

N.R.C.D. 46
PRISONS SERVICE ACT, 1972

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N.R.C.D. 46
PRISONS SERVICE ACT, 1972(1)

AN ACT in respect of the Prisons Service provided for by article 190 of the Constitution, to provide for the safe custody and welfare of prisoners and to provide for related matters.

Functions of the Service

1. Functions of the Service

(1) The Service shall ensure the safe custody and welfare of prisoners and as practicable, undertake the reformation and rehabilitation of prisoners.

(2) A prison officer shall perform the functions that are by law conferred on a prison officer and shall obey the lawful orders and directions in respect of the execution of office which may be received from superiors in the Service.

(3) In the performance of its functions the Service shall ensure

- (a) that a person is not subjected to
 - (i) torture or inhuman or degrading punishment, or
 - (ii) any other condition that detracts or is likely to detract from human dignity or worth, and
- (b) that a person who has not been convicted of a criminal offence if kept or confined in a prison, is not treated as a convicted person, and shall be kept away from convicted persons.2(2)

Structure and Conditions of the Service

2. Members of the Service

The members of the Service are

- (a) the Director-General,
- (b) two or more Assistant Directors, and
- (c) prison officers holding posts or ranks created under this Act.

3. Administration of the Service

(1) The Director-General is the head of the Service, and is responsible, subject to the Constitution, for the operational control and administration of the Service.

(2) Subject to section 43 (2), the Director-General may delegate to any other member of the Service a function of the Director-General under this Act, but the delegation does not relieve the Director-General of responsibility for the performance of the delegated function.

4. Filling of vacancies

(1) A vacancy in a Service post or rank may be filled

- (a) by promotion, that is by appointing a prison officer who is moved from another grade or rank with an immediate increase in salary;
- (b) by transfer within the Service, that is by appointing a prison officer who is moved from another grade or rank without an alteration in salary;
- (c) on reduction in rank, that is by appointing a prison officer who is moved from another grade or rank with an immediate reduction in salary;
- (d) by recruitment, that is by appointing a person who is not a prison officer or who would cease to be a prison officer if the appointment were not made.

(2) Where practicable, a vacancy in the Service shall be filled by promotion or transfer within the Service.

(3) The Prisons Service may retain the 60% out of the moneys realised in the performance of its functions.2a(3)

5. Acting assignment

(1) Where a Service post is vacant or a prison officer is absent from duty for a sufficient reason the Director-General may assign a member of the Service to carry out the appropriate duties.

(2) An assignment under this section shall cease to have effect

- (a) on the filling of the vacancy or the return to duty of the officer, or
- (b) where any other person is assigned to carry out the duties, or
- (c) where the assignment is revoked by the Director-General.

6. Appointment of staff

(1) The President shall acting in accordance with article 207 of the Constitution, appoint the Director-General and any other persons to hold or act in an office in the Service on the terms and conditions determined by the President.

(2) The President may, in accordance with article 207 of the Constitution, delegate a function by directions in writing to the Council or to a committee, or a member of the Council.

7. Schemes of service and training

(1) The Director-General may, in consultation with the Council, prepare schemes of service giving details of duties, training facilities, and any other matters relating to service as a prison officer.

(2) The Council shall establish a branch of the Service with the function of supervising and co-ordinating, under the general direction of the Director-General, arrangements for the training of members of the Service.

8. Modes of leaving the Service

(1) A person holding a pensionable post otherwise than on a limited engagement shall retire from the Service on reaching the prescribed compulsory retiring age.3(4)

(2) Subsection (1) does not prevent the appointment of a person on a limited engagement.

(3) A person holding a pensionable post as a prison officer otherwise than on a limited engagement

may retire from the Service at any time after attaining the prescribed voluntary retiring age, or with the consent of the President at an earlier time.

(4) A prison officer may resign from the Service in accordance with the prescribed conditions.

(5) A prison officer may leave the Service by transfer, with the consent, of the officer, to employment in another Public Service or to any other approved employment in accordance with the Regulations.

(6) Where a post in the Service is abolished, the prisons officer occupying that post may leave the Service; and where a post in a grade is abolished by the revocation or amendment of the instrument by which it was created, the President shall, if two or more persons hold posts in that grade, determine which post is to be abolished.

(7) Unless the person in respect of whom a determination is made under subsection (6) is promoted or transferred, that person shall be given an opportunity to make representations to the President, who shall consider the representations before making the determination.

(8) Where a post or rank is held by an officer on probation and it appears to the President during or at the end of the probationary period that the officer is unlikely to fulfil the requirements of the post or rank, the President may order that the officer shall cease to be a member of the Service, and if an order is not made the officer shall revert to the post or rank held immediately before the commencement of the probationary period.

The Council and Regional Committees

9. Membership and functions of the Council

(1) In accordance with article 206 of the Constitution, the Council consists of

- (a) the chairman appointed by the President acting in consultation with the Council of State,
- (b) the Minister responsible for the Interior,
- (c) the Director-General of the Prisons Service,
- (d) one medical practitioner nominated by the Ghana Medical Association,
- (e) one lawyer nominated by the Ghana Bar Association,
- (f) the Attorney-General or the representative of the Attorney-General,
- (g) one representative of the Ministry or department of state responsible for Social Welfare,
- (h) one representative of the religious bodies who the President may, in consultation with the Council of State, appoint,
- (i) two members of the Service appointed by the President in consultation with the Council of State one of whom is of a junior rank,
- (j) one representative of the National House of Chiefs, and
- (k) two other members appointed by the President.

