
PRISON ACT 1977

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PRISON

No. 19 of 1977

AN ACT to make provision for the establishment and control of prisons and the custody of prisoners and for related matters and to repeal the Prison Act 1868 and the Prison Act 1908.

[28 April 1977]

BE it enacted by His Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled as follows:—

PART I

PRELIMINARY

1—(1) This Act may be cited as the *Prison Act 1977*.

(2) This Act shall commence on a day to be fixed by proclamation.

Short title
and
commencement.

Repeal.

2 The Acts that are specified in Schedule I are repealed.

Interpretation.

3 In this section, unless the contrary intention appears—

“ Controller ” means the Controller of Prisons appointed under section 6;

“ custodian ” has the meaning assigned to that expression by section 26 (4);

“ Deputy Controller ” means the Deputy Controller of Prisons appointed under section 6;

“ detainee ” means a person detained in lawful custody other than under a sentence of imprisonment, irrespective of the cause of his detention;

“ gaoler ” means the prison officer or police officer in charge of a prison to which section 6 (5) applies;

“ imprisonment ” means imprisonment imposed as a result of a lawful sentence;

“ leave permit ” has the meaning assigned to that expression by section 26 (1);

“ medical officer ” means a legally-qualified medical practitioner who is engaged to examine, treat, or care for prisoners or detainees;

“ official visitor ” has the meaning assigned to that expression by section 10 (1);

“ police officer ” has the meaning assigned to that expression by the *Police Regulation Act 1898*;

“ prison ” includes a gaol or place of detention irrespective of the title by which it is known, and includes the whole area, whether or not walled or fenced, established as, or deemed to be, a prison;

“ prison officer ” means a person who is appointed by the Governor under section 6;

“ prisoner ” means a person detained in lawful custody under a sentence of imprisonment lawfully imposed on him;

“ superintendent ” means the prison officer in charge of a prison to which section 6 (2) applies.

PART II

ESTABLISHMENT AND CONTROL OF PRISONS

Division I—Establishment of prisons

Establishment
of prisons.

4 The Governor may, by proclamation—

(a) establish a prison and define the boundaries of the prison by metes and bounds or by reference to a building or part of a building;

- (b) alter the boundaries of a prison established under paragraph (a); and
- (c) declare that such a prison shall, as from the date specified in the proclamation, cease to be a prison.

5—(1) The Governor may, by proclamation, declare that a prison shall be for the exclusive use of the class or sex of prisoners or detainees specified in the proclamation. Power of Governor to declare prisons for certain exclusive uses.

(2) A prison in respect of which no declaration is made under subsection (1), or so far as such a declaration does not extend to it, is a common public prison for the detention of all classes and both sexes of prisoners and detainees.

Division II—Officers

6—(1) The Governor may appoint a Controller of Prisons and a Deputy Controller of Prisons. Appointment of Controller of Prisons and other officers.

(2) The Governor may appoint a superintendent and a deputy superintendent for a prison to which the Minister, by order, declares this subsection to apply.

(3) The Deputy Controller may hold office as the superintendent of a prison referred to in subsection (2) in conjunction with his office as Deputy Controller.

(4) In addition to the officers referred to in the foregoing provisions of this section, the Governor may appoint such other officers as are required for the purposes of this Act or otherwise for the management of prisons.

(5) The Governor may, pursuant to subsection (4), appoint a gaoler for a prison other than one referred to in subsection (2).

(6) An officer appointed under this section shall be appointed under and in accordance with the *Public Service Act 1973* and while exercising his functions and duties has the same powers, privileges, and immunities as a police officer.

7 The Controller—

- (a) has the care and direction of all prisons, prisoners, and detainees and the control of all prisons;
- (b) has, subject to section 8, the order and control of all prison officers, prisoners, and detainees; and

Powers and duties of Controller.

(c) has the other powers, functions, and duties vested in or conferred or imposed on him by this Act and the *Public Service Act 1973*.

Duties of prison officers, &c.

8—(1) Subject to the *Public Service Act 1973*, the duties of a prison officer shall be as determined by the Controller.

