

THE PRISONS ACT, 1894

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² Repealed vide Khyber Pakhtunkhwa Act No. III of 1996.

³ Repealed by A.O 1937.

⁴ Repealed by Repealing Act, 1938 (I of 1938) S.2 and Schedule.

¹THE PRISONS ACT, 1894
(Act No. IX of 1894).

[22nd March, 1894]

**AN
ACT**
to amend the Law relating to Prisons.

WHEREAS it is expedient to amend the law relating to prisons in ²[Pakistan], and to provide rules for the regulation of such prisons;

It is hereby enacted as follows:

CHAPTER-1

PRELIMINARY

1. (1) This Act may be called the Prisons Act, 1894. Title, extent and commencement
- ³ [(2) It extends to the whole of Pakistan].
- (3) It shall come into force on the first day of July, 1894.
- (4) Nothing in this Act shall apply to civil jails in ⁴[Sind and the

¹ For Statement of Objects and Reasons, see Gazette of India, 1894, Pt V, p. 14 ; for Report of the Select Committee, see *ibid.*, p. 63, and for Proceedings in Council, see *ibid.* Pt. VI, pp. 10,21,93, 126 and 139.

This Act has been applied to Phulera in the Excluded Area of Upper Tanawal to the extent the Act is applicable in the Khyber Pakhtunkhwa subject to certain modifications, see Khyber Pakhtunkhwa (Upper Tanawal) (Excluded Area) Laws Regulation, 1950.

It has been extended to the Leased Areas of Baluchistan, see the Leased Areas (Laws) Order, 1950 (G.G.O.III of 1950), and applied in the Federated Areas of Baluchistan, see Gazette of India 1937, pt. I, p. 1499.

It has been extended to the Excluded Area of Upper Tanawai other than Phulera by the Khyber Pakhtunkhwa (Upper Tanawal) (Excluded Area) Laws Regulation, 1950 and declared to be in force in that area with effect from 1st June, 1951, see Khyber Pakhtunkhwa Gazette, Extra ordinary, dated 1st June, 1951.

² Subs, by the Central Laws (Statute Reform) Ordinance, 1960 (XXI of 1960), s. 3 and 2nd Sch, (with effect from 14th October, 1955), for "the Provinces and the Capital of the Federation" which had been subs, by A. O., 1949, Arts. 3 (2) and 4, for "British India".

³ Subs, by Ord. XXI of 1960, 3 and 2nd Sch, (with effect from the 14th October, 1955), for the existing sub-section (2), as amended by the Federal Laws (Revision and Declaration) Act, 1951 (XXVI of 1951).

⁴ Subs, by A.O.. 1949, Sch., for "the Presidency of Bombay out-side the City of Bombay".

¹[Karachi Division], and those jails shall continue to be administered under the provisions of sections 9 to 16 (both inclusive) of ²[Bombay Act II of 1874], as amended by subsequent enactments.

2. [Repeal]. Rep. by the Repealing Act, 1938 (I of 1938) s. 2 and Schedule.

3. In this Act—

- (1) "prison" means any jail or place used permanently or temporarily under the general or special orders of a ³[Provincial Government] for the detention of prisoners, and includes all lands and buildings appurtenant thereto but does not include-
 - (a) any place for the confinement of prisoners who are exclusively in the custody of the police;
 - (b) any place specially appointed by the ⁴[Provincial Government] under section 541 of the ⁵[Code of Criminal Procedure, 1882]; or
 - (c) any place which has been declared by the ⁶[Provincial Government], by general or Special order, to be a subsidiary jail;
- (2) "criminal prisoner" means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial;
- (3) "convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the ⁷[Code of Criminal Procedure, 1882], or under the ⁸[Prisoners Act, Act, 1871];

¹ Subs. by A.O., 1964 Art 2 and Sch. for "Federal Territory of Karachi" which has been subs. by the Repealing and Amending Ordinance, 1961 (I of 1961), s. 3 and 2nd Sch., for "Capital of the Federation".

² The Civil Jails Act, 1874.

³ Sub. By A.O., 1937, for "Local Government".

