

eSwatini

Prisons Act, 1964

Act 40 of 1964

Legislation as at 1 December 1998

FRBR URI: /akn/sz/act/1964/40/eng@1998-12-01

There may have been updates since this file was created.

PDF created on 21 February 2024 at 15:37.

Collection last checked for updates: 1 December 1998.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Prisons Act, 1964
 Contents

Part I – Preliminary 1

 1. Short title 1

 2. Interpretation 1

Part II – Constitution and administration of Swaziland prisons service 2

 3. Composition of the service 2

 4. Rules 3

 5. Administration of the service 3

 6. Annual report of Director 3

Part III – Functions and protection of prison officers 3

 7. General functions of prison officers 3

 8. Responsibility of officer in charge for stores, etc. 4

 9. Cases where prison officers have the functions and protection of police officers 4

 10. Power to examine persons or vehicles for prohibited articles 4

 11. Arms and use of force by a prison officer 4

 12. Power to take photographs, finger-prints, etc., of prisoners 5

 13. Non-liability for act done under authority of a warrant 5

Part IV – Offences by prison officers 5

 14. Leaving the service without permission 5

 15. Assault on officer senior in rank 6

 16. Miscellaneous offences by prison officers 6

 17. Other offences 6

 18. Prohibition of membership of trade unions 6

 19. Prohibition of dealings with prisoners 7

 20. Search of prison officers 7

 21. Powers of officers holding disciplinary inquiries 7

Part V – Establishment and control of prisons 8

 22. Declaration of prison 8

 23. Temporary prisons 8

 24. Officers in charge 8

 25. Appointment of police officers to perform functions of prison officers 8

 26. Women officers and female prisoners 9

 27. Medical officers 9

Part VI – Admission, control and discharge of prisoners 9

 28. Custody of prisoners 9

29. Detention of remand prisoners	10
30. Custody of persons under arrest	10
31. Prisoners required in court	10
32. Prisoners to be subject to prison discipline	11
33. Maintenance of certain prisoners from private sources	11
34. Separation of male and female prisoners	11
35. Removal of prisoners	11
36. Insane or mentally disordered or defective prisoners	11
37. Removal of sick prisoners to hospital	12
38. Measures for further security of prisoners in hospital	12
39. When prison officer liable for escape of prisoner in hospital or institution	13
40. Employment of prisoners and abolition of hard labour	13
41. Employment of unconvicted prisoners	13
42. Release of prisoners	13
Part VII – Remission of sentences	14
43. Remission of part of sentence of certain prisoners	14
Part VIII – Offences by prisoners	14
44. Prison offences	14
45. Adjudication of offences	14
46. Adjudication and awards: Prison offences	15
47. Adjudication and awards: Certain prison offences	15
48. Punishment for offences of escape, etc.	16
49. Corporal punishment and penal diet	16
50. Prisoner's defence	17
51. Register of punishments	17
52. Segregation of prisoner	17
Part IX – Offences in relation to prisoners	17
53. Trafficking	17
54. Prohibited articles	17
55. Seizures of prohibited articles, etc.	18
56. Trespassing	18
57. Unlawful possession of prison articles	18
58. Incitement, etc., of mutiny, etc.	18
59. Penalty where no penalty specially provided	18
Part X – Extramural penal employment	18

60. Labour of short sentence prisoners	18
Part XI – Miscellaneous	20
61. Visits by clergy and religious services	20
62. Official visitors	20
63. Visiting committee	21
64. Regulations	21
65. Persons unlawfully at large	22

eSwatini

Prisons Act, 1964

Act 40 of 1964

Commenced on 1 September 1964

[This is the version of this document at 1 December 1998.]

An Act to make provision for prisons and the organisation, powers and duties of prison officers and incidental matters.

Part I – Preliminary

1. Short title

This Act may be cited as the Prisons Act, 1964.

2. Interpretation

In this Act, unless the context otherwise requires—

“**appellant prisoner**” means a convicted criminal prisoner who is detained in a prison as a result of a conviction which is the subject matter of an appeal, notice of which has been accepted but the decision in regard to which has not been given;

“**civil prisoner**” means a prisoner other than a criminal prisoner;

“**Chief Medical Officer**” means the person appointed by the Public Service Commission to be Chief Medical Officer;

“**convicted criminal prisoner**” means a criminal prisoner under sentence of a court;

“**criminal prisoner**” means a person duly committed to detention in a prison under the writ, warrant, or order of a court exercising criminal jurisdiction or by order of a court martial;

“**Director**” means the person appointed by the Public Service Commission to be Director of Prisons;

“**disciplinary offence**” means a disciplinary offence under this Act;

“**hospital**” includes a leper asylum but does not include an institution;

“**immigration officer**” has the same meaning as in the Immigration Act [No. 32 of 1964](#);

“**institution**” has the same meaning as in section 2 of the Mental Disorders Act [No. 48 of 1963](#);

“**leper asylum**” has the meaning of asylum in section 2 of the Leprosy Act [No. 23 of 1904](#);

“**magistrate**” means a magistrate appointed under section 4(2)(a) of the Magistrate's Court Act, [No. 66 of 1938](#);

“**magistrates' court**” means a court established under the Magistrate's Court Act, [No. 66 of 1938](#);

“**major prison offence**” means an offence declared by regulation to be a major prison offence;

“**medical officer**” means a medical officer in the department of the Ministry of Health;

“**mentally disordered or defective person**” has the same meaning as in section 2 of the Mental Disorders Act [No. 48 of 1963](#);

“**Minister**” means the Deputy Prime Minister;

“**minor prison offence**” means an offence declared by regulation to be a minor prison offence;

“**offence against prison discipline**” or “prison offence” means a prison offence prescribed by regulation;

“**officer in charge**” means an officer placed in charge, or deemed to have been placed in charge under [section 24](#);

“**official visitor**” means any person referred to in [section 62\(1\)](#);

“**prison**” means a place declared to be a prison under this Act or deemed by it to be a prison and shall include—

- (a) any place or premises (including an institution) to which prisoners may be sent from a prison for the purpose of imprisonment, detention, training, medical attention or otherwise; and
- (b) all offices and quarters used in connexion with the prison;

“**prisoner**” means a person, whether convicted or not, under detention in a prison;

“**prison medical officer**” means a medical officer designated under or deemed to be designated by [section 27\(2\)](#);

“**prison officer**” or “officer” means a member of the service or police officer employed under [section 25\(1\)](#) to be a prison officer;

“**prohibited article**” means an article contained in a list, written in English and siSwati, placed by the officer in charge in a conspicuous place outside a prison signed by the Director or by the officer in charge on his behalf, and containing particulars of the articles which the Director declares to be prohibited;

“**remand centre**” means a place declared under [section 22](#) to be a remand centre and shall include—

- (a) any place or premises at which remand prisoners may be detained for the purpose of awaiting trial;
- (b) all offices and quarters used in connection with such remand centre.