(2) A police officer is, by virtue of this subsection and without any other authority, vested with all the powers of a prison officer under this Act.

Exercise of functions of Controller and other officers.

9—(1) The Deputy Controller shall exercise—

- (a) all the powers, functions, and duties of the Controller that the Controller directs him to exercise; and
- (b) all the powers, functions, and duties of the Controller under this or any other Act, if the Controller is absent, incapacitated, or otherwise unable to act.

(2) Anything done by the Deputy Controller in pursuance of subsection (1) has the same force and effect as if it had been done by the Controller.

(3) The deputy superintendent of a prison shall exercise—

- (a) all the powers, functions, and duties of the superintendent of the prison that the Controller directs him to exercise; and
- (b) all the powers, functions, and duties of that superintendent, if the superintendent is absent, incapacitated, or otherwise unable to act.

(4) Anything done by the deputy superintendent of a prison in pursuance of subsection (3) has the same force and effect as if it had been done by the superintendent of the prison.

(5) The Controller may, by a written direction, require an officer appointed under subsection (2) or subsection (4) of section 6 to exercise, during the period or in the circumstances specified in the direction, the functions of the superintendent or deputy superintendent of a prison referred to in section 6 (2) and those functions are so exercisable as long as the direction remains in force.

(6) Pursuant to the provisions of this section, a reference in any other Act to the gaoler of a prison shall, in relation to a prison referred to in section 6 (2), be construed as a reference to the superintendent of that prison or any other person who, under this section, is for the time being exercising the functions of the gaoler of that prison.

Division III—Visitors

10—(1) The Governor may appoint persons (in this Act referred to as “official visitors”) as visitors to each prison in accordance with this section. Official visitors.

(2) The term of office of an official visitor shall be two years.

(3) A prison shall have—

(a) two official visitors; and

(b) two additional official visitors who are females, if the prison is partly for the detention of female prisoners or detainees.

(4) An official visitor shall visit every prison that he is authorized to visit by his instrument of appointment at least once a month, either alone or with another official visitor who is so authorized to visit that prison, and shall inquire into the treatment, behaviour, and conditions of the prisoners and detainees in that prison.

(5) While he is visiting a prison pursuant to subsection (4) an official visitor shall not directly interfere with, or give instructions with regard to, the management or disciplining of a prisoner or detainee, or deal with any case affecting the conduct of prison officers, but he may report to the Controller or the Minister on—

(a) any such matter;

(b) any matter relating to the treatment or condition of prisoners or detainees; or

(c) the state of the prison.

(6) An official visitor shall, at least once in every 12 months, make a report to the Minister on the inquiries made by him pursuant to subsection (4).

(7) Every prison officer shall give full assistance and co-operation to the official visitors.

11—(1) Any of the following persons may visit a prison at any reasonable time:— Other visitors.

(a) A judge;

(b) A magistrate; and

(c) A person authorized in writing by the Minister.

(2) Every prison officer shall give full assistance and co-operation to a person referred to in subsection (1).

PART III

CUSTODY AND TREATMENT OF PRISONERS AND DETAINEES

Prisoners and detainees deemed to be in the legal custody of the Controller.

12 A prisoner or detainee shall be deemed to be in the legal custody of the Controller, notwithstanding that at the time he is being taken to or from a prison or that he is working outside the precincts of a prison pursuant to section 18 or is otherwise outside those precincts.

Removal of prisoners and detainees into control of Controller.

13—(1) Where a prisoner or detainee is sentenced to a term of imprisonment or is remanded or otherwise committed to a prison by a court, the prisoner or detainee shall, unless otherwise ordered by the court, be taken into custody and control by any prison officer or police officer present and be removed as soon as practicable into the custody and control of the Controller.

(2) A police officer who has the custody and control of a prisoner or detainee referred to in subsection (1) shall assist in removing the prisoner or detainee into the custody and control of the Controller.

(3) Where it is impracticable to remove a prisoner or detainee immediately to a prison, the prison officer, police officer or other person having the custody and control of the prisoner or detainee may temporarily keep him at some other suitable place.

Provisions relating to religious practices.