(2) The Council shall advise the President on matters of policy relating to the organisation and maintenance of the prison system including the role of the Prisons Service, prisons budgeting and finance, administration and the promotion of officers above the rank of Assistant Director of Prisons.

(3) *Omitted.*4(5)

(4) *Omitted.*5(6)

(5) *Omitted.*

(6) *Omitted.*

(7) By virtue of article 208 of the Constitution, the functions of the Council are

- (a) to advise the President on matters of policy relating to the organisation and maintenance of the prisons system, including the role of the Service, prisons budgeting and finance, administration and the promotion of officers above the rank of assistant director of prisons,
- (b) to make, with the prior approval of the President, by constitutional instrument, Regulations for the performance of its functions under the Constitution or any other law and for the effective and efficient administration of prisons and the Prisons Service.

(8) The quorum for the meetings of the Council is four.

(9) The Regulations shall include provisions relating to

- (a) the control and administration of prisons and the Service;
- (b) the ranks of officers and other members of the Service, the members of each rank and the use of uniforms by the members;
- (c) the conditions of service including those relating to the enrolment, salaries, persons, gratuities and other allowances of the officers and the other members;
- (d) the authority and powers of command of the officers and the other members of the Service;
- (e) the delegation to other persons of powers to discipline persons and the conditions subject to which the delegations may be made;
- (f) the parole system and the periodic review of the conditions of prisoners and any other persons in legal custody at intervals of not more than one year;
- (g) the conditions under which persons may be admitted into prisons;
- (h) the making of reports of unjustified treatment of, cruelty to prisoners and persons in legal custody and the manner in which the reports should be dealt with;
- (i) the appointment and composition of welfare committees for prisoners and discharged prisoners and any other persons released from legal custody;
- (j) ready access by lawyers to prisoners and any other persons in legal custody; and
- (k) any other measures, generally, as will ensure the humane treatment and welfare of prisoners and any other persons in legal custody, including the provision of literature and writing material.

10. Secretary to the Council

(1) A public officer, shall be appointed as a secretary to the Council.

(2) The secretary is not a member of the Council, and shall perform the administrative functions relating to its work as determined by the Council.

11. Protection from legal proceedings

The chairman and the other members of the Council have the same protection and privilege in respect of an action or suit for an act done or omitted to be done in the performance of a function in relation to the hearing of appeals under section 18 as is by law given to acts done or words spoken by a Justice of the Superior Court of Judicature in the exercise of a judicial function.

12. Attendance of public officers

The Council may require a public officer to attend and give evidence before it concerning a matter which it is required to consider in the performance of its functions.

13. Production of documents

(1) Subject to article 135 of the Constitution, the Council may require the production of an official document reasonably required for the performance of its functions.

(2) A public officer who submits a matter for the consideration of the Council shall ensure that the relevant documents and papers are made available to the Council.

14. Failure to comply with request of the Board

A public officer who, without reasonable excuse, fails to appear before the Council when notified to do so, or who fails to comply with a request lawfully and properly made by the Council commits a misconduct, and the Council may direct that the matter should be brought to the notice of the appropriate disciplinary authority.

15. Regional prisons committee

(1) In accordance with article 209 of the Constitution a regional prisons committee consists of

- (a) the Minister of State appointed for the Region, as chairman,
- (b) the most senior member of the Prisons Service in the Region,
- (c) one representative of the Attorney-General,
- (d) one lawyer practising in the Region nominated by the Ghana Bar Association,
- (e) the Regional Director of Health Services,
- (f) one medical practitioner in the Region nominated by the Ghana Medical Association,
- (g) the Regional Director of Social Welfare,
- (h) one representative of the Regional House of Chiefs, and
- (i) one representative of the religious bodies in the Region as the Regional Minister may consider fit to appoint.

(2) A regional prisons committee shall advise the Council and the Director-General on a matter relating to the administration of prisons and of the Service in the Region.

Misconduct and Unsatisfactory Service

16. Misconduct and unsatisfactory service

It is a misconduct for a prisons officer

- (a) to be absent from duty without leave or reasonable excuse;
- (b) to be insubordinate;
- (c) to use, without lawful authority, a property or the facilities provided for the purposes of the Service for a purpose not connected with official duty;
- (d) to engage in an activity outside official duties which is likely to involve the officer in political controversy or to lead to the taking of improper advantage of the officer's position in the Service;
- (e) to engage in a gainful occupation outside the Service without the consent of the Director-General;
- (f) to become or be a member of a trade union or of any other association, other than an association authorised by the Minister, having similar objects;
- (g) to sleep on duty;
- (h) to take an alcoholic drink while on duty;
- (i) to permit a prisoner to escape through negligence or wilfulness;
- (j) to divulge confidential information to a person not authorised to receive it;
- (k) to do any other act without reasonable excuse which amounts to a failure to perform in a proper manner a duty imposed on the officer, or
 - (i) which contravenes an enactment relating to the Service, or
 - (ii) which is otherwise prejudicial to the efficient conduct of the Service or tends to bring the Service into disrepute.