[Added K.O-I-C. 39/1977]

“**senior officer**” means an officer mentioned in [section 3\(2\)\(a\)](#);

“**service**” means the prisons service constituted by [section 3](#);

“**signification of His Majesty's Pleasure**” means the exercise by the King of the powers conferred on him by section 92 of the Constitution;

“**subordinate officer**” means an officer mentioned in [section 3\(2\)\(b\)](#);

“**Swazi Court**” means a court established or recognised under the Swazi Courts Act [No. 80 of 1950](#);

“**unauthorised communication**” means a communication not authorised by this Act;

“**unconvicted criminal prisoner**” means a criminal prisoner not under sentence of a court or court martial;

“**visiting committee**” means the visiting committee appointed under [section 63](#).

[Amended L.33/1966]

Part II – Constitution and administration of Swaziland prisons service

3. Composition of the service

- (1) There is hereby constituted a prisons service, the members of which shall be appointed in accordance with this Act read with the Constitution.

- (2) Unless the Minister by notice in the *Gazette* otherwise directs, the service shall consist of the following—
 - (a) as senior officers the Director, a superintendent of prisons, assistant superintendent of prisons, and chief prison officers;
 - (b) as subordinate officers chief warders, principal warders, warders, wardresses, trade instructors, hospital attendants, drivers, and clerks.

4. Rules

Subject to section 122 read with sections 121 and 116 of the Constitution, any regulations and any other law, the Minister may make rules as to—

- (a) the enlistment, promotion, suspension, reduction in rank, discharge or dismissal of subordinate prison officers;
- (b) the award of such medals as the Minister is empowered by law to award; and,
- (c) generally, as to the administration and maintenance of the service.

5. Administration of the service

- (1) Subject to this Act and any other law, all powers and jurisdiction in relation to prisons and prisoners may be exercised by the Minister.
- (2) The Minister shall be assisted in the performance of his functions relating to prisons by the Director.
- (3) Subject to this Act, the Director may make standing orders, and give administrative directions, to be observed by all officers.
- (4) The Director shall generally supervise prisons and do all such acts as may be necessary for the maintenance of prisons and the maintenance of prisoners.

6. Annual report of Director

- (1) Before the thirty-first day of January in every year, the Director shall make an annual report to the Minister in accordance with subsection (2).
- (2) Such report shall contain—
 - (a) a general review of the administration of prisons;
 - (b) a statement of the accommodation of each prison and the daily average, and highest number of prisoners in each prison.
 - (c) particulars of the work done by prisoners in each prison, including the kind and quantities of articles produced and the number of prisoners employed;
 - (d) a statement of the punishments inflicted in each prison and of the offences for which they were inflicted, with particulars of every case in which an order for corporal punishment was made and of the grounds upon which it was made.

Part III – Functions and protection of prison officers

7. General functions of prison officers

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

- (2) An officer shall be deemed to be available for duty at all times and may at any time be detailed for duty in any part of Swaziland and, if necessary, outside Swaziland.

8. Responsibility of officer in charge for stores, etc.

- (1) An officer in charge of a prison shall be responsible for—
 - (a) the arms, accoutrements, ammunition, clothing and all other public stores and foodstuffs issued and delivered to him for the use of the prison and prison officers under his control;
 - (b) all public money for which he may be held accountable; and,
 - (c) subject to this Act, all valuables, money, articles of clothing and other property entrusted to his keeping as being the property of prisoners.
- (2) An officer in charge of a prison shall account for the articles listed in subsection (1) in case of loss or damage, otherwise than by unavoidable accident, theft, robbery or actual service.

9. Cases where prison officers have the functions and protection of police officers

While in charge of prisoners and for the purpose of conveying any person to or from a prison, or apprehending a prisoner who may have escaped from a prison or while being conveyed to or from a prison, a prison officer shall, subject to this Act, have all the functions and protection of a police officer.

10. Power to examine persons or vehicles for prohibited articles

- (1) A prison officer may examine anything within or being brought out of a prison, and stop and search a person or vehicle within a prison, or going in, or out of a prison, or whether within or without a prison, a person who, or a vehicle which is, without the authority of the officer in charge, close to a prisoner, if he has reason to suspect that the person or vehicle is unlawfully carrying a prohibited article or property belonging to the Government in use in a prison.
- (2) A senior officer on duty in a prison may—
 - (a) refuse admission to the prison to a person who is not willing to be searched;
 - (b) use such force as may be necessary in causing a person, who refuses to be searched, to be searched under subsection (1); and
 - (c) order a person mentioned in paragraph (b) to leave the prison and, if he refuses to do so, he shall be guilty of an offence, and may be removed from the prison on the instructions of the officer and with such force as may be necessary.
- (3) If, on stopping and searching a person or vehicle under subsection (1), a prison officer finds a prohibited article or any property belonging to the Government in use in a prison, he, in addition to his powers under [section 55](#), may arrest that person or the person on the vehicle who appears to have charge of the article or property without warrant, and as soon as practicable, shall cause such person to be handed over to a police officer or, in the absence of a police officer, to be taken to the nearest police station.
- (4) Any search of a woman under this section shall be made by another woman with due regard to decency.

11. Arms and use of force by a prison officer

- (1) The Director may order that officers while on duty and whether within or without a prison shall be armed with firearms or batons provided in connexion with the service.
- (2) A prison officer may use such force against a prisoner as is reasonably necessary in order to make him obey a lawful order which he refuses to obey, or to maintain discipline in a prison.

- (3) If the use of firearms is the only practicable way of controlling a prisoner, a prison officer may use firearms against him if he is—
 - (a) escaping, or attempting to escape, from prison or other lawful custody and, when called upon to return, does not do so;
 - (b) engaged with other persons in breaking out, or attempting to break out, of part of a prison and, when called upon to desist, continues to break out or attempt to break out;
 - (c) engaged with other persons in riotous behaviour and when called upon to desist, continues to engage in riotous behaviour; or
 - (d) endangering the life of, or is likely to inflict grave injury to, such prison officer or to any other prison officer or person.
- (4) A prison officer who in the exercise of his powers under this section wounds or kills a prisoner shall not thereby incur any criminal or civil liability.

[Amended L.33/1966]

12. Power to take photographs, finger-prints, etc., of prisoners

Without prejudice to section 342 of the Criminal Procedure and Evidence Act [No. 67 of 1938](#) and subject to any regulations made for the purpose, the Director may, with the approval of the Minister—

- (a) provide for the photographing, finger-printing, palm-printing, foot-printing and measuring of prisoners; and
- (b) prescribe the time at which, and the manner and dress in which, prisoners shall be photographed, finger-printed, foot-printed, palm-printed and measured and the number of copies of the photographs, prints and measurements of each prisoner which shall be made and the persons to whom they shall be sent.

13. Non-liability for act done under authority of a warrant

- (1) If the defence to a suit instituted against a prison officer is that the act complained of was done in obedience to a warrant purporting to have been issued by a court or other competent authority, the court shall, upon production of the warrant, and proof that the act complained of was done in obedience to the warrant, enter judgment in favour of the prison officer.
- (2) Proof of the signature on such warrant shall not be required unless the court has reason to doubt its genuineness.
- (3) If it is proved that the signature is not genuine, judgment shall, nevertheless, be given in favour of a prison officer if it is proved that, at the time of the act complained of, such officer believed on reasonable grounds that the signature was genuine.

