person confined in a prison beyond the local limits of its appellate jurisdiction is material in any civil matter pending before it or before any Court subordinate to it, the High Court may if it thinks fit, issue a commission under the provisions of the ²[Code of Civil Procedure 1908 (V of 1908)] for the examination of the person in the prison in which he is confined.

Commissions
for
examination
of prisoners
beyond limits
of appellate
jurisdiction of
High Court.

¹. Substituted vide Ord No.XXVII of 1981.
². Substituted vide Ord No.XXVII of 1981.

46. Every commission for the examination of a person issued under section 44 or section 45 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situated, and the District Judge shall commit the execution of the commission to the officer incharge of the prison, or to such other person as he may think fit.

Commission how to be directed.

SERVICE OF PROCESS ON PRISONERS.

47. When any process directed to any person confined in any prison is issued from any Criminal or Revenue Court, it may be served by exhibiting to the officer incharge of the prison the original of the process and depositing with him a copy thereof.

Process how served on prisoners.

48.(1) Every officer incharge of a prison upon whom service is made under section 47 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as afore said is confined in the prison under his charge and has been shown and had explained to him a copy of the process.

Process served to be transmitted at, Prisoner's request.

(2) Such certificate as aforesaid shall be *prima facie* evidence of the service of the process, and, if the person to whom the process is directed requests that the copy shown and explained to him be sent to any other person and provides the cost of sending it by post, the officer incharge of the prison shall cause it to be so sent.

MISCELLANEOUS

49. ¹ [* * *]

50. No order in any civil matter shall be made by a Court under any of the provisions of this Part until the amount of the costs and charges Of the execution of such order (to be determined by the Court) is deposited in such Court:

Deposit of costs.

Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by the ²[Provincial Government] from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the ³[Code of Civil Procedure, 1908 (Act V of 1908)].

51. (1) ⁴[The [Provincial Government] ⁵[* * *] may make rules—

Power to make rules under this part.

- (a) for regulating the escort of prisoners to and from Courts in which their attendance is required and for their custody during the period of such attendance;
- (b) for regulating the amount to be allowed for the costs and charges of such escort; and
- (c) for the guidance of officers in all other matters connected with the enforcement of this Part.

(2) All rules made under sub-section (1) shall be published in the ⁶[official

¹. Omitted vide A.o, 1949
². Substituted vide A.O, 1937.
³. Substituted vide Ord No.XXVII of 1982.
⁴. Substituted vide A.O, 1937.
⁵. Repealed *ibid*.
⁶. Substituted *ibid*.

Gazette] ¹[***] and shall, from the date of such publication, have- the same force as if enacted by this Act.

52. The ²Provincial Government] may declare what officer shall, for the purposes of this Part, be deemed to be the officer in charge of a prison.

Power to declare who shall be deemed officer in charge of prison.

53. ³[* * *].

THE FIRST SCHEDULE

(See sections 35 and 37)

Court of

To the officer in charge of _____ (*State name of Prison*),

You are hereby required to produce, now a prisoner inunder safe and sure conduct before the Court of _____ at _____ on _____ the _____ day of _____ next by _____ of the _____ clock in the forenoon of the same day, there to give evidence in a matter now pending before the said Court, and after the said has then and there given his evidence before the said Court or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the prison.

The day of

A. B.

(Countersigned) C. D.

¹. Repealed *ibid*.
². Substituted *vide* A.O, 1937.
³. Repealed *vide* Act.No.X of 1914.

THE SECOND SCHEDULE

(See – section 37)

Court of

To the officer incharge of the _____ (State name of Prison.)

You are hereby required to produce _____ now a Prisoner in

Under safe and sure conduct before the Court of _____ at _____ on

The _____ day of _____ next

by _____ of the

Clock in the forenoon of the same day, there to answer a charge now pending before the said Court, and after such charge has been disposed of or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

The _____ day _____ of _____

A. _____ B. _____

(Countersigned) C.D.

¹[* * *]

¹. Repealed vide Act No.X of 1914.