⁴ Sub. By A.O., 1937, for "Local Government".

⁵ Now the code of criminal procedure, 1998.

⁶ Sub. By A.O., 1937, for "Local Government".

⁷ Now the code of criminal procedure, 1998.

⁸ Now the prisoners Act, 1900.

- (4) "civil prisoner" means any prisoner who is not a criminal prisoner;
- (5) "remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails;
- (6) "history-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder;
- (7) ¹[*****];
- (7-A) ²[*****]
- (8) "medical subordinate" means an Assistant Surgeon, Apothecary or qualified Hospital Assistant; and
- (9) "prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

CHAPTER II

MAINTENANCE AND OFFICERS OR PRISONS

4. The ³[Provincial Government] shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Accommodation for prisoners.

⁴["5. **Inspector-General of Prisons.**—An Inspector-General of Prisons shall be appointed by the Provincial Government and shall exercise, subject to the orders of the Provincial Government, the General Control and Superintendence of Prisons and the staff employed in the Prisons."]

Inspector General of Prisons.

¹Clause [7] deleted by W P. Act XXV of 1962.

² Clause (7-A) was inserted by W. P. Act XLI of 1958, however it was deleted by WP Act XXV of 1962.

³Subs, by A.O.. 1937, for ' Local Government."

⁴Subs, by Khyber Pakhtunkhwa Act No. VI of 1977.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the ¹[Provincial Government] thinks necessary.
²[***]

Officers of Prisons.

7. Whenever it appears to the ³[Inspector General of Prisons] that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

Temporary accommodation Prisoners

Or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners.

Provision shall be made, by such officer and in such manner as the [Provincial Government]⁴ may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III

DUTIES OF OFFICERS

GENERALLY

8. All Officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under section ⁵[59].

Control and duties of officers of Prisons

9. No officer of a prison shall sell or let, nor shall any person in trust for or employed by him, sell or let or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings directly or indirectly with any prisoner.

Officers not to have business dealings with prisoners.

10. No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the

Officers not to be interested in prison-

¹Subs. by A.O., 1937, for 'Local Government.'

²Del. by A.O., 1949.

³Subs. for "Inspector General." by W.P. Ord. XXV of 1962. :and then by Khyber Pakhtunkhwa Act No. VI of 1977.

⁴ Subs. By A.O., 1937, for "Local Government"

⁵Subs, by A. O.. 1937, for "60".

prison; nor shall he derive any benefit directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner. contracts.

SUPERINTENDENT

11. (1) Subject to the orders of the ¹[Inspector general of Prisons] the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control. Superintendent.

(2) Subject to such general or special directions as may be given by the ²[Provincial Government], the Superintendent of a prison other than a central prison or a prison situated in presidency town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report ³[through the Deputy Inspector-General] to the ⁴(Inspector General of Prison] all such orders and the action taken thereon.

12. The Superintendent shall keep, or cause to be kept, the following records:— Records to be kept by Superintendent.

- (1) a register of prisoners admitted;
- (2) a book showing when each prisoner is to be released;
- (3) a punishment book for the entry of the punishments inflicted on prisoners for prison-offences;
- (4) a visitor's book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison;
- (5) a record of the money and other articles taken from prisoners;

and all such other records as may be prescribed by rules under section 59 ⁵[***].

¹Subs. by W.P. Ord. XXV of 1962, for "Inspector General" and then subs. by Khyber Pakhtunkhwa Act No. VI of 1977

²Subs by A. O., 1937, for "Local Government.

³Ins by W. P. Act No. XLI of 1958.

⁴Subs, by W.P. Ord. XXV of 1962, for "Inspector General" and then subs, by Khyber Pakhtunkhwa Act VI of 1977.

⁵ The words and figures "or section 60" rep. by A. O. 1937.

MEDICAL OFFICER

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the ¹[Provincial Government] under section ²[59].

Duties of
Medical Officer.

14. Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

Medical Officer
to report in
certain cases.

This report, with the orders of the Superintendent thereon, shall forthwith be sent ³[through the Deputy Inspector General] to ⁴[Inspector-General of prison] for information.