Part IV – Offences by prison officers

14. Leaving the service without permission

- (1) Unless expressly permitted to do so by the Director or some other officer authorised by the Director to grant such permission, a prison officer shall not leave the service, or withdraw himself from duty, or be absent without leave.
- (2) A prison officer who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty emalangeneni or imprisonment not exceeding three months, or both.

- (3) For the avoidance of doubt, it is hereby declared that no one shall be guilty of an offence under this section if he leaves the service on completion of the period of his engagement, save where such completion occurs during a state of war, insurrection, disturbance of the public peace or other emergency or apprehended emergency, in which event, subject to subsection (1), he may be retained and his services prolonged for such period as the Director may direct.

15. Assault on officer senior in rank

A prison officer who assaults, threatens, or insults an officer senior to him in the service, when such senior officer is on duty, or such assault, threat, or insult relates to, or is consequent upon, the discharge of duty by the officer so assaulted, threatened, or insulted, shall be guilty of an offence and liable on conviction to a fine not exceeding fifty emalangeni or imprisonment not exceeding three months, or both.

16. Miscellaneous offences by prison officers

A prison officer shall be guilty of an offence and liable on conviction to a fine not exceeding fifty emalangeni or imprisonment not exceeding three months, or both, if—

- (a) without lawful authority, he, knowingly suffers any intoxicating liquor, tobacco, dagga, or hemp, drug, opiate, money, clothing, provisions, letter or other document or other articles to be sold to, or received from, or used by, or on behalf of, a prisoner;
- (b) without lawful authority, he lends or gives to a prisoner any intoxicating liquor, tobacco, dagga or hemp, drug, opiate, money, clothing, provisions, letter or other document or other article;
- (c) without lawful authority, he knowingly suffers any letter or other document or other article to be brought out of a prison or to be conveyed from a prisoner; or,
- (d) otherwise than in the course of his duties and without the permission of the Minister or other lawful authority he informs any other persons of a matter concerning a prison or a prisoner, or derived from official sources connected with or related to, the service.

17. Other offences

A prison officer or any other person with a duty towards prisoners shall be guilty of an offence and liable on conviction to a fine of fifty emalangeni or imprisonment not exceeding two months, or both, if he—

- (a) sells or supplies, or receives, directly or indirectly, any benefit or advantage from the sale or supply of an article to or for the use of a prisoner or for the use of a prison;
- (b) has an interest directly or indirectly in a contract or an agreement for the sale or supply of such an article;
- (c) has a pecuniary interest directly or indirectly in the purchase of any prison supplies;
- (d) receives any discounts, gifts, or other consideration from contractors for, or sellers of, prison supplies;
- (e) has any pecuniary dealing with prisoners or with their friends with regard to prisoners;
- (f) holds an unauthorised communication with a person on behalf of a prisoner;
- (g) does, or omits to do, something which assists a prisoner to escape, or attempt to escape, from prison or other lawful custody.

[Amended L.33/1966]

18. Prohibition of membership of trade unions

- (1) A prison officer who is a member of a trade union, or any other association, the object, or one of the objects, of which is to control or influence salaries, wages, pensions or conditions of service of

prison officers, or any other class of persons, shall subject to the laws relating to the Public Service be liable, at the discretion of the Minister, to be dismissed from the service and to forfeit any rights to a pension or gratuity.

- (2) The decision of the Minister that a body is a trade union or an association to which this section applies shall be final.
- (3) This section shall not be deemed to prohibit prison officers becoming members of a prison officers staff association approved of by the Minister by notice published in the *Gazette*.

19. Prohibition of dealings with prisoners

A prison officer shall be guilty of an offence and liable on conviction to a fine not exceeding twenty emalangenzi or imprisonment not exceeding one month, or both, if he—

- (a) receives a fee or gratuity from, or has any business dealings with prisoners or with visitors to a prison or with friends of those visitors;
- (b) corresponds with, or holds any intercourse with, the friends or relatives of a prisoner unless expressly authorised so to do by the officer in charge;
- (c) gives a certificate or testimonial to, or in respect of, a prisoner as regards his conduct in prison or otherwise, unless authorised to do so by the Director; or
- (d) conveys any communication or article to or from a prisoner save in accordance with this Act or any orders or directions the Director may give.

20. Search of prison officers

- (1) A prison officer may be searched at any time on the orders of a prison officer senior in rank to him.
- (2) The officer in charge of a prison may in his discretion and at any time order the quarters occupied by a prison officer to be searched by a prison officer senior in rank to such officer.

21. Powers of officers holding disciplinary inquiries

- (1) A prison officer conducting an inquiry in accordance with this Act into a disciplinary offence alleged to have been committed by a prison officer may—
 - (a) summon and examine witnesses on oath or affirmation;
 - (b) require the production of all documents relevant to the inquiry; and
 - (c) adjourn a hearing from time to time.
- (2) A person summoned as a witness under subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding twenty emalangenzi or imprisonment not exceeding one month if he—
 - (a) fails to attend at the time and place mentioned in the summons or on adjournment; or
 - (b) refuses to answer a question lawfully put to him.
- (3) No person so summoned shall be obliged to answer any question which may tend to incriminate him or render him liable to a forfeiture or penalty.
- (4) An officer inquiring into a disciplinary offence may recommend to the Minister that witnesses appearing before him be paid out of public funds allowances on a scale corresponding to the tariff of allowances prescribed under section 207 of the Criminal Procedure and Evidence Act, [No. 67 of 1938](#).

Part V – Establishment and control of prisons

22. Declaration of prison

- (1) The Minister may by notice published in the *Gazette* declare—
 - (a) any building, enclosure, or other place or part thereof to be a prison or remand centre;
[Amended K.O-I-C. 39/1977]
 - (b) that any prison shall cease to be a prison.
- (2) If in any writ, warrant, or other legal instrument it is necessary to describe a particular prison a description designating the prison by reference to the name of the town or other place where it is situated, or any other definite description, shall be valid and sufficient for all purposes.

23. Temporary prisons

- (1) The Director may, with the approval of the Minister, issue directions for the shelter and safe custody in temporary buildings, enclosures, or other places of as many of the prisoners as cannot be conveniently or safely kept in the prison if it appears to him that the number of prisoners in a prison is greater than may be conveniently kept in such prison and that it is not convenient to transfer the excess number to some other prison, or that owing to the outbreak of epidemic disease within such prison or for any other reason, it is desirable to provide for the temporary shelter or safe custody of any such prisoners.
- (2) Such temporary place shall be deemed to be a prison for the purposes of this Act notwithstanding [section 22](#).