14—(1) On his admission into a prison, a prisoner or detainee shall be given an opportunity to state his religion or religious denomination (if any).

(2) The Controller shall cause a record to be made of a statement made by a prisoner or detainee for the purposes of subsection (1).

(3) A prisoner or detainee is entitled at all reasonable times—

(a) to practise the rites of his religion or religious denomination; and

(b) to receive religious guidance from a chaplain or other responsible member of that religion or denomination, being a person approved, in either case, by the Controller,

subject to such reasonable restrictions (if any) as the Controller imposes.

Food.

15 A prisoner or detainee shall be supplied at the public expense with food that is sufficient in quality and quantity to maintain health.

16 A prisoner or detainee shall be allowed so much exercise in ^{Exercise.} the open air as may be prescribed or, where a medical officer in a particular case orders otherwise, so much or such exercise as is so ordered.

17—(1) The Controller shall ensure that every prisoner or ^{Medical attention.} detainee has such access to medical consultation and treatment as is reasonably necessary and that every reasonable request of a medical officer for the health of a prisoner or detainee is complied with.

(2) A prisoner or detainee shall be supplied at the public expense with such medical attendance and treatment and such medicine as is necessary for the preservation of health.

(3) Where, in the opinion of a medical officer, the life or health of a prisoner or detainee is likely to be endangered or seriously prejudiced by the failure of the prisoner or detainee to undergo medical treatment or the life or health of any other prisoner or detainee or a prison officer is likely to be endangered or seriously prejudiced by that failure, the prisoner or detainee may be compelled to submit to such medical treatment as is ordered by a medical officer.

18—(1) Subject to this section, the superintendent or gaoler ^{Work.} of a prison in which a prisoner is detained shall cause him to be set to some work that is considered suitable to the prisoner's physical and intellectual capacity.

(2) A prisoner may, with the approval of the Controller, be set to work outside the precincts of the prison in which he is detained.

19—(1) A prisoner who works in pursuance of section 18 is ^{Payment for prisoners' work, &c.} entitled to be paid the prescribed amount for his work.

(2) The Controller shall hold on behalf of a prisoner the moneys that he is entitled to be paid under subsection (1) and shall pay those moneys to the prisoner on his release or as otherwise provided by regulation.

(3) Notwithstanding subsection (2), before a prisoner is released from prison, the Controller or a court of competent jurisdiction may order that the whole or any part of the moneys that he is entitled to be paid shall be paid towards the maintenance of his dependants or in settlement of a judgment debt of that court.

PART IV

TRANSFERS AND OTHER REMOVALS OF PRISONERS
AND DETAINEES

Removal of prisoners and detainees to other prisons and to hospitals, &c.

20—(1) The Controller may, if he considers it necessary, direct a prisoner or detainee to be removed from a prison to another prison or to a hospital or other institution.

(2) The Controller may, if he thinks fit, appoint a person to take charge of a prisoner or detainee while he is in a hospital or institution pursuant to subsection (1).

(3) A person appointed under subsection (2) has the powers of a prison officer and shall be paid such remuneration as is prescribed.

Bringing of prisoners and detainees before courts.

21—(1) Where a prisoner or detainee is charged with an offence that is not the offence or cause for which he is detained, a justice may, by written order, direct the superintendent or gaoler of the prison in which the prisoner or detainee is detained to bring him before the court specified in the order or the judge or magistrate who is then present to be dealt with according to law.

(2) A superintendent or gaoler to whom an order is given under subsection (1) shall, as soon as practicable, comply with that order.

Removal of prisoners and detainees in aid of administration of justice.

22 The Controller may in his discretion direct a prisoner or detainee to be removed temporarily from the prison or other place to which he has been removed pursuant to this Part to another place in this State for any purpose in aid of the administration of justice or for any other like purpose that, in the opinion of the Controller, requires that such a temporary removal should be made.

Effect of directions and orders under sections 20, 21, and 22.

23 A direction or order for the removal of a prisoner or detainee for the purposes of section 20, section 21, or section 22 is sufficient authority to every prison officer, police officer, or other person who is entrusted with the conveyance of the prisoner or detainee to keep and convey him accordingly and to every prison officer, police officer, or other person to keep and detain the prisoner or detainee in the course of his removal and for as long as is required for the purpose for which he is so removed.