15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely:—

Report on death
of prisoner

- (1) the day on which the deceased first complained of illness or was observed to be ill,
- (2) the labour, if any, on which he was engaged on that day,
- (3) the scale of his diet on that day,
- (4) the day on which he was admitted to hospital,
- (5) the day on which the Medical Officer was first informed of the illness,
- (6) the nature of the disease,
- (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,
- (8) when the prisoner died, and

¹Subs, by A. O., 1937, for "Local Government".

²Subs *ibid*-, for "60".

³Ins by W.P. Act No. XLI of 1958.

⁴ Subs by W.P. Ord. XXV of 1962, for "Inspector General" and then subs by Khyber Pakhtunkhwa Act No. VI of 1977

- (9) (in cases where a *post-mortem* examination is made) an account of the appearances after death.

together with any special remarks that appear to the Medical Officer to be required.

JAILER

16. (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere. Jailer.

(2) The Jailer shall not, without the ¹[Inspector-General of Prisons] sanction in writing, be concerned in any other employment.

17. Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate. Jailer to give notice of death of Prisoner.

18. The Jailer shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confined to his care, and for the money and other articles taken from prisoners. Responsibility of Jailer.

19. The Jailer shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent. Jailer to be present at night.

20. Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall, subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder. Powers of Deputy and Assistant Jailers.

¹Subs, by W. P. XXV of 1962, for "Inspector General's and then Subs, by Khyber Pakhtunkhwa Act No. VI of 1977.

SUBORDINATE OFFICERS

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and if any such article or property be found, shall give immediate notice thereof to the Jailer. Duties of Gatekeeper.
22. Officers subordinate to the Jailer shall not be absent from the prison without leave from the Superintendent or from the Jailer. Subordinate officers not to be absent without leave.
23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Pakistan Penal Code. Convict officers.

CHAPTER IV

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS.

24. (1) Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him. Prisoners to be examined on admission.
- (2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.
- (3) In the case of female prisoners the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.
25. All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailer. Effects of prisoners.

26. (1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer. Removal and discharge of prisoners.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V

DISCIPLINE OF PRISONERS

27. The requisitions of this Act with respect to the separation of prisoners are as follows:— Separation of prisoners.

(1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners;

(2) in a prison where male prisoners under the age of ¹[twenty-one] are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;

(3) un-convicted criminal prisoners shall be kept apart from convicted criminal prisoners; and

(4) civil prisoners shall be kept apart from criminal prisoners.

28. Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined in association or individually in cells or partly in one way and partly in the other. Association and segregation of prisoners.

29. No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of Solitary confinement.

¹Subs. by the Prisons (Amd) Act, 1930 (VI of 1930),S. 2, for "eighteen"

the prison, and every prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

30. (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailer and all articles shall be taken from him which the Jailer deems it dangerous or inexpedient to leave in his possession.

Prisoners under sentence of death.

¹[(2) Prisoners under sentence of death shall be kept in separate barracks cells instead of death cell, till the final decision on their appeals and shall be placed, by day and by night under the charge of a guard.]

CHAPTER VI

FOOD, CLOTHING AND BEDDING OF CIVIL AND UNCONVICTED CRIMINAL PRISONERS

31. A civil prisoner or an un-convicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the ²[Inspector-General of Prisons].

Maintenance of certain prisoners from private sources.

32. No part of any food, clothing, bedding or other necessaries belonging to any civil or un-convicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Restriction on transfer of food and clothing between certain prisoners.

33. (1) Every civil prisoner and un-convicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Supply of clothing and bedding to civil and un-convicted criminal prisoner.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative, shall, within forty-eight hours after the receipt by him of a demand in writing pay to the

¹ Substituted vide Khyber Pakhtunkhwa Act No. XV, 2010.

²Subs by W P. Ord. XXV of 1962, for "Inspector General and then subs by Khyber Pakhtunkhwa Act No. VI of 1977.

Superintendent the cost of the clothing and bedding so supplied to the prisoner ; and in default of such payment the prisoner may be released.