24. Officers in charge

- (1) The Director may place a senior prison officer in charge of a prison to be known as the officer in charge.
- (2) If such officer has not been placed in charge the administrative officer in charge of the region in which the prison is situated, or, in his absence, the next senior administrative officer of that region, shall be deemed to have been placed in charge.
- (3) The officer in charge shall control and supervise all matters in connexion with the prison to which he is appointed, and cause such records to be kept as the Director may direct.
- (4) The officer in charge shall be responsible to the Director for the conduct and treatment of prison officers and prisoners under his control, and for the due observance of this Act, and of the standing orders and administrative directions under [section 5](#) by prison officers and prisoners as are applicable to them.

25. Appointment of police officers to perform functions of prison officers

- (1) If the number of prison officers detailed for duty in a prison is insufficient to ensure the good management or government thereof, the officer in charge of the prison may, with the consent of the Commissioner of Police, employ temporarily such number of police officers as he may consider necessary to perform the functions of prison officers in that prison.
- (2) A police officer employed under subsection (1) shall in the prison have all the powers and perform all the duties of a prison officer of the class to which the officer in charge shall appoint him.
- (3) If, on the removal of a prisoner from a prison, the staff of warders is insufficient to provide escort for the prisoner, the officer in charge of the prison from which the prisoner is to be removed may deliver the prisoner to a police officer who may be detailed for the duty.

- (4) Upon delivery under subsection (3), the police officer shall have the same powers and be subject to the same responsibilities, discipline, and penalties and to the same authorities as a prison officer would have and be subject to in like circumstances.

26. Women officers and female prisoners

In a prison in which there are female prisoners, the officer in charge shall designate a woman prison officer to have the care and the superintendence of the female prisoners, and to be responsible for their discipline.

27. Medical officers

- (1) There shall be a medical officer for a prison.
- (2) The Chief Medical Officer may designate a medical officer as medical officer for a prison, and if a medical officer has not been so designated, the senior medical officer in the region in which the prison is situated or, in his absence, the next senior medical officer in that region shall be deemed to have been so designated.
- (3) The prison medical officer shall be responsible for the health of all prisoners in the prison, and shall cause all the prisoners to be medically examined at the prescribed times.
- (4) Whether or not the prisoner consents, a medical officer may take or direct to be taken such action, including the feeding, inoculation, vaccination, and other treatment of the prisoner as he considers necessary to safeguard or restore the health of a prisoner, or prevent the spread of disease.
- (5) No action at law shall lie against a medical officer, prison officer or other person in respect of anything done in good faith under, or pursuant to directions given under, subsection (4).

Part VI – Admission, control and discharge of prisoners

28. Custody of prisoners

- (1) A person detained in a prison shall be deemed to be in the lawful custody of the officer in charge of the prison.
- (2) A person shall not be admitted for detention in a prison unless accompanied by—
 - (a) an order or warrant of detention, remand, commitment or conviction under the hand of a person authorized by law to sign or endorse such order or a warrant; or
 - (b) a certificate, under the hand of an immigration officer, to the effect that the person is to be detained in accordance with the requirements of the Immigration Act, [No. 32 of 1964](#);
 - (c) a certificate, under the hand of a police officer of the rank of inspector or above, to the effect that the person is to be detained in custody in accordance with the requirements of the law relating to arrest without warrant.
- (3) A person shall not be detained as a result of a certificate under either paragraphs (b) or (c) of subsection (2) for a period longer than the minimum period of detention permitted by the appropriate law in question and the certificate in question shall not be a lawful authority for the detention after the expiry of that period.
- (4) The officer in charge of the prison shall, before admission of the person in accordance with subsection (2), satisfy himself that—
 - (a) such person is the person named in the order, warrant or certificate, as the case may be, and

- (b) the order, warrant or certificate, as the case may be, bears the signature of a person referred to in subsection (2)(a) or of an officer referred to in subsection (2)(b) or (c) as the case may be, and is, in all other respects, in order.
- (5) Without prejudice to section 36 of the Criminal Procedure and Evidence Act [No. 67 of 1938](#), the officer in charge of a prison shall not refuse to admit a person for detention merely on the ground that there is a defect in form apparent on the face of the order, warrant or certificate accompanying such person but shall, as soon as practicable, take steps to have such defect corrected.
- (6) A prisoner who is being removed or transferred from one prison to another shall, while outside a prison be kept in the custody of the prison officer directed to convey him, and be deemed to be in the lawful custody of the prison at which such prison officer is serving.
- (7) Subject to such conditions as the Director may specify, an unweaned infant of a female prisoner may be received into the prison with its mother, and be supplied, at the public expense, with clothing and other necessary things.
- (8) After the weaning of a child received into prison under subsection (7), the officer in charge of the prison shall, if satisfied that it is in the best interests of the child, cause such child to be handled over to relatives or friends of the child who are able and willing to support the child, or to the care of such welfare authority as the Minister may approve for such purpose.

29. Detention of remand prisoners

- (1) A person charged with an offence who has been remanded to a prison or remand centre by a court or other competent authority, shall be delivered to the officer in charge of the prison, or remand centre together with the warrant of commitment.
[Amended K.O-I-C. 39/1977]
- (2) The officer in charge shall detain such person according to the terms of such warrant and cause him to be delivered to such court or competent authority, or discharge him at the time stated in the warrant and according to the terms thereof.

30. Custody of persons under arrest

A person arrested in pursuance of any warrant or order of a court may, if such court is not sitting, be handed over to the custody of the officer in charge of a prison who shall cause him to be brought before such court at its next sitting.

31. Prisoners required in court

- (1) Subject to this section and to section 205 of the Criminal Procedure and Evidence Act [No. 67 of 1938](#), if the presence of a prisoner is required by a court, it may issue an order addressed to the officer in charge of the prison requiring the production of the prisoner in proper custody before such court at the time and place stated in the order.
- (2) The officer in charge shall cause the prisoner named in the order to be produced as required, and provide for his safe custody during his absence from prison.
- (3) The court may, by endorsement on such order, require the prisoner named therein again to be produced before such court at any time to which the case, in which the prisoner is to appear, may be adjourned.
- (4) A prisoner taken from a prison in pursuance of an order made under this section shall, whilst outside the prison be kept in such custody as the officer in charge may direct, and whilst in such custody, be in lawful custody.

- (5) A prisoner who is on remand or committed for trial and who is required to attend a court may for such purpose be taken into police custody at the prison in which he is detained, and shall remain in such custody until he is returned to such prison or discharged by such Court.

32. Prisoners to be subject to prison discipline

- (1) Whether or not he is within the precincts of a prison, a prisoner shall be subject to this Act and to prison discipline during the whole time of his detention.
- (2) Subject to any regulations made for such purpose a prisoner may petition the Minister.

