

# **LAWS OF BRUNEI**

## **CHAPTER 51**

### **PRISONS**

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**LAWS OF BRUNEI**

**REVISED EDITION 2015**

**CHAPTER 51**

**PRISONS**

**ARRANGEMENT OF SECTIONS**

Section

**PART I**

**PRELIMINARY**

1. Citation.
2. Interpretation.

**PART II**

**CONSTITUTION AND ADMINISTRATION**

3. Power to declare prisons.
4. Extent of prisons.
5. Existing building declared prison.
6. Descriptions of prison in writs etc.
7. Appointment of police lockups as places of detention.
8. Temporary prison.
9. Administration of prison officers and prisons.

## PART III

## OFFICERS

10. Appointment of officers.
11. Prisons Standing Orders.
12. Inspection by Director.
13. Duties of Director.
14. Medical Officer and Dental Officer for prisons.
15. Duties of Medical Officer and Dental Officer.
16. Terms of engagement and re-engagement of prison officers.
17. Appointment of Principal Officer, Probation Officer and Matron.
18. Warrant card.
19. Application of General Orders.
20. Duties of Chief Officers, Wardens, Principal Officers etc.
21. Accoutrements.
22. Place of service.
23. Observance of laws, rules and orders.
24. Prison officers deemed public servants.
25. Use of weapons.
26. Prison officer to have powers of police officer.
27. Prison officer not to be member of trade union etc.

## PART IV

## CUSTODY AND REMOVAL OF PRISONERS

28. Prisoners deemed in lawful custody.
29. Officer-in-Charge to detain persons committed.
30. Delivery of persons on remand.
31. Delivery of persons arrested on warrant.

32. Production of persons before the court and elsewhere.
33. Discharge of prisoners.
34. Prisoners of unsound mind.
35. Removal and transfer of prisoners undergoing imprisonment.
36. Evidence.
37. Illness of prisoner.
38. Return to prison.
39. Liability for escape.
40. Duty to prevent escape.
41. Special custody in hospitals.
42. Removal in vessel.
43. Remission of sentence.
44. Saving of powers of criminal court.

## PART V

### EMPLOYMENT AND PRISON DISCIPLINE

45. Effect of sentence of imprisonment.
46. Segregation of prisoners.
47. Custody of prisoners outside prison.
48. Punishment of minor prison offences by Officer-in-Charge of prisons.
49. Punishment of aggravated prison offence by Chief Officer.
50. Punishment by Director or by Visiting Justices.
51. Register of punishment.
52. Detention after date for discharge.
53. Prosecution for offences.
54. Prisoner may make his defence.

PART VI

DISCIPLINE AS AFFECTING PRISON OFFICERS

- 55. Offences concerning prison supplies.
- 56. Desertion.
- 57. Payment of money forbidden.
- 58. Delivery of uniform etc. on leaving.
- 59. Offences by prison officers.

PART VII

GENERAL

- 60. Appointment of Visiting Justices.
- 61. Visits by Judges.
- 62. Rules.

SCHEDULE — REMOVAL ORDER

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## PRISONS ACT

**An Act relating to prisons and lockups and the conditions of service and pensions of prison officers**

*Commencement: 1st July 1979*  
*[S 75/1979]*

## PART I

## PRELIMINARY

**Citation.**

1. This Act may be cited as the Prisons Act.

**Interpretation.**

2. In this Act, unless the context otherwise requires —

“Dental Officer” means the Medical Officer or Dental Officer appointed under section 14;

“Director” means the Director of Prisons appointed under section 10 and includes the Assistant Director of Prisons;  
*[GN 68/1985]*

“disciplinary offence” means any offence committed by a prison officer below the rank of Principal Officer against prison discipline as specified in rules made under this Act;

“Officer-in-Charge” means any prison officer not below the rank of Principal Officer who is in charge of any prisons;

“Medical Officer” means the Medical Officer or Dental Officer appointed under section 14;

“minor prison offence” and “aggravated prison offence” mean any offence committed by a prisoner against prison discipline and so specified in the rules made under this Act;

“police officer” has the same meaning as in the Royal Brunei Police Force Act (Chapter 50);

“prison” means any house, building, enclosure, or place or any part thereof, declared to be a prison under section 3;

“prisoner” means any person, whether convicted or not, under confinement in any prison;

“prison officer” means any Chief Officer, Warden, Principal Officer, Probation Officer, Matron, Warder or Wardress and includes the Director and the Assistant Director;

*[GN 68/1985]*

“psychiatric facility” includes any Government psychiatric facility for the reception of persons ordered to be detained therein under the Mental Health Order, 2014 (S 25/2014);

*[S 25/2014]*

“registered dentist” means a dentist whose name has been registered in accordance with any written law relating to the registration of medical practitioners and dentists in force in Brunei Darussalam;

“registered medical practitioner” means any medical practitioner registered in accordance with any written law relating to the registration of medical practitioners and dentists in force in Brunei Darussalam;

“sentence of imprisonment” means any sentence involving confinement in a prison, whether combined or not with labour, and includes a sentence awarded by way of commutation as well as an original sentence passed by a court;

“stage” means any stage of imprisonment prescribed by