CHAPTER VII

EMPLOYMENT OF PRISONERS

34. (1) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession. Employment of civil prisoners.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction to be determined by the Superintendent, for the use of implements and the cost of maintenance.

35. (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day. Employment of criminal prisoners

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

36. Provision shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner. Employment of criminal prisoners sentenced to simple imprisonment.

CHAPTER VI11

HEALTH OF PRISONERS

37. (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailer. Sick prisoners.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoners desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the ¹[Provincial Government] may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Jailer thinks fit to make, and the date of the entry. Record of directions of Medical Officers.

39. In every prison an hospital or proper place for the reception of sick prisoners shall be provided. Hospital.

CHAPTER IX

VISITS TO PRISONERS

40. Due provision shall be made for the admission, at proper times and under proper restrictions, into every prison of persons with whom civil or un-convicted criminal prisoners may desire to communicate, care being taken that so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person. Visits to civil and un-convicted criminal prisoners.

¹ . Subs. By A.O., 1937 for "Local Government"

41. (1) The Jailer may demand the name and address of any visitor to a prisoner, and, when the Jailer has any ground for suspicion may search any visitor, or cause him to be searched but the search shall not be made in the presence of any prisoner or of another visitor.

search of visitors.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailer may deny him admission; and the grounds of such proceedings, with the particulars thereof, shall be entered in such record as the ¹[Provincial Government] may direct.

CHAPTER X

OFFENCES IN RELATION TO PRISONS

42. Whoever, contrary to any rule under section ²[59] introduces or removes or or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

Penalty for introduction or removal of prohibited articles into or from Prison and communication with prisoners.

and every officer of a prison who, contrary to any such rule knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever, contrary to any such rules, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

43. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without un-necessary delay make him over to a Police-officer, and thereupon such Police-officer shall proceed as if the offence had been committed in his presence.

Power to arrest for offence under section 42.

¹Subs, by A. O., 1937, for "Local Government.

²Subs, by A.O., 1937, for "60".

44. The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section-42 and the penalties incurred by their commission.

Publication
of
penalties.

CHAPTER XI

PRISON OFFENCES

45. The following acts are declared to be prison-offences when committed by a prisoner:-

Prison
offences.

- (1) such willful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison-offence;
- (2) any assault or use of criminal force;
- (3) the use of insulting or threatening language;
- (4) immoral or indecent or disorderly behavior;
- (5) willfully disabling himself from labour;
- (6) contumaciously refusing to work;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority;
- (8) willful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;
- (9) willful mismanagement of work by any prisoner sentenced to rigorous imprisonment;
- (10) willful damage to prison-property;
- (11) tampering with or defacing history-tickets, records or documents;
- (12) receiving, possessing or transferring any prohibited article;
- (13) feigning illness;

- (14) willfully bringing a false accusation against any officer or prisoner;
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official; and
- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

46. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by-

Punishment
of such
offences

- (1) a formal warning:

Explanation.---A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment book and on the prisoner's history-ticket;

- (2) change of labour to some more irksome or severe form ¹[for such period as may be prescribed by rules made by the ²[Provincial Government];
- (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;
- (4) such loss of privileges admissible under the, remission system for the time being in force as may be prescribed by rules made by the ³[Provincial Government];
- (5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months;
- (6) imposition of handcuffs of such pattern and, weight, in such

¹Ins. by s. 2 (a) of the Prisons (Amdt.) Act, 1925 (XVII of 1925),

²Subs, by A.O., 1937, for "Local Government".

³Subs, by A.O. 1937, for "Local Government".

manner and for such period, as may be prescribed by rules made by the ¹[Provincial Government];

(7) ²[***]

(8) separate confinement for any period not exceeding ³[three] months;

Explanation.---Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners;

(9) penal diet, that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the ⁴[Provincial Government]:

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week;

(10) cellular confinement for any period not exceeding fourteen days:

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement;

Explanation.---Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communication with, but not from sight of, other prisoners;

⁵[***]

¹[(11)] Penal diet as defined in clause (9) combined with

¹.Subs, by A.O., 1937, for "Local Government"

².Del. vide Khyber Pakhtunkhwa Act No. III, 1996

³. Subs. By Act No. XVII, of 1925, for "Six"

⁴. Subs. By A.O., 1937, for "Local Government"

⁵ Original clause (II) was rep. and clauses(12) and (13) were renumbered as (11) and (12) respectively, by Act XVII of 1925.