17. Penalties

(1) The penalties that may be imposed in disciplinary proceedings in respect of the misconduct or unsatisfactory service of a prisons officer are:

- (a) dismissal, that is termination of an appointment with forfeiture of the retirement benefits;
- (b) removal, that is termination of an appointment with or without a reduction in retirement benefits;
- (c) reduction in rank, that is removal to another rank with an immediate reduction of salary;
- (d) reduction of salary, that is an immediate adjustment of salary to a lower point on the salary scale attached to the post in question;
- (e) deferment of increment, that is a postponement of the date on which the next increment is due, with a corresponding postponement in subsequent years;
- (f) stoppage of increment, that is non-payment for a specified period of an increment otherwise due;
- (g) imposition of a fine not exceeding one-eighth of one month's salary;
- (h) severe reprimand or reprimand; and
- (i) caution or admonition.

(2) Dismissal, removal and reduction in rank are major penalties and any other penalty is a minor

penalty.

18. Disciplinary authorities

(1) Subject to this section, the President acting in accordance with the advice of the Council, has disciplinary powers over prison officers.

(2) The President may delegate a disciplinary power with respect to all or any posts or ranks of prisons officer to the Council or to a committee or to a member of the Council.

(3) Where the President delegates a power under subsection (2) to the Director-General, the President may authorise the Director-General to exercise that power through a disciplinary board or superior prisons officer authorised in writing by the Director-General for that purpose.

(4) A person or body in whom disciplinary power under this Act is for the time being vested, and a disciplinary board or superior prisons officer duly authorised under subsection (3), is a disciplinary authority for the purposes of this Act.

(5) Despite subsection (3), a disciplinary board or superior prisons officer, other than the Director-General, shall not impose a major penalty; and where the disciplinary board or superior prison officer as a disciplinary authority forms the view that a major penalty should be imposed that board or officer shall send the findings and any other relevant documents to the Director-General who shall impose the appropriate penalty.

19. Disciplinary proceedings

(1) Disciplinary proceedings in the case of a misconduct is either summary or formal.

(2) A major penalty shall not be imposed on a pensionable officer in summary proceedings not arising out of a conviction.

(3) The Minister shall, in consultation with the Director-General, by legislative instrument, make Regulations providing for the conduct of disciplinary proceedings in cases of misconduct or unsatisfactory service.

(4) The Regulations shall include provisions

(a) requiring a written charge to be preferred in disciplinary proceedings;

(b) enabling the defendant in formal proceedings to call appropriate witnesses;

(c) enabling persons to be compellable, subject to an enactment relating to evidence, to give evidence or produce exhibits in formal proceedings;

(d) enabling the defendant in proceedings before the Director-General or any other superior prisons officer or before a disciplinary board to appeal to the Council within six weeks against a decision involving the imposition of a penalty, and providing that the penalty shall not take effect until the appeal is determined.

(5) The defendant in an appeal proceeding before the Council is entitled to be represented by counsel.

(6) Subject to this Act and except as may be otherwise provided by the Regulations, the Council on deciding an appeal under this section may make an appropriate order.

(7) The Director-General is entitled to sit as a member of the Council for the purposes of determining an appeal under this section.

20. Pay not to accrue in certain cases

(1) A pay does not accrue to a prisons officer in respect of a period during which the officer is absent from duty without leave, unless the Council in the case of a superior prisons officer, or the Director-General in any other case, authorises the payment of the proportion of the officer's pay, not being more than one half, as determined by the Council or the Director-General.

(2) Pay shall not accrue to a prisons officer in respect of a period during which the officer is absent from duty as a deserter or undergoing a sentence of imprisonment for an offence.

21. Loss of or damage to property

Where in a disciplinary inquiry a prisons officer is punished for an offence involving the sale, loss by wilful or negligent injury or damage to an accoutrement, clothing, the public stores or any other property issued for the use of the Service or taken by the officer into possession as a prisons officer, the Director-General may order the recovery by stoppage from that officer's pay in addition to any other punishment imposed on the officer, of the amount of the loss or damage or the portion of it as determined by the Director-General.

Complaints and Offences

22. Complaints by prisoners

(1) A prisoner is entitled, without prejudice to any other means of redress legally available, to make a complaint in writing, signed by the prisoner as to

- (a) an instance of assault, maltreatment or intimidation by a prisons officer,
- (b) a neglect or non-performance of functions by a prisons officer, or
- (c) any other misconduct by a prisons officer.

(2) A complaint referred to in subsection (1) shall be addressed to the superior prisons officer in charge of the prison to which that prisoner is committed, or to the Director-General.

(3) The Director-General or the other superior prisons officer, on receiving a written complaint under this section, shall cause a full and impartial investigation to be made, and shall

- (a) send a report of conclusions to the prisoner, and
- (b) take the action on the report that the circumstances require.

(4) Where a prisoner who wishes to have a complaint recorded in writing is unable to write, the complaint shall be recorded in writing by a prisons officer, and shall be dealt with in accordance with subsections (2) and (3).