33. Maintenance of certain prisoners from private sources

- (1) A civil prisoner and an unconvicted criminal prisoner may, subject to examination and to such other conditions as may be prescribed, be permitted to maintain himself, and at proper hours to purchase food, clothing, or other necessaries or receive them from private sources.
- (2) Food, clothing, or other necessaries belonging to a civil prisoner or an unconvicted criminal prisoner shall not be given, hired, lent, or sold to any other prisoner.
- (3) A prisoner who is found by the officer in charge to have contravened sub-section (2) may at the discretion of such officer lose the privileges of purchasing or receiving food, clothing or other necessaries from private sources for such period as such officer may think proper.
- (4) A civil prisoner and an unconvicted criminal prisoner shall receive the regular prison food and clothing if he does not provide himself with food or clothing, or if the food or clothing he has provided for himself is, in the opinion of the officer in charge, unsatisfactory.

34. Separation of male and female prisoners

Male and female prisoners shall be confined in separate prisons or in separate sections of the same prison in such manner as to prevent, as far as practicable, their seeing, or conversing or otherwise communicating with each other.

35. Removal of prisoners

- (1) The Director may in his discretion order the removal to any prison of any prisoner on being sentenced or during his confinement.
- (2) If practicable, a prisoner due for release shall be released from a prison situated in the region to which he belongs.

36. Insane or mentally disordered or defective prisoners

- (1) The prison medical officer shall give special attention to and shall examine a person with reference to his mental state who is detained in a prison—
 - (a) upon an order of court for observation and report on his mental condition; or
 - (b) in the circumstances referred to in section 4 of the Mental Disorders Act, [No. 48 of 1963](#).
- (2) Subject to the Mental Disorders Act, [No. 48 of 1963](#), or any other law, the medical officer shall examine a person with reference to his mental state detained in a prison by reason of insanity or mental disorder or defect at monthly intervals.
- (3) The period during which a prisoner is lawfully detained in an institution shall be deemed to form part of the period of his imprisonment.

- (4) A prisoner who is lawfully detained in an institution, and whose period of imprisonment expires whilst he is so detained, shall be dealt with in accordance with the Mental Disorders Act, [No. 48 of 1963](#) as a patient in that institution.
- (5) A prisoner who is lawfully detained in an institution, and who, in the opinion of the Chief Medical Officer acting on the advice of the superintendent of the institution, should no longer be so detained, shall, if he is still liable to be detained in such a prison, be delivered by the superintendent of such institution into the custody of the officer in charge of such prison.
- (6) If, in accordance with section 165 (3) of the Criminal Procedure and Evidence Act [No. 67 of 1938](#), an accused person has been committed to a prison or has been ordered to be kept in custody in a prison pending the signification of His Majesty's pleasure, such person shall be detained in such prison pending such signification.
- (7) A convicted prisoner declared by the High Court to be an insane or a mentally disordered or defective person shall remain in the institution named in the order providing for his detention until he is discharged in accordance with such order or otherwise by law.
- (8) A prisoner who has been discharged in the circumstances referred to in sub-section (7), and has not completed the sentence in respect of which he was committed to prison, shall be delivered by the superintendent of such institution to the officer in charge of such prison for completion of the sentence.
- (9) A prisoner who has been so discharged, and who has completed such sentence, shall forthwith be released from custody.
- (10) When he examines a person under this section the medical officer responsible for the prison shall call for any previous reports and record his findings in writing and the officer in charge of the prison shall keep such findings in the file of documents relating to such person.

37. Removal of sick prisoners to hospital

- (1) If a person detained in a prison is ill and there is not suitable accommodation for him therein, the officer in charge of such prison may on the advice of the prison medical officer make an order for the removal of such prisoner to a hospital, but in a case of emergency such removal may be ordered by the officer in charge without the advice of the medical officer.
- (2) The period during which a prisoner is in a hospital after removal to it in accordance with this section shall be deemed to form part of the period of his imprisonment.
- (3) If the medical officer in charge of a hospital considers that the health of a prisoner removed to such hospital in accordance with this section no longer requires his detention in such hospital, he shall inform the officer in charge of the prison accordingly, who shall thereupon cause the prisoner to be brought to the prison if he is still liable to be detained therein.
- (4) The medical officer in charge of a hospital and the other officers and employees thereof shall take all reasonable precautions and subject to subsection (5) may take such measures as are necessary to prevent the escape of a prisoner who may at any time be under treatment in the hospital.
- (5) Nothing shall be done under the authority of subsection (4) which in the opinion of the medical officer in charge of the hospital is likely to be prejudicial to the health of such prisoner.

38. Measures for further security of prisoners in hospital

- (1) If, because of the gravity of the offence for which a prisoner may be detained or for any other reason, the officer in charge considers it desirable to take special measures for the security of the prisoner while under treatment in hospital, he may give such prisoner into the charge of fit and proper persons, not being less than two in number of whom one shall always be with the prisoner day and night.

- (2) The persons referred to in subsection (1) shall have full power and authority to do all things necessary to prevent the prisoner from escaping and shall be answerable for his safe custody until such time as he is handed over to the officer in charge of the prison on his discharge from hospital or until such time as his sentence expires, whichever first occurs.

39. When prison officer liable for escape of prisoner in hospital or institution

If a prisoner escapes during the time he is in a hospital or institution—

- (a) a prison officer shall not be held answerable for the escape unless the prisoner has been in his personal custody, and
- (b) a medical officer, superintendent, or any other person shall not be held answerable for such escape unless it can be shown that he has helped the prisoner to escape or has wilfully neglected to take reasonable precautions to prevent such escape.

40. Employment of prisoners and abolition of hard labour

- (1) A sentence of imprisonment passed upon a criminal prisoner shall subject the prisoner during the period of the sentence to imprisonment and to work at such labour as may, with the general approval of the Director, be directed by the officer in charge of the prison and, as far as practicable, such labour shall take place in association or outside cells.
- (2) Notwithstanding any other law, no person shall be sentenced by a court to imprisonment with hard labour.
- (3) A law conferring power on a court to pass a sentence of imprisonment with hard labour in any case shall be construed as conferring a power to pass a sentence of imprisonment for a period not exceeding a period for which a sentence of imprisonment with hard labour could have been passed in such case immediately before the commencement of this Act.
- (4) Any provision in any law which provides that any person sentenced to imprisonment or committed to prison is, or may be, directed to be subjected to any special form of imprisonment, shall cease to have effect.
- (5) The prison medical officer may order that a prisoner be excused labour, or perform light labour, and a prisoner ordered to perform light labour shall be required to work on any labour which the medical officer considers him fit to perform.

41. Employment of unconvicted prisoners

- (1) The officer in charge of a prison shall require civil prisoners and unconvicted criminal prisoners to keep their cells, the precincts of their cells, and their furniture, clothing and utensils clean.
- (2) Such prisoners may at their own request be given employment, other than that referred to in subsection (1).
- (3) The officer in charge shall require appellant prisoners to keep their cells, the precincts of their cells, and their furniture, clothing and utensils, clean, and to perform, such other work as the Director may with the approval of the Minister order.

42. Release of prisoners

- (1) The officer in charge of the prison shall be responsible for the due discharge of all prisoners immediately upon their becoming entitled to discharge.
- (2) No person who has become entitled to discharge and is under treatment by the medical officer responsible for the prison, shall be discharged from prison, except at his own request, until, in the opinion of the medical officer, the discharge can be effected without danger to such prisoner's health.