Custody of prisoners and detainees removed pursuant to sections 20, 21, and 22, &c.

24—(1) A prisoner or detainee who is removed from a prison for the purposes of section 20, section 21, or section 22 shall be deemed to be in the legal custody of the Controller during the time that—

(a) he is being removed from the prison;

(b) he is in a court, hospital or other institution, or other place;
and

(c) he is being removed from a place referred to in paragraph
(b) to a prison,

unless, during that time, his sentence is completed.

(2) A prisoner or detainee who escapes or attempts to escape during the time that—

(a) he is being removed from a prison for the purposes of section 20, section 21, or section 22;

(b) he is in a court, hospital or other institution, or other place for those purposes; or

(c) he is being removed from a place referred to in paragraph
(b) to a prison,

shall be deemed to have escaped or attempted to escape from lawful custody, as the case requires.

25—(1) Where the Minister is satisfied that it is necessary or desirable for a prisoner to undergo medical treatment outside this State he may, subject to this section, grant to that prisoner a licence authorizing him to be absent from this State for the purpose of undergoing that treatment.

Licences to
undergo medical
treatment
outside this
State.

(2) A licence under this section shall specify the period for which it is to remain in force and shall specify the conditions and restrictions with which the person to whom it is granted is to comply while he is away from prison during the currency of the licence.

(3) Without prejudice to the generality of the provisions of subsection (2), the conditions and restrictions referred to in that subsection may be conditions and restrictions requiring the person to whom the licence is granted—

(a) to comply with any directions or instructions from time to time given by the Controller or any other specified person;
and

(b) to report, from time to time, to any specified person or at any specified place, or, from time to time, to give information to any specified person.

(4) A person may be specified for the purposes of subsection (3) by name or by reference to an office held by him (whether in this State or elsewhere) or by reference to his appointment or nomination by the Controller to undertake any duties in relation to the purposes of the licence.

(5) The Minister, by writing under his hand, may revoke a licence granted under this section and may, from time to time, extend the period for which such a licence is to remain in force.

(6) The conviction and sentence of a person to whom a licence has been granted under this section continues in force notwithstanding that that licence has been granted, although the execution of the sentence is suspended; but so long as the licence continues in force that person is not liable to be imprisoned by reason of that sentence, but shall be allowed to go and remain at large according to the terms of the licence.

(7) A person to whom a licence has been granted under this section who, whether in this State or elsewhere, contravenes or fails to comply with any of the conditions or restrictions specified in the licence is guilty of an offence.

Penalty: 12 months' imprisonment.

(8) Where a licence granted to a person under this section is revoked or has otherwise ceased to be in force, a justice shall, on application being made by the Controller or some person authorized by him in that behalf, issue a warrant for the apprehension of that person, and that warrant may be executed by a police officer according to its tenor.

(9) A person apprehended under a warrant issued under subsection (8) shall be brought as soon as practicable before a justice and that justice shall thereupon issue a warrant for the recommitment of that person to prison to serve that portion of his sentence that remained unexpired when the licence was granted.

Grant of
leave permits
by Controller.

26—(1) Subject to this section, the Controller may grant to a prisoner or detainee a permit (in this Act referred to as "a leave permit") authorizing him to be absent from a prison for such of the following purposes as may be specified in the permit:—

- (a) Visiting a near relative who the Controller has reason to believe is dangerously ill;
- (b) Attending the funeral of a near relative;
- (c) Interviews and discussions in relation to the prisoner's or detainee's proposed employment;
- (d) Attending a place of education or training in connection with a course of education or training; or
- (e) With the Minister's approval, any other purpose deemed by the Controller to be proper.

(2) For the purposes of subsection (1) (a) and (b), the question whether a person is a near relative of a prisoner or detainee shall be determined by the Controller.

(3) A leave permit—

(a) shall specify the period during which a prisoner or detainee may be absent from a gaol in pursuance of a permit (being a period not exceeding 72 hours); and

(b) is subject to such conditions and restrictions as the Controller may think fit and as are specified in the permit.