²[cellular] confinement , ³[***] ⁴[:]

12. ⁵[***]

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

⁶[47.(1)] Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely:-

Plurality of punishment under section 46.

(1) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section;

(2) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with ⁷[cellular] confinement;

⁸(3) cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;]

(4). ⁹[***].

¹⁰(5) no punishment will be combined with any other punishment in contravention of rules made by the ¹¹[Provincial Government].

¹²(2) No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.]

¹ Original clause (II) was rep. and clauses (12) and (13) were renumbered as (11) and (12) respectively, by Act XVII of 1925.

²Subs, *ibid.*, for "solitary".

³The words "as defined in clause (II)", rep., *Ibid.*

⁴ The semi colon rep. by colon through Khyber Pakhtunkhwa Act No. III of 1996 section 2 (b).

⁵ Del. by Khyber Pakhtunkhwa Act No. III of 1996

⁶The original section 47 was re-numbered as section 47(1), by Act No. XVII of 1925.

⁷Subs: by the prison (Amdt) Act 1925 (XVII of 1925), S.2, for "Solitary"

⁸Subs, *ibid.*, s.3.

⁹ Del. by Khyber Pakhtunkhwa Act No. III of 1996 section 3.

¹⁰Ins. by Act XVII of 1925.

¹¹ Subs. By A.O., 1937, for "Local Government"

¹²Ins. By Act No. XVII of 1925.

48. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the ¹[Inspector-General of Prisons]

Award of punishment under sections 46 and 47.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

49. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections

Punishment to be in accordance with foregoing sections.

50. (1) No punishment of penal diet, either singly or in combination, or of whipping, or of change of labour under section-46 clause (2), shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in section 12.

Medical Officer to certify to fitness of prisoner for punishment.

(2) If he considers the prisoner unfit to undergo the punishment he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

51. (1) In the punishment book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

Entries in Punishment book.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for

¹Subs, by W. P. Ord. XXV of 1962. for" Inspector General and then subs by Khyber Pakhtunkhwa Act No. VI of 1977.

which whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defense of the prisoner, and the finding with the reasons therefore.

(3) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.

52. If any prisoner is guilty of any offence against prison discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class ¹[* * *] having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46:

Procedure on committal of heinous offence.

²Provided that any such case may be transferred for inquiry and trial by the the District Magistrate to any Magistrate of the first class ³[* *:] and

Provided also that no person shall be punished twice for the same offence.

53. ⁴[***]

54. (1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or willful breach or neglect of any rule or regulation or lawful order made by competent authority or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall willfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

Offence by prison subordinates.

¹The words "or Presidency Magistrate" which were ins. by the Prisons (Amdt.) Act, 1910 (XIII of 1910), s. 2 (I) omitted by A.O., 1949.

²Subs. by the Prisons (Amdt.) Act 1910 (XIII of 1910), s. 2 (2) for the original proviso.

³The words " and by a Chief Presidency Magistrate to any other Presidency Magistrate" omitted by A.O., 1949

⁴Deleted by Khyber Pakhtunkhwa Act No. III 1996 section 4.

(2) No person shall under this section be punished twice for the same offence.

CHAPTER XII

MISCELLANEOUS

55. A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison. Extramural custody, control and employment of prisoners.
56. Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the ¹[Inspector General of Prisons] with the sanction of the ²[Provincial Government], so confine them. Confinement in irons.
57. ³[***]
58. No prisoner shall put in irons or under mechanical restraint by the Jailer of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given. to the Superintendent. Prisoners not to be ironed by Jailer except under necessity
59. ⁴[The Provincial Government] may make rules consistent with this Act- power to make rules.
- (1) defining the act which shall constitute prison-offences;
- (2) determining the classification of prison-offences into serious and minor offences;

¹Subs. by W. P. Ord. XXV of 1962 for "Inspector General" then subs: by Khyber Pakhtunkhwa Act No. VI of 1977.