(5) A prisoner is entitled, in accordance with the Regulations, to make a verbal complaint to the superior prisons officer in charge of the prison.

23. Desertion

(1) A prisons officer who deserts the Service commits an offence and is liable on conviction to a fine not exceeding one hundred and fifty penalty units or to a term of imprisonment not exceeding three months, or to both the fine and the imprisonment.

(2) For the purposes of subsection (1) a prisons officer deserts, if that officer leaves or fails to attend a place of duty with the intention of remaining permanently absent from duty without proper authority or if, having left or failed to attend at a place of duty the officer does an act with the like intention.

(3) A prisons officer who is absent without authority for a continuous period of twenty-one days or more has, for the purposes of this section, deserted unless the contrary is proved.

24. False statement on appointment

A prisons officer who on appointment in the Service falsely states that the officer has not been convicted of or been imprisoned for a criminal offence or that the officer has never been employed by the Government commits an offence and is liable on conviction to a fine not exceeding two hundred penalty units or to a term of imprisonment not exceeding six months, or to both the fine and the imprisonment.

25. Oppression by prison officer

A prison officer who in any way tortures, or subjects to cruelty, a prisoner, commits an offence and is liable on conviction to a term of imprisonment not exceeding five years.

26. Breaches of prison discipline

(1) A person commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months, or to both the fine and the imprisonment if that person, without authority from the superior prisons officer in charge of a prison,

- (a) conveys anything into or out of a prison, or
- (b) conveys anything to or from a prisoner, whether in or out of a prison.

(2) A person commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months, or to both the fine and the imprisonment if that person,

- (a) interferes with a prisoner outside a prison; or
- (b) permits a prisoner to enter any place without the request or consent of the prisons officer in charge of the prisoner; or
- (c) assists a prisoner to be absent or to neglect work.

(3) The Director-General may cause a person, including a prisons officer, to be searched on leaving or entering a prison.

(4) A search under subsection (3) shall be made with strict decency by a superior prisons officer, and a female shall not be searched except by a female superior prisons officer.

27. Harboursing officers

A person who knowingly harbours or entertains, or supplies an intoxicating liquor to a prisons officer in uniform or to a person known to be a prisons officer on duty or permits that officer or person to be in or on the premises except for a reason shown to be in the course of duty, commits an offence and is liable on conviction to a fine not exceeding twenty-five penalty units.

28. Unlawful possession of uniform and other property

(1) A person who is a prisons officer and who possesses an article which is part of the clothing, accoutrements or equipment supplied to a prisons officer and who is not able satisfactorily to account for possession of it, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months, or to both the fine and the imprisonment.

(2) A prisons officer shall on ceasing to hold office immediately deliver the clothing, arms, accoutrements and equipment supplied to the officer free of charge for the execution of duty or taken by the officer into possession for the execution of duty to the superior prisons officer under whom the officer is serving and if the prisons officer fails to do so commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months, or to both the fine and the imprisonment.

29. Causing disaffection

A person who causes or does an act calculated to cause disaffection among prisons officers, or induces or does an act calculated to induce a prisons officer to withhold service or commit an act or a misconduct, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty penalty units or to a term of imprisonment not exceeding twelve months, or to both the fine and the imprisonment.

Prisons and Prison Custody

30. Establishment of prisons

(1) The Minister may, by executive instrument, declare a place a prison.

(2) The Minister may, by executive instrument, appropriate particular prisons to particular classes of prisoners, and a prisoner of the appropriate class shall be confined in that prison.

(3) A warrant, summons or any other legal instrument addressed to the officer in charge of a prison or to any other person and identifying that prison by a sufficient description shall not be invalidated by reason only that the prison is usually known by a different description.

31. Custody of prisoners

A prisoner is in the legal custody of the officer in charge of the prison while confined in, or is being taken to or from, that prison; and while working, or for any other reason, outside the prison is in the legal custody of a prisons officer.

32. Confinement and removal of prisoners

(1) A person who is committed to prison in accordance with law may, subject to section 30 (2), be lawfully confined in a prison and shall be committed to a prison as directed by the Minister.

(2) A prisoner may, where a medical officer certifies that the prisoner is fit for transfer, by direction of the Minister be removed during the term of the imprisonment from the prison in which the prisoner is confined to any other prison.

(3) A prisoner may be brought up for trial, and may be removed by or under the direction of the officer in charge of the prison in which the prisoner is confined from that prison to another, for the purpose of being tried.

(4) Where a prisoner is charged with an offence before a Court which, if the prisoner were not

detained in a prison, might issue a warrant for the prisoner's arrest, the Court may instead of a warrant, issue an order directed to the officer in charge of the prison requiring the officer to bring that prisoner before the Court in accordance with the order.

(5) The Minister may, if satisfied that the attendance at a place, other than a prison, of a prisoner is desirable in the interest of justice or for the purpose of a public inquiry direct that the prisoner is taken to that place.

(6) The Director-General shall, if satisfied that a prisoner requires medical or mental treatment which cannot readily be obtained within the prison, direct that the prisoner is taken to an approved hospital or any other suitable place for the purpose of the treatment.

33. Release of prisoners

A prisoner shall be released from prison at nine o'clock in the morning of the day of release, or, where that day falls on a Sunday or on a public holiday, shall be released on the preceding day.