(4) Without limiting the generality of subsection (3) (b), the conditions and restrictions to which a leave permit may be subject may include a condition that the prisoner or detainee to whom the permit is granted shall, while he is absent from prison during the currency of the permit, be in the custody of—

(a) a prison officer;

(b) a parole officer within the meaning of the *Parole Act 1975*;

(c) a probation officer appointed under the *Probation of Offenders Act 1973*; or

(d) any other person authorized by the Controller for that purpose,

in this Act referred to as “ a custodian ”.

(5) Forthwith after granting a leave permit, the Controller shall cause a copy of the permit to be furnished to both the person to whom it is granted and his custodian (if any).

(6) Where the custodian of a person to whom a leave permit is granted is of the opinion that that person has failed to comply with a condition or restriction to which the permit is subject or that he is likely to so fail to comply, he may forthwith return that person to a prison.

(7) For the purposes of facilitating the exercise of his powers under subsection (6), a custodian may request any person to afford him such assistance as he may require.

(8) A request made by a custodian to a person pursuant to subsection (7) is sufficient warrant to that person to assist the custodian in accordance with the terms of the request.

27—(1) The Controller may revoke a leave permit by writing Revocation of leave permits. under his hand.

(2) Forthwith after revoking a leave permit as provided in subsection (1), the Controller shall give notice of the revocation to the custodian (if any) of the person to whom the permit was granted.

(3) Where the custodian of a person is given notice under subsection (2) that the leave permit granted to that person has been revoked, the custodian shall forthwith return that person to a prison.

(4) For the purposes of facilitating his compliance with subsection (3), a custodian may request any person to afford him such assistance as he may require.

(5) A request made by a custodian to a person pursuant to subsection (4) is sufficient warrant to that person to assist the custodian in accordance with the terms of the request.

Alteration of
leave permits.

28—(1) The Controller may, by writing under his hand, with the approval of the Minister, alter a leave permit—

- (a) by extending the period for which the permit is to remain in force; or
- (b) by varying the conditions or restrictions to which the permit is subject.

(2) Forthwith after altering a leave permit as provided in subsection (1), the Controller shall give notice of the alteration to both the person to whom the permit is granted and his custodian (if any).

(3) For the purposes of subsection (2), the giving to any person of a copy of a leave permit as altered shall be deemed to be sufficient notice of the alteration.

Provisions
applicable to
persons holding
leave permits.

29—(1) The granting of a leave permit to a person does not affect the sentence that he is serving and that person shall, while he is away from prison during the currency of the permit, be deemed to be in prison and under lawful custody and control within the meaning of this Act.

(2) A person to whom a leave permit is granted—

- (a) shall not use the permit otherwise than for the purpose for which it is granted;
- (b) shall comply strictly with the conditions and restrictions to which the permit is subject; and
- (c) while he is away from prison during the currency of the permit, shall carry with him a copy of the permit and of any notice given to him under section 28 (2).

(3) A person to whom a leave permit is granted who fails to comply with the provisions of subsection (2) is guilty of an offence and liable to 6 months' imprisonment.

(4) A police officer who has reasonable grounds for believing that a person to whom a leave permit is granted—

(a) has failed to return, in accordance with the terms of the permit, to the prison from which he has been granted leave to be absent, upon the expiry of the period of his grant of leave under the permit; or

(b) has failed to comply with a condition or restriction to which the permit is subject,

may apprehend that person.

(5) Where a leave permit granted to a person is revoked or has otherwise ceased to be in force, a justice shall, on application being made by the Controller or some person authorized by him in that behalf, issue a warrant for the apprehension of that person and his conveyance to a prison, and that warrant may be executed by a police officer according to its tenor.

(6) Where a person is apprehended under this section, whether pursuant to a warrant or otherwise, a police officer may return that person to a prison.

PART V

OFFENCES BY PRISONERS AND DETAINEES

30 No prisoner or detainee shall commit any of the offences specified in Schedule II. Offences.

31—(1) A complaint alleging the commission of an offence specified in Schedule II may be made by a prison officer. Making and hearing of complaints of offences.