- (3) Subject to this section, all prisoners shall be discharged before midday on the date on which they are entitled to be discharged but, if such date falls on a Sunday or a public holiday, they shall be released before midday of the day preceding such Sunday or public holiday, or, if such day is a Sunday or a public holiday, on the nearest preceding day which is not a public holiday or a Sunday.

Part VII – Remission of sentences

43. Remission of part of sentence of certain prisoners

- (1) Subject to this Act, criminal prisoners sentenced to imprisonment, for a period exceeding one month, whether by one sentence or consecutive sentences, may, by industry and good conduct, earn a remission of one-third of the remaining period of such sentence:

Provided that in no case shall—

- (a) remission earned result in the release of a prisoner until he has served one month; and
 - (b) remission be granted to a prisoner sentenced to be detained pending the signification of His Majesty's pleasure.
- (2) A prisoner sentenced to imprisonment for life shall, for the purposes of this section, be deemed to be a prisoner sentenced to imprisonment for twenty years.
 - (3) For the purpose of giving effect to this section, a prisoner on admission shall be credited with the full amount of remission to which he would be entitled at the end of his sentence or sentences as if he would not lose such remission.
 - (4) A prisoner may lose remission as a result of its forfeiture upon his being found guilty of an offence against prison discipline.
 - (5) A prisoner shall not earn any remission in respect of a period spent in hospital through his own fault or while malingering, or while undergoing confinement in a separate cell as punishment for a prison offence.
 - (6) The Director may restore, in whole or in part, remission forfeited.

[Amended L.33/1966]

Part VIII – Offences by prisoners

44. Prison offences

- (1) The Minister may prescribe what acts or omissions by prisoners constitute prison offences.
- (2) The Minister shall, in so prescribing, declare which of such offences are minor prison offences and which are major prison offences.

45. Adjudication of offences

- (1) Any person having knowledge of an apparent prison offence shall forthwith report it to the officer in charge of the prison who shall, subject to this Act, adjudicate on it with the least possible delay.
- (2) Such officer shall inform the Director of any alleged prison offence which is an offence of a kind referred to in [section 47\(3\)](#).
- (3) If an alleged prison offence is also an offence under any law, including common law, and such officer is of the opinion that the offence, by reason of its gravity, should not be dealt with by him, he may, with the approval of the Director, cause the facts to be reported to the police for investigation with a view to prosecution under such law.

- (4) A conviction or acquittal, as the result of a prosecution under such law shall be a bar to further proceedings in respect of such alleged prison offence.

46. Adjudication and awards: Prison offences

An officer in charge of a prison who, in accordance with this Act, adjudicates on a prison offence may, if he finds the prisoner guilty, make one or more of the following awards—

- (a) forfeiture of remission of a period of a sentence not exceeding a prescribed period;
- (b) forfeiture or postponement of privileges for a prescribed period;
- (c) exclusion from association or from associated work, for a period not exceeding a prescribed period;
- (d) solitary confinement for a period not exceeding a prescribed period; or
- (e) penal diet for a period not exceeding a prescribed period.

47. Adjudication and awards: Certain prison offences

- (1) The officer in charge of a prison shall, unless he is also an administrative officer, stop any adjudication he has commenced on any serious or repeated offence against prison discipline in respect of which such award as he may make under [section 46](#) is, in his opinion, inadequate, and shall, without entering a finding or making any award, direct in writing that such offence be adjudicated on by such magistrate or administrative officer as he may designate and such magistrate or officer shall adjudicate accordingly.
- (2) The person adjudicating on an offence mentioned in subsection (3)(a) shall hear evidence on oath or affirmation.
- (3) An officer in charge who is also an administrative officer, or a magistrate adjudicating under subsection (1) may make one or more of the awards referred to in subsection (4), if he finds the prisoner guilty of any—
 - (a) prison offence, by whatever name called, involving gross violence to a person; or
 - (b) other serious or repeated offence against prison discipline.
- (4) The following awards may be made under subsection (3)—
 - (a) forfeiture or remission of a period of sentence not exceeding a prescribed period;
 - (b) forfeiture or postponement of privileges for a prescribed period;
 - (c) exclusion from association, or from associated work, for a period not exceeding a prescribed period;
 - (d) solitary confinement for a period not exceeding a prescribed period; or
 - (e) penal diet for a period not exceeding a prescribed period; or
 - (f) subject to this Act, corporal punishment in respect of a prison offence referred to in subsection (3)(a).
- (5) Where an officer making an award under this section is neither entitled nor empowered to preside over a magistrate's court of the first class, the award shall be subject to review and confirmation by the administrative officer in charge of the region in which the prison is situated.
- (6) A prisoner who escapes from lawful custody while serving a sentence of imprisonment shall, upon recapture, be liable to complete the sentence of imprisonment which he was serving at the time of his escape in addition to any other punishment which may be awarded in respect of his escape.

[Amended L.33/1966]

48. Punishment for offences of escape, etc.

- (1) A prisoner shall be guilty of an offence and liable, on conviction, to imprisonment not exceeding two years which shall commence after the expiry of any other sentence which he was serving at the time of his offence if he—
 - (a) escapes, or attempts to escape, from prison or other lawful custody;
 - (b) mutinies or incites any other person to mutiny;
 - (c) conspires with any other person to procure the escape of a prisoner from prison or other lawful custody;
 - (d) assists, or incites, any other prisoner to escape from prison or other lawful custody; or
 - (e) is in possession of anything with the intention of using it to procure his own escape or that of any other prisoner.
- (2) A person who knowingly harbours or employs a prisoner who is unlawfully at large shall be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred emalangeni or imprisonment not exceeding six months, or both.

49. Corporal punishment and penal diet

- (1) Notwithstanding section 306 of the Criminal Procedure and Evidence Act, [No. 67 of 1938](#), if, corporal punishment is awarded under this Part, the officer making the award shall, by order, specify the number of strokes to be inflicted, which shall not exceed fifteen and the instrument with which they are to be inflicted.
- (2) The officer in charge of the prison shall cause such order to be recorded in the register of punishments kept under [section 51](#).
- (3) If corporal punishment is so awarded, no additional punishment by way of solitary confinement or penal diet shall be awarded.
- (4) The officer in charge of the prison shall arrange for a medical officer to attend at the infliction of corporal punishment.
- (5) Such medical officer may give such orders as he considers necessary in order to prevent injury to the health of the offender, and such orders shall be carried out before such corporal punishment is inflicted.
- (6) If, during the course of infliction of the punishment, the medical officer orders it to be discontinued, it shall be discontinued.
- (7) Corporal punishment shall not be inflicted upon a female prisoner, a male prisoner under sentence of death or over the age of forty-five years, or a civil prisoner.
- (8) A prisoner shall not be subjected to penal diet or corporal punishment until he has been certified as medically fit to undergo it by a medical officer, or any other person appointed by a medical officer for such purpose.
- (9) Penal diet shall not be combined with labour.
- (10) An award of corporal punishment shall be reviewed by a judge who may confirm the award with or without a restriction as to the number of strokes, or set it aside, and such punishment shall not be inflicted unless the award is so confirmed.
- (11) If corporal punishment is awarded, the officer making the award shall forthwith transmit to the Registrar of the High Court for review by a judge—
 - (a) the original notes of the evidence given at the inquiry,

- (b) the terms of the award, and
 - (c) a statement of the grounds on which it was made.
- (12) As an alternative award to an award of corporal punishment, the officer making the award of corporal punishment may in his discretion make such other award as he is empowered to make, and such alternative award shall apply only if the award of corporal punishment is not confirmed under subsection (10).
- (13) Such officer may make any other award he is empowered to make if the award of corporal punishment is not so confirmed and no alternative award has been so made.