34. Remission for good conduct

(1) Subject to subsection (3), a prisoner serving a sentence of six weeks or more may by steady industry and good conduct earn a remission not exceeding one-third of the sentence.

(2) All or a part of the remission so earned may be forfeited in accordance with the Regulations for failure by the prisoner to maintain steady industry or good conduct.

(3) This section does not apply in the case of a prisoner who is

- (a) serving a sentence of imprisonment for life,
- (b) detained during the pleasure of the President,
- (c) committed to prison for debt, or
- (d) committed to prison for contempt of court.

Treatment of Prisoners

35. Health and welfare of prisoners

(1) The Director-General shall ensure that a prisoner

- (a) is regularly supplied with wholesome and nourishing food in quantities sufficient to maintain the prisoner in good health;
- (b) is at all times kept supplied with clothing, soap, bedding and any other necessaries in quantities sufficient to maintain decency, cleanliness and good health;
- (c) is at all reasonable times permitted access to washing and toilet facilities sufficient to keep clean and decent;
- (d) is permitted to take daily exercise outside the cell during the hours of daylight for a period not less than one hour in every day;
- (e) is promptly supplied with the medicines, drugs, special diets or any other things prescribed by a medical officer of health as necessary for the health of that prisoner.

(2) In calculating the quantities of food sufficient to maintain a prisoner in good health, regard shall

be had to the nature of the work which the prisoner is required to perform, and to the condition of the prisoner's health.

- (3) A punishment shall not be imposed on a prisoner which has the effect of
 - (a) changing the prisoner's diet,
 - (b) reducing the quantities of clothing, soap, bedding or any other necessaries to be supplied to the prisoner,
 - (c) restricting or removing access to washing or toilet facilities,
 - (d) restricting daily exercise outside the cell to less than one hour in a day, or
 - (e) preventing the prisoner from having access to the medicines, drugs, special diets and any other things prescribed by a medical officer of health as necessary for the prisoner's health.
- (4) A prisoner shall not be deprived of, or restricted in the use of, dentures, hearing aids or spectacles.

36. Cleanliness of prisons

The Director of Prisons shall ensure that the cells, kitchens, and washing and toilet facilities within a prison are at all times kept in a clean and sanitary condition.

37. Cell accommodation

- (1) The Minister shall ensure that in a prison sufficient accommodation is provided for the prisoners.
- (2) A cell shall not be used for the confinement of a prisoner unless a medical officer certifies in writing that its size, lighting, heating, ventilation, fittings and furniture are adequate for health and it allows the prisoner to communicate at any time with a prisons officer.
- (3) A certificate given under this section shall specify the number of prisoners which the cell is designed to accommodate.
- (4) A certificate given under this section in respect of a cell may limit the period for which a prisoner may be separately confined in the cell and the number of hours a day during which a prisoner may be employed in it.
- (5) The certificate shall identify the cell to which it relates by a number or mark and the cell shall be marked by that number or mark placed in a conspicuous position, and if the number is changed without the consent of a medical officer the certificate shall cease to have effect.
- (6) A medical officer may withdraw a certificate given under this section in respect of a cell if the medical officer is of the opinion that the conditions of the cell are no longer as stated in the certificate.
- (7) In a prison, solitary cells shall be provided for the temporary confinement of refractory or violent prisoners in accordance with the Regulations.

38. Visits to prisoners

- (1) A prisoner under sentence of imprisonment is entitled, once in every two weeks, to receive a visit from friends or relatives in the presence of a prisons officer.
- (2) A prisoner under sentence of imprisonment may, in exceptional circumstances, be granted permission by the officer in charge of the prison to receive a visit from friends or relatives in addition to the visit to which the prisoner is entitled under subsection (1).

(3) A prisoner not under sentence of imprisonment shall be allowed reasonable opportunities daily of receiving visits from friends or relatives.

(4) A prisoner shall be allowed reasonable opportunities of receiving visits from the prisoner's legal advisers.

(5) Where a prisoner who is seriously ill wishes to be visited by friends or relatives, a medical officer may give an order in writing for the admission of those friends or relatives if the medical officer considers it advisable.

(6) Subsections (1) and (3) do not apply during a period within which a prisoner is undergoing solitary confinement for an offence against prison discipline.

(7) This section applies even where a prisoner is undergoing punishment for an offence against prison discipline.

39. Communications with prisoners

(1) A prisoner under sentence of imprisonment is entitled, once in every two weeks, to write one letter and receive one letter or telegram.

(2) A prisoner under sentence of imprisonment may, in exceptional circumstances, be granted permission by the officer in charge of the prison to write a letter or receive a letter or telegram in addition to the entitlement under subsection (1).

(3) A prisoner not under sentence of imprisonment is entitled to write a number of letters and to receive a number of letters or telegrams.

(4) A prisoner is entitled, in addition to the entitlement under this section, to write a number of letters to and receive a number of letters or telegrams from

- (a) legal advisers,
- (b) the Commissioner for Human Rights and Administrative Justice, and
- (c) ministers of religion.

(5) For the purposes of this section, a prisoner shall, on request, be supplied with writing materials sufficient for the prisoner's needs.

(6) A prisoner may, subject to the Regulations, be permitted to receive parcels with the consent of the officer in charge of the prison.

(7) This section applies even where a prisoner is undergoing punishment for an offence against prison discipline.

40. Religious observances

(1) A prisoner shall not be hindered in the reasonable exercise of religious observances.

(2) A prisoner is entitled to attend a religious service of the prisoner's faith or denomination held within the prison.

(3) Ministers of a religious faith or denomination shall be admitted at reasonable and proper times to visit prisoners who may wish to listen to their services.

(4) Moral and religious instruction shall be given to prisoners who are willing to receive it.

(5) This section applies whether or not a prisoner is undergoing punishment for an offence against prison discipline.

41. Education of prisoners

(1) With a view to encouraging prisoners to lead useful and responsible lives after their release, the Director-General shall, after consultation with the Government, welfare and any other bodies as the Director-General thinks fit, establish in a prison courses of training and instruction designed to teach simple trades, skills and crafts to prisoners who may benefit from the training.

(2) The Director-General shall, after consultation with the Ghana Library Board, establish libraries in every prison.

(3) The Director-General shall, after consultation with the Minister responsible for Education, establish in every prison classes in which illiterate prisoners may learn to read and write, and classes where prisoners desirous of doing so may further their education.

(4) The Director-General shall permit a prisoner to read or study for self-improvement when the prisoner is not required to work; and for that purpose shall make available to the prisoner the books that are available and the writing materials that are reasonably required.

(5) The Director-General shall, so far as practicable, encourage and assist a prisoner who wishes to study for and sit an educational examination; and for this purpose the Director-General may consult the Minister responsible for Education.

42. Work of prisoners

(1) A prisoner convicted of a criminal offence may, in accordance with the Regulations, be required to perform work during the period of imprisonment.

(2) The work which a prisoner is required to perform shall, so far as practicable, be work which is beneficial to the community or to the Service, or which is designed to assist the prisoner to lead a responsible life after release.

(3) The work may, in accordance with the Regulations, be performed in prison or outside, and in any other part of the Republic.

(4) *Omitted.6(7)*

(5) A prisoner shall not be required to perform work which, in the opinion of a medical officer, is likely to be injurious to the prisoner's health; and where a medical officer certifies that a form of work is likely to be injurious to the health of a prisoner, that prisoner shall immediately be transferred to any other form of work certified by the medical officer as being not injurious to the health of that prisoner.

(6) A medical officer may certify a prisoner as being unfit for a form of work, and the prisoner shall not be required to work until the medical officer certifies that the prisoner is fit.

(7) A prisoner shall not be required to work for more than six days in a week, nor for more than eight hours in a day.

43. Punishment of prisoners

(1) The Director-General or the officer in charge of a prison may impose a punishment on a prisoner for an offence against discipline.

(2) The Director-General or the officer in charge of a prison shall not delegate the power to impose punishment on a prisoner for an offence against prison discipline.

(3) The Director-General may investigate and decide complaints respecting an offence against prison discipline, and may order a prisoner found guilty of an offence

- (a) to forfeit a period of remission not exceeding the amount of remission previously earned;
- (b) to be confined in a solitary cell for a period not exceeding twenty-eight days;
- (c) to perform hard labour for a period not exceeding twenty-eight days, with the prior written approval of a medical officer, where the offender is not undergoing a sentence of imprisonment with hard labour;
- (d) to receive punishment diet, with the prior written approval of a medical officer, for a period not exceeding seven days except that a punishment shall not be imposed unless the offender has received ordinary diet for a period of not less than fourteen days immediately preceding the commencement of the punishment;
- (e) to be caned, subject to and in accordance with section 44;
- (f) to forfeit the special privileges accorded to the prisoner by the Regulations.

(4) For the purposes of subsection (3), “**punishment diet**” means a reduction in the quantity of food supplied to a prisoner, not involving a change of diet.

(5) The officer in charge of a prison may investigate and decide complaints with respect to an offence against prison discipline, and may order a prisoner found guilty of an offence

- (a) to forfeit a period of remission not exceeding twenty-eight days, and not exceeding the amount of remission previously earned;
- (b) to be confined in a solitary cell for a period not exceeding seven days;
- (c) to forfeit the special privileges accorded to the prisoner by the Regulations.

(6) Where a prisoner charged with an offence against prison discipline which in the opinion of the officer in charge of the prison cannot adequately be punished, the officer in charge shall submit to the Director-General a copy of the record of the investigation together with recommendations, and the Director-General may as appropriate impose punishment.

(7) A forfeiture of remission exceeding three months, or solitary confinement exceeding fourteen days, is subject to confirmation by the Council.

(8) A punishment imposed on a prisoner for an offence against prison discipline is subject to the continued observance of sections 35, 38, 39 and 40.

44. Corporal punishment

(1) Where, in the exercise of powers under section 43 (3), the Director-General finds a male prisoner over the apparent age of eighteen years guilty of mutiny, incitement to mutiny, or gross personal violence to a member of the Service or to a fellow prisoner, the Director-General may order that the prisoner receive, subject to this section, not more than fifteen strokes with a light cane.