(2) A complaint alleging the commission by a prisoner or detainee of any of the offences specified in paragraphs 1 to 7 of Schedule II shall be heard by a magistrate.

(3) A complaint alleging the commission by a prisoner or detainee of any of the offences specified in paragraphs 8 to 34 of Schedule II shall, subject to subsection (4), be heard by the Controller, except in the case of a complaint made by him.

(4) The Controller shall refer to a magistrate a complaint that, apart from this subsection, he is required to hear himself pursuant to subsection (3), if the Controller believes that the alleged facts are

sufficiently serious or if there are other considerations that lead him to believe that such a reference is warranted, and a magistrate to whom such a complaint is referred shall hear the complaint.

(5) A prisoner or detainee who is charged before a magistrate with the commission of any of the offences specified in Schedule II—

- (a) is entitled to have at least 3 days to prepare a defence; and
- (b) shall be assisted to make reasonable efforts to seek legal representation or advice.

Proof in proceedings that offender has been previously convicted.

32 In any proceedings, whether summary or otherwise, against a person for an offence specified in Schedule II it is sufficient to charge and allege that the person by or in respect of whom the offence was committed was at the time a prisoner or detainee, without charging or alleging any proceedings, or any indictment, trial, conviction, judgment, or sentence, or any pardon or intention of mercy, or signification thereof, of or against or in any manner relating to that person, and the onus of proving the contrary is on the opposite party.

Proof in summary proceedings that offender has been previously convicted.

33—(1) Where it is necessary to prove that a prisoner or detainee charged before a magistrate with the commission of an offence specified in Schedule II has been previously convicted, whether under this Act or otherwise, it is sufficient to produce a certificate signed by the Controller and containing particulars of—

- (a) the name of the prisoner or detainee;
- (b) the offence for which he is then under sentence, in the case of a prisoner, or the reason for his detention, in the case of a detainee;
- (c) the date of each sentence to which he is subject, in the case of a prisoner, and the nature and term of each of those sentences; and
- (d) the date of the commencement of his detention, in the case of a detainee.

(2) A certificate by the Controller under subsection (1) may be produced before or after the trial of the prisoner or detainee to whom it relates and, on its production, shall, without proof of the signature or office of the Controller, be received as sufficient evidence of the matter specified in it without any further or other proof, and the onus of proving the contrary is on the opposite party.

34—(1) A prisoner or detainee who is found guilty by a magistrate of an offence specified in Schedule II is liable to two years' imprisonment and the withdrawal of any privileges earned by him. Penalties.

(2) A prisoner or detainee who is found guilty by the Controller of any of the offences specified in paragraphs 8 to 34 of Schedule II is liable to the withdrawal of any privileges earned by him.

(3) A sentence of imprisonment passed on a prisoner under this section is cumulative on any sentence being served by the prisoner.

PART VI

MISCELLANEOUS

Division I—Evidentiary provisions and other matters relating to legal proceedings

35—(1) Where, on the trial of a person for an offence not punishable summarily under this Act, it becomes necessary to prove the conviction of a person, the registrar or clerk of the court, or other officer having the custody of the records of the court in which that person was convicted, shall give a certificate, signed by him, containing the effect and substance only (omitting the formal part) of every indictment and conviction for the offence of which that person has been convicted and of his sentence. Proof of offender's previous conviction and sentence in summary proceedings.

(2) A certificate under subsection (1) is sufficient evidence of the conviction and sentence of the person to which it relates, and the court in which that person is being tried shall take judicial notice of the signature of the person giving the certificate.

36 Where a question arises in a case under this Act or otherwise whether a person is, or was, at any particular time, a prisoner or detainee within the meaning of this Act, it is sufficient to prove that that person is, or was, at the time in question, a person in fact ordinarily dealt with as a prisoner or detainee under this Act without any further or other proof, and the onus of proving the contrary is on the opposite party. Proof that person a prisoner or detainee.

37—(1) Where it is alleged in a conviction, order, warrant, or other proceeding made or purporting to be made under the provisions of this Act that a person has been convicted and there is a good and valid conviction to sustain the allegation, the proceeding shall not be quashed for want of form or be removed by *certiorari* or otherwise into the Supreme Court. Convictions, &c., not to be quashed for want of form.