[Amended L.33/1966]

50. Prisoner's defence

A prisoner shall not be punished for a prison offence until he has had an opportunity of hearing the charge against him and making his defence.

51. Register of punishments

The officer in charge shall cause a record of all punishments imposed upon prisoners showing, in respect of each prisoner punished, his full name, the nature of his offence, and the extent of his punishment, to be entered in a register which shall be open to inspection by official visitors and the visiting committee.

52. Segregation of prisoner

If it appears to the officer in charge that it is desirable for the good order and discipline of the prison for a prisoner to be segregated and not to work or be located in association with other prisoners, the officer may order the segregation of such prisoner for such period as he considers necessary.

Part IX – Offences in relation to prisoners

53. Trafficking

- (1) A person shall be guilty of an offence if, without lawful authority, he—
- (a) conveys, supplies or causes to be conveyed or supplied to a prisoner, whether within or without a prison, or hides or places, for his use, any letter or other document or any intoxicating liquor, tobacco, dagga or hemp, drug, opiate, money, clothing, provisions or any other kind of article;
 - (b) brings or attempts to bring by any means whatever into a prison, or places or attempts to place where prisoners are to labour, a letter or other document or any intoxicating liquor, tobacco, dagga, or hemp, drug, opiate, money, clothing or provisions;
 - (c) brings or attempts to bring out of a prison, or conveys from a prison, any letter or other document; or
 - (d) communicates with a prisoner.
- (2) A person convicted of contravening subsection (1) shall be liable to imprisonment not exceeding six months or a fine not exceeding one hundred emalangenis, or both.

54. Prohibited articles

- (1) A person shall be guilty of an offence, if without lawful authority, he brings or in any manner introduces, a prohibited article into a prison, or takes a prohibited article out of, or removes it from, a prison.

- (2) A person convicted of contravening subsection (1) shall be liable to imprisonment not exceeding three months or a fine not exceeding fifty emalangeni, or both.

55. Seizures of prohibited articles, etc.

Whether or not criminal or disciplinary proceedings are commenced against any person, and whether or not the article in question is found on a person or in a vehicle, a prison officer may seize any article unlawfully in a prison, and the Director may order the confiscation of such article.

56. Trespassing

- (1) A person shall be guilty of an offence and may be arrested, without warrant, by a prison officer or a police officer, if without lawful authority, he enters or remains within a prison (including a place where prisoners are working), and, on being requested to leave refuses to do so.
- (2) A person convicted of contravening subsection (1) shall be liable to a fine not exceeding fifty emalangeni or imprisonment not exceeding three months, or both.

57. Unlawful possession of prison articles

A person shall be guilty of an offence and liable, on conviction, to a fine not exceeding fifty emalangeni or imprisonment not exceeding three months, or both, if—

- (a) he is found in possession of any kind of article which has been supplied to a prison officer for use on duty, or of other prison property, and fails to account satisfactorily for his possession of it; or
- (b) without due authority, he purchases or receives any such article or property from a prison officer; or
- (c) he aids or abets a prison officer to sell or dispose of any such article or property.

58. Incitement, etc., of mutiny, etc.

A person shall be guilty of an offence and liable, on conviction, to imprisonment not exceeding two years or a fine not exceeding two hundred emalangeni, or both, if—

- (a) directly or indirectly he instigates, commands, counsels, or solicits any mutiny, sedition, or disobedience to a prison officer's lawful command; or
- (b) he maliciously endeavours to seduce a prison officer from his allegiance or duty.

59. Penalty where no penalty specially provided

A person convicted of an offence under this Act in respect of which a penalty is not specially provided shall be liable to a fine not exceeding fifty emalangeni or imprisonment not exceeding three months, or both.

Part X – Extramural penal employment

60. Labour of short sentence prisoners

- (1) Notwithstanding this Act or any other law, but subject to this section, a person, who has been sentenced by a court to imprisonment not exceeding six months or who has been committed to prison by a court for non-payment of a fine not exceeding one hundred emalangeni, may, with his consent, be ordered by the court or an administrative officer, to perform public work outside the prison for such period as the court considers fit in lieu of imprisonment, not, however, exceeding such period of imprisonment.
- (2) If such person was sentenced by a Swazi Court his consent to be so employed shall be given before an administrative officer of the region concerned.

- (3) If such order is made against a person he shall be so employed under the supervision of such person appointed by a regional secretary of the region for such purpose and for such period, not exceeding eight hours a day, as the person so appointed may, in his discretion, decide.
- (4) No prison officer may be appointed under subsection (3).
- (5) The person appointed under subsection (3) shall notify the person against whom an order has been made under subsection (1) of the place, nature, hours, and any other necessary details of the public work to be performed.
- (6) If a person against whom an order has been made under subsection (1) is found by a medical officer to be medically unfit to perform the work in question, he shall forthwith be removed to prison and there undergo the imprisonment to which he is liable, subject, however, to a deduction from the period of imprisonment of the number of complete days, if any, on which he was employed on public work outside the prison.
- (7) Section 43 shall also apply to a person who is employed on public work under this section.
- (8) If the person appointed under subsection (3) is satisfied that a person whom he was appointed to supervise has, without reasonable cause or excuse—
 - (a) failed to present himself for work at the notified place and hour;
 - (b) absented himself from his work; or
 - (c) failed to perform a particular day's work, or is otherwise unsatisfactory in his conduct, he shall report the facts to the Regional Administrator of the region.
- (9) The Regional Administrator to whom a report is made under subsection (8) may, after affording the person in respect of whom the order was made an opportunity of being heard and of calling any relevant evidence, order such person to undergo the imprisonment imposed by the court, or award loss of remission of sentence not exceeding twenty-eight days, or both.
- (10) If under subsection (9) such person is ordered to undergo the imprisonment imposed by the court he shall, forthwith be removed to prison and there undergo the imprisonment to which he is liable, subject, however, to a deduction from the period of imprisonment of the number of complete days, if any, on which he was employed on public work outside the prison.
- (11) A person ordered under subsection (1) to perform public work who without reasonable cause or excuse—
 - (a) fails to present himself for work at the notified place and hour;
 - (b) absents himself from his work; or
 - (c) fails to perform a particular day's work;or who is otherwise found by the court to have been unsatisfactory in his conduct, shall notwithstanding any action taken under subsection (9) by the Regional Administrator, be guilty of an offence and liable, on conviction, to a fine not exceeding one hundred emalangeni or three months imprisonment, or both.
- (12) The person appointed under subsection (3) shall maintain a record of persons ordered to perform public work under his supervision.
- (13) Such record shall in respect of every person so employed contain—
 - (a) his full names and address;
 - (b) his place of origin;
 - (c) length of his sentence or period of detention;
 - (d) the date of commencement of such sentence;