(2) Caning shall not be inflicted on a prisoner unless

- (a) the Council has in writing authorised the infliction of that punishment on the prisoner, and has specified the number of strokes to be inflicted, and

- (b) a medical officer has certified in writing the fitness of the prisoner to undergo that punishment, and the suitability of the cane to be used, and
- (c) the officer in charge of the prison and the medical officer attend the infliction of the punishment.

(3) The medical officer shall give the necessary orders for preventing injury to health, and the officer in charge of the prison shall carry them into effect, and where the medical officer orders the punishment to be discontinued it shall be immediately discontinued.

(4) Except as provided by this section, corporal punishment shall not be inflicted on a prisoner.

45. Mechanical restraints

(1) Except as provided by this section, a prisoner shall not be subjected to handcuffs, shackles, leg-irons or any other form of mechanical restraint within a prison.

(2) Where the officer in charge of a prison considers that it is necessary to impose a mechanical restraint on a prisoner in order to prevent escape, or for the prevention of self-injury or the injury of any other person, the officer may, subject to this section, impose on that prisoner a mechanical restraint of a type approved by the Council.

(3) A mechanical restraint shall not be imposed under subsection (2) unless

- (a) the case is one of urgent necessity, and
- (b) the officer in charge of the prison has in writing authorised the imposition of a restraint on the prisoner, and has specified the type of restraint to be used, and
- (c) the officer in charge of the prison has immediately notified a medical officer.

(4) The medical officer shall give the necessary orders for preventing injury to health as may be necessary, and the officer in charge of the prison shall carry them into effect; and in case the medical officer orders the mechanical restraint to be removed it shall be immediately removed.

(5) A mechanical restraint shall not be imposed under subsection (2) for longer than is reasonably necessary, and shall not be imposed for longer than twenty-four hours without the written consent of the Director-General.

46. Use of force

(1) Except as provided by this section, a prisons officer, shall not use force or a weapon against a prisoner.

(2) A prisons officer may use force against a prisoner which is reasonably necessary in order to ensure obedience to a lawful order which the prisoner has refused to obey or in order to maintain discipline.

(3) A prisons officer may use a weapon against a prisoner escaping or attempting to escape but

- (a) resort shall not be had to a weapon unless the prisons officer has reasonable grounds to believe that the escape cannot otherwise be prevented;
- (b) a firearm shall not be used against a prisoner unless the prisons officer has first given a warning to the prisoner that the firearm will be used, and the prisoner has not heeded the warning.

(4) A prisons officer may use a weapon against a prisoner

- (a) who is using violence to any other person, if the prisons officer has reasonable grounds to believe that the violence is likely to cause grievous harm to that other person, or
- (b) who is engaged with others in riotous or threatening behaviour and refuses to desist when called on to desist.

(5) Despite subsections (3) and (4), a prisons officer shall not use a weapon against a prisoner in the presence of a superior officer except under the orders of the superior officer.

(6) The use of a weapon under this section shall, as far as possible, be to disable and not to kill.

Miscellaneous

47. Visiting committees

(1) The Council shall, for each prisoner, appoint a visiting committee of two or more visitors, other than the medical officer of the prison.

(2) The visiting committee shall visit the prison not less than twice in every month to inspect the wards, cells, yards, solitary cells, kitchens, washrooms, toilets and every other part of the prison, and to hear the complaints of the prisoners, and to inspect the registers, books and records of the prison.

(3) A visiting committee shall call the attention of the officer in charge of the prison to a failure to observe this Act or the Regulations, and a lack of discipline among the prison officers, and any other matter which requires attention or redress.

(4) A visiting committee may examine a complaint, and may enter into the visitor's book to be kept for that purpose, the remarks respecting a complaint by a prisoner with respect to any other matter appearing to call for comment.

(5) For the purposes of this section, a visiting committee may at any time enter the prison and shall have free access to every part of it and to every prisoner.

(6) After each visit, a visiting committee shall send a full written report to the Director-General and to the Council.

48. Judiciary may visit prisons

(1) A Magistrate or Justice may visit a prison and may examine the condition of the prison and the prisoners in it.

(2) The Magistrate or Justice may enter in the visitor's book any remarks regarding the condition of the prison or of the prisoners in it and any other matter appearing to call for comment.

(3) The officer in charge of a prison shall give reasonable assistance to a Magistrate or Justice visiting a prison, and shall refer to the Director-General for appropriate action, the remarks made by a Magistrate or Justice in the visitor's book.

(4) For the purpose of this section a Magistrate or Justice may at any time enter a prison and shall have free access to a part of it and to every prisoner.

(5) This section does not authorise a Magistrate or Justice to communicate with a prisoner except on the subject of the prisoner's treatment in the prison.

49. Prison officer's welfare fund

(1) A prisons officers' welfare fund is hereby established, and there shall be paid to the Accountant-General to the credit of the Fund fines imposed on prisons officers in disciplinary proceedings, voluntary contributions, moneys specified by the Regulations and moneys granted by the Government for that purpose.

(2) The Fund shall be under the control of the Director-General and, in accordance with the Regulations, there shall be payable from the Fund

- (a) rewards and gratuities to or in respect of prisons officers,
- (b) grants for providing and improving comforts, conveniences and advantages, not chargeable to the general revenue, for the benefit of subordinate prisons officers, and
- (c) gratuities to, or in respect of, dependants of a deceased subordinate prisons officers.