(2) No warrant of commitment shall be held void by reason of a formal defect in it.

Division II—General

Escaping from
lawful custody,
&c.

38—(1) Where a prisoner or detainee escapes from lawful custody or control, the period of the sentence, if any, under which he was detained shall be deemed not to run during the time that he is absent from lawful custody.

(2) Any sentence imposed on a prisoner for the offence of escaping from lawful custody or control or for any other offence committed while he is at large shall be cumulative on the sentence or sentences for which he was imprisoned at the time of his escape.

Prohibition
against
bringing
unauthorized
articles and
things into
prisons.

39—(1) A person who brings into a prison an article or thing that the Controller has not authorized to be brought into the prison is guilty of an offence.

Penalty: 12 months' imprisonment or \$500.

(2) A police officer or prison officer who finds a person contravening the provisions of subsection (1) may apprehend that person without warrant.

(3) A person apprehended under subsection (2) shall be brought as soon as practicable before a court.

(4) In addition to any other penalty that may be imposed on him, a prison officer who is convicted of an offence against this section forfeits his office.

Remissions.

40—(1) Subject to this section, the Controller may grant to a prisoner a remission of the whole or any part of his sentence pursuant to regulations made under section 43 (2) (e).

(2) A remission under subsection (1) may be subject to the condition that the prisoner concerned gives such security, by recognizance, for his good behaviour as is prescribed.

Pardons by
Governor.

41—(1) Subject to this section, the Governor may, by written instrument under his hand and the seal of this State, pardon a prisoner convicted in this State.

(2) A pardon under subsection (1) may be absolute or subject to the conditions specified in the instrument of pardon.

(3) Nothing in this section affects or prejudices the operation of the *Parole Act 1975*.

42 Nothing in this Act shall be construed so as to limit or affect the Royal prerogative of mercy. Preservation of Royal prerogative.

43—(1) The Governor may make regulations for the purposes of this Act. Regulations.

(2) Without affecting the generality of subsection (1), the regulations may make provision for or with respect to—

- (a) the management of prisons;
- (b) the duties and conduct of prison officers;
- (c) the regulation and control of prisoners and detainees and the preservation of order;
- (d) the diet, clothing, health, exercise, and welfare of prisoners and detainees;
- (e) the mitigation or remission, conditional or otherwise, of the sentence of a prisoner as an incentive to, or reward for, good conduct while he is undergoing his sentence;
- (f) the visits and inquiries by official visitors;
- (g) the recording of the name, age, height, and weight of a prisoner or detainee, the photographing of a prisoner or detainee, and the recording of the impressions of the fingers, palms, and such other details as may be prescribed of a prisoner or detainee;
- (h) the administration of punishment authorized by the Act or the regulations;
- (i) the payment of money to prisoners and detainees for work performed by them or for other prescribed reasons and the manner of holding that money;
- (j) admissions generally, inspections of prisons, and visits to prisons by relatives or friends;
- (k) the classification and separation of prisoners and detainees;
- (l) the retention in the custody of a superintendent of prisoners' and detainees' personal property and the manner in which prisoners and detainees may deal with property so held in custody;
- (m) correspondence by and with prisoners and detainees;
- (n) the educational and vocational training of prisoners and detainees;
- (o) the mode of sale and disposal of the products of prisoners' and detainees' work and the disposal of the proceeds of those sales and disposals;

(p) the procedure on the hearing of complaints of offences specified in Schedule II; and

(q) all other matters necessary or expedient for the good order, discipline, and safe custody of prisoners and detainees.

(3) Regulations under this section may be of general or specially limited application according to time, place, or circumstances, and may be general or restricted to any specified class of subject-matter.

Expenses of Act.

44 The expenses of this Act shall be defrayed out of moneys provided by Parliament for the purpose.

Transitional provisions.