²Subs. by A.O., 1937, for "Local Government."

³Del. by Khyber Pakhtunkhwa Act No. III of 1996

⁴Subs. AO, 1937, for "the G.G in C. may for any part of British India, and each Local Government with previous sanction of the G.G.in C. may for territories under its Administration."

- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof;
- (4) declaring the circumstances in which Acts constituting both a prison- offence and an offence under the Pakistan Penal Code may or may not be dealt with as a prison-offence ;
- (5) for the award of marks and the shortening of sentences; ¹[so however, that a sentence of imprisonment for life is not shortened to a period of imprisonment less than 15 years];
- (6) regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;
- (7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released;
- ²[(8) for the classification of prisons, and description and construction of wards, cells and other places of detention;
- (9) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons;]
- (10) for the Government of prisons and for the appointment of all officers appointed under this Act;
- (11) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost;
- (12) for the employment, instruction and control of convicts within or without prisons;
- (13) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited;
- (14) for classifying and prescribing the forms of labour and regulating the periods of rest from labour;

¹Ins, by Ord. XII of 1972.

² Subs. By A.O., 1937, for the original clauses (8) and (9).

- (15) for regulating the disposal of the proceeds of the employment of prisoners;
- (16) for regulating the confinement in fetters of prisoners sentenced to ¹[imprisonment for life];
- (17) for the classification and the separation of prisoners;
- (18) for regulating the confinement of convicted criminal prisoners under section 28;
- (19) for the preparation and maintenance of history-tickets;
- (20) for the selection and appointment of prisoners as officers of prisons;
- (21) for rewards for good conduct;
- (22) for regulating the transfer of prisoners whose term of ²[imprisonment for life or shorter] or imprisonment is about to expire, subject, however, to the consent of the Provincial Government of any other province to which a prisoner is to be transferred;
- (23) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;
- (24) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends;
- (25) for the appointment and guidance of visitors of prisons;
- (26) for extending any or all of the provisions of this Act and of the rules there under to subsidiary jails or special places of confinement appointed under section 541 of the ³Code of Criminal Procedure, 1882, and to the officers employed, and the prisoners confined, therein;

¹Subs.by Ord. XII of 1972, for "Transportation"

²Subs.by Ord. XII of 1972, for "Transportation"

³Now the Code of Criminal Procedure, 1898 (V of 1898).

(27) in regard to the admission, custody, employment, dieting, treatment and release of prisoners; ¹[***]

²[(27-i) regulating the use of arms or force or restraints against persons, persons, objects or vehicles to defend the prison, prisoners, prison property, vehicles or prison personnel;

(27-ii) establishing and regulating prison industries, inside the prisons for skill development and vocational training of the prisoners;

(27-iii) raising and maintaining the welfare fund of the prisons, consisting of the profit of sale proceeds of articles, manufactured in prison industry, profit of tuck shops, Public Call Offices and sale proceeds of dry bread and any other income, grant or donation, to be utilized by the office of Inspector General of Prisons for the welfare of the prisoners and the prison staff and improvement of living and working condition in Prisons and precincts; and]

(28) generally for carrying into effect the purposes of this Act.

60. [*Power of Local Government to make rules*]. Rep. by. A.O., 1937.

61. Copies of rules, under -³[section-59] so far as they affect the government of of prisons, shall be exhibited both in English and in the vernacular, in some place to which all persons employed within a prison have access.

Exhibition of copies of rules

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence he exercised and performed by- such other Officer as the ⁴[Provincial Government] may appoint in this behalf either by name or by his official designation.

Exercise of power of superintendent and medical officers

THE SCHEDULE—[ENACTMENTS REPEALED]. Rep. -by the Repealing Act, 1938 (1 of 1938), s. 2 and sch.

¹Deleted vide Khyber Pakhtunkhwa Act No. XLIII of 2020.

² Inserted vide Khyber Pakhtunkhwa Act No. XLIII of 2020

³Subs- by A.O., 1937, for "section 59 and 60"

⁴Subs, ibid, for "Local Government."