(3) The moneys in the Prison Officers Reward, Gratuities and Recreation Fund immediately before the commencement of this Act are hereby transferred to the Fund.

50. Annual report

(1) As soon as may be after the thirtieth day of June in each year the Director-General shall prepare a report giving details of the administration of the Service during the previous twelve months.

(2) The report shall be submitted to the Minister who shall lay the report before Parliament.

51. Regulations

The Council, acting in consultation with the Public Services Commission, and with the prior approval of the President, may by legislative instrument, make Regulations

- (a) prescribing anything which is to required for the purposes of this Act;
- (b) providing for a matter which may be provided for by Regulations, other than the Regulations made under section 19 for the purposes of this Act;
- (c) prescribing the conditions for the removal to approved hospitals of prisoners requiring medical or mental treatment, and the reports to be submitted in relation to those prisoners by the hospital;
- (d) prescribing the precautions to be taken to prevent the escape of a prisoner;
- (e) providing for the making of payments from the Fund;
- (f) prescribing the registers, books and any other records to be kept in a prison.

(2) Subject to this Act and to the directions given by the Minister, the Director-General may issue Prisons Service Instructions providing for a matter not provided for by the Regulations and which relates to the administration and functions of the Service.

52. Interpretation

In this Act, unless the context otherwise requires,

“assistant director” means an assistant director of prisons;

“approved employment” means an employment specified by the Minister by executive instrument;

“Court” means a court of competent jurisdiction;

“Director-General” means the Director-General of Prisons;

“functions” includes power and duties;

“Fund” means the prisons officer’s welfare fund established under section 49;

“Minister” means the Minister to whom responsibility for the Service is assigned by the President;

“prescribed” means prescribed by the Regulations;

“prison” means a prison established under this Act;

“prisoner” includes a person lawfully committed to custody;

“prisons officer” means a member of the Prisons Service;

“Region” means a Region of the Republic;

“Regulations” means the Regulations made under a power conferred by this Act or continued in force under this Act;

“salary” includes wages;

“Service” means the Prisons Service provided for by article 190 of the Constitution;

“subordinate prisons officer” means a member of the Service other than a superior prisons officer;

“superior prisons officer” means an officer not below the rank of assistant prisons superintendent.

53. Repeals and savings

- (1) *Spent.7(8)*
 - (2) *Spent.8(9)*
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Endnotes

1 (Popup - Footnote)

1. The Act was issued as the Prisons Service Decree, 1972 ([N.R.C.D. 46](#)) made on the 21st day of March, 1972, and notified in the *Gazette* on 24th March, 1972.

2 (Popup - Footnote)

2. [Subsection \(3\)](#) was paragraph 2 of the Decree.

3 (Popup - Footnote)

2a. Subsection (3) added by section 2 of and the First Schedule to, the Ministries, Departments and Agencies (Retention of Funds) Act, 2007 (Act 735).

4 (Popup - Footnote)

3. See [article 199](#) of [the Constitution](#).

5 (Popup - Footnote)

4. As incorporated in [section 6](#).

6 (Popup - Footnote)

5. [Subsections \(4\), \(5\) and \(6\)](#) are omitted as being covered by [article 207](#) of [the Constitution](#). The subsections provided that:

“(4) The power to appoint persons to hold or to act in any office in the Service shall be vested in the President acting in accordance with the advice of the Council.

(5) The President may, subject to such conditions as he thinks fit, delegate any of his functions under this section by directions in writing to the Council or to any committee, or to a member of the Council.

(6) Where the President delegates any of his functions under [subsection \(4\)](#), the person to whom such powers are delegated shall exercise them in accordance with the advice of the Council.”

7 (Popup - Footnote)

6. As being against [article 15](#) of [the Constitution](#). The subsection deals with hard labour. It provides that, “A prisoner under sentence of imprisonment with hard labour shall, in accordance with the Regulations, be required to perform a form of hard bodily labour as prescribed by the Regulations, regard being had to age and physical condition of the prisoner.”

8 (Popup - Footnote)

7. This section provided for the repeal of “[Sections 227, 228, 229, 230 and 231](#) of the Criminal Code, 1960 ([Act 29](#)); the Prisons Act, 1963 (Act 221); the Prisons (Amendment) Act, 1965 (Act 263); and paragraphs 13 and 14 of the Criminal Code (Amendment) Decree, 1969 (N.L.C.D 398).”

9 (Popup - Footnote)

8. [Subsection \(2\)](#) and (3) provided that:

“(2) Despite the repeal of the Prisons Act, 1963 (Act 221) the following statutory instruments shall continue in force as if made under the corresponding provisions of this Act, until modified, amended or revoked:

the Prisons Regulations, 1958 (L.N. 412),

the Prisons (Amendment) Regulation, 1970 (L.I. 648),

the Prisons (Declaration of Prisons) Instrument, 1971 (E.I. 22).

(3) Despite the repeal of the Prisons Act, 1963 (Act 221), the Prisons Service Instructions issued under that Act and in force immediately before the commencement of this Act shall continue in force as if made under [section 51 \(2\)](#) of this Act, until modified or rescinded.”