45 The provisions set out in Schedule III have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

SCHEDULE I
(Section 2)
ACTS REPEALED

Year and number of Act	Short title of Act
32 Vict. No. 11	<i>Prison Act 1868</i>
8 Edw. VII No. 10	<i>Prison Act 1908</i>
No. 79 of 1970	<i>Prison Act 1970</i>
No. 58 of 1974	<i>Prison Act 1974</i>

SCHEDULE II
(Section 30)

OFFENCES BY A PRISONER OR DETAINEE

1. Mutiny.
2. Open incitement to mutiny.
3. Assaulting a police officer or a member of the public with whom the prisoner or detainee comes into contact.
4. Stealing, unlawfully receiving, or embezzling any article or thing.
5. Preferring a complaint against a prison officer, knowing the complaint to be false.
6. Engaging in riotous behaviour.
7. Instigating or encouraging another prisoner or detainee to riot.
8. Assaulting a prison officer.
9. Treating disrespectfully a prison officer, a person who visits or is employed in a prison, or any other person with whom the prisoner or detainee comes into contact.

10. Assaulting another prisoner or detainee.
11. Committing a breach of the regulations under this Act or failing to obey an order lawfully given by a person having authority in a prison.
12. Leaving or attempting to leave without permission the place at which he is directed or authorized to be.
13. Being idle or negligent at work.
14. Mismanaging any work.
15. Damaging or destroying any prison property.
16. Setting alight to any inflammable article without authority.
17. Having in his cell or possession an article or thing not furnished by the prison authorities or allowed to be in his possession.
18. Trafficking with another prisoner or detainee or any other person.
19. Disfiguring the walls or other part of a prison in any way or defacing, destroying, or pulling down a paper or notice hung up by the prison authorities in or about any part of a prison.
20. Behaving indecently.
21. Using insulting or threatening language.
22. Cursing or swearing profanely.
23. Being drunk or under the influence of an illegal drug.
24. Behaving irreverently at or during a religious service.
25. Committing a nuisance.
26. Preferring a frivolous complaint.
27. Making or attempting to make a wound or sore on himself.
28. Maiming, injuring, or tattooing himself or any other prisoner or detainee.
29. Feigning illness.
30. Giving or lending to, or borrowing from, another prisoner or detainee any food or other article or thing without leave.
31. Conversing or holding intercourse with another prisoner or detainee, except as authorized by the regulations under this Act.
32. Engaging in disorderly conduct.
33. Instigating or encouraging another prisoner or detainee to engage in disorderly conduct.
34. Committing any act contrary to the good order or maintenance of prison discipline or security.

SCHEDULE III

(Section 45)

TRANSITIONAL PROVISIONS

Interpretation.

1. In this Schedule, "former Act" means the *Prison Act 1868*.

Transitional provisions relating to gaols.

2.—(1) A place of confinement that, immediately before the commencement of this Act, is a gaol within the meaning of the former Act, shall, on that commencement, be deemed to be a prison within the meaning of this Act.

(2) A reference in an Act to a gaol shall, on the commencement of this Act, be construed as a reference to a prison within the meaning of this Act.

Transitional provision relating to the Deputy Controller of Prisons.

3. Where, immediately before the commencement of this Act, the Deputy Controller of Prisons holds office under the former Act as the governor of a gaol referred to in section 4A (2) of that Act, he shall, on that commencement, be deemed to hold office as the superintendent of a prison referred to in section 6 (2) of this Act.

Transitional provisions relating to governors and deputy governors of certain gaols.

4. A person who, immediately before the commencement of this Act is the governor or deputy governor of a gaol referred to in section 4A (2) of the former Act, shall, on that commencement, be deemed to be the superintendent or deputy superintendent, as the case may be, of a prison referred to in section 6 (2).

Transitional provisions in relation to prisoners absent from gaol pursuant to certain licences granted by the Minister.

5. Where, immediately before the commencement of this Act, a person is a prisoner who is absent from a gaol under the authority of a licence granted to him by the Minister under the provisions of section 18B of the former Act—

(a) that person shall, on that commencement, be deemed to be a prisoner who is absent from a prison under the authority of a leave permit within the meaning of this Act; and

(b) any conditions and restrictions to which that licence is subject shall be deemed to be the conditions and restrictions to which that leave permit is subject.