- (e) the date he is due for release; and
 - (f) the work that he has been ordered to perform.
- (14) If a person ordered to perform public work under subsection (1) becomes sick whilst employed on such work he shall be medically examined, and, if necessary, admitted to hospital.
- (15) A period spent in hospital by a person admitted thereto under subsection (14) shall be reckoned as part of any sentence of imprisonment imposed upon him.
- (16) The Regional Administrator shall at public expense arrange for a person performing public work in accordance with this section to receive—
- (a) a diet equivalent in nutritive value to that which he would have received in prison; and
 - (b) suitable accommodation if the place of work is situated at an unreasonable distance from the home of that person.

[Amended L.33/1966]

Part XI – Miscellaneous

61. Visits by clergy and religious services

- (1) Ministers of religion or other accredited representatives of a religious body recognised by the Minister in his discretion, and whose visits are approved by the Regional Administrator of the region concerned, may, at such hours and places as may be prescribed, or if they are not prescribed, at such hours and places as the officer in charge may permit, be admitted to the prison to visit prisoners desirous of their services, and be permitted to hold religious services therein.
- (2) Notwithstanding subsection (1), the officer in charge of a prison shall allow such ministers of religion as he, or the Director or the Regional Administrator, may approve to visit prisoners of the respective denominations.
- (3) Subject to this section, a person shall be allowed to attend religious services of his denomination, and be visited by a minister of his denomination.

62. Official visitors

- (1) The following shall be *ex officio*, official visitors to prisons—
- (a) the Minister,
 - (b) all judges,
 - (c) all magistrates,
 - (d) all regional secretaries of the region in which the prison is situated unless such regional officer is, by [section 24](#), deemed to be the officer in charge of such prison, and
 - (e) the chief medical officer.
- (2) An official visitor may, at any time visit a prison, and enter any observations, which he may think fit to make with reference to the conditions of the prison and the prisoners, in a visitors' book to be kept for the purpose by the officer in charge.
- (3) The officer in charge shall inform the Director of any observations so entered in the visitors' book.

63. Visiting committee

Subject to any regulations made for the purpose, the Minister may appoint a visiting committee to each prison for the purpose of reporting to him on the management of the prison, and the treatment of prisoners there.

64. Regulations

- (1) The Minister may, by notice published in the *Gazette*, make regulations for the effective administration of this Act, the good management and government of prisons and the discipline and safe custody of prisoners.
- (2) Without prejudice to the generality of the foregoing, such regulations may, provide for—
 - (a) the constitution of a visiting committee, the appointment of members thereof, the functions thereof and the term of office and privileges of members thereof;
 - (b) the inspection of prisons;
 - (c) the visits of ministers of religion and such other accredited representatives mentioned in [section 61\(1\)](#), the holding of religious services by them and the recording of the denominations of prisoners;
 - (d) the classification of prisons and prisoners into categories and their separation accordingly;
 - (e) the duties and responsibilities of prison officers or of particular classes of prison officers, including the taking of a prescribed oath or the making of a declaration of allegiance or both;
 - (f) the disciplinary control of prison officers;
 - (g) the duties of a prison medical officer, the medical inspection of prisons and prisoners and the prevention of contagious diseases in prison;
 - (h) the safe custody, management, organization, hours, mode and period of employment, clothing, maintenance, instruction, discipline, treatment, restraint, correction and discharge of prisoners;
 - (j) the manner in which prison offences are to be tried;
[Please note: numbering as in original.]
 - (k) the method, record, and place of corporal punishment;
 - (l) a suitable diet and dietary scales, including penal diet, for prisoners and prescribing the conditions under which the diet and scale may be varied;
 - (m) the construction, description, equipment and supervision of each cell and ward of a prison;
 - (n) the payment of prisoners for work done while in prison;
 - (o) the establishment of prisoners' aid associations and societies in connexion with discharged prisoners and the appointment of officers responsible for the aftercare of prisoners;
 - (p) subject to any law, the medical examination of prisoners, the measuring, photographing and taking of finger-prints, foot-prints and casts of those prints, palm-prints and other records, of prisoners, including detailed personal statistics and histories, and the requirement of full and truthful answers put to them with the object of obtaining such statistics and histories, and the person, if any, to whom such measurements, photographs, fingerprints or other records are to be sent;
 - (q) the disposal of products of prison labour;

- (r) the disposal of prisoners' property left unclaimed for a prescribed period, including its sale and the disposal of the proceeds of such sale;
- (s) the manner in which the remission of sentences, including any period of public work under Part X is to be calculated;
- (t) the manner in which a petition by a prisoner to the Minister is to be presented;
- (u) the introduction for prisoners of a progressive stage system;
- (v) the custody and maintenance of persons who may be committed to prison under a law relating to imprisonment for non-payment of debt and the charges to be paid by the judgment creditor in respect of them;
- (w) subject to section 302 of the Criminal Procedure and Evidence Act [No. 67 of 1938](#) and [section 40](#), the treatment of persons declared to be habitual criminals under any law;
- (x) the treatment of prisoners under sentence of death;
- (y) the transport at public expense of a discharged prisoner to his home or part of the way to his home; and
- (z) anything which may or is to be prescribed under this Act.

[Amended L.33/1966]

65. Persons unlawfully at large

- (1) A person who, has been sentenced to imprisonment or committed to prison for any lawful reason by a competent authority and who is unlawfully at large, may be arrested without warrant by a prison officer or a police officer, and be taken to the place in which he may be detained under this Act.
- (2) Subject to subsection (4), if a person who has been sentenced by a court to imprisonment is unlawfully at large at any time during the period for which he is liable to be detained in prison in pursuance of such sentence, then, unless the Minister otherwise directs, account shall not be taken of any period during which he is unlawfully at large in calculating the period for which he is liable to be so detained.
- (3) In calculating the period referred to in subsection (2), account shall also not be taken of any period during which such person is in custody after arrest and before he is detained in prison.
- (4) A person who has been ordered under Part X to perform public work shall be deemed to be unlawfully at large if—
 - (a) without reasonable cause or excuse, he is absent from his work during the period he is liable to be detained in prison;
 - (b) the period of his employment, but not that of his sentence of imprisonment, has expired and, without reasonable cause or excuse, he fails to comply with an order made by the Regional Administrator to report to prison to serve the balance of his sentence; or,
 - (c) without reasonable cause or excuse, he fails to comply with an order, made under [section 60\(9\)](#), to suffer the period of imprisonment awarded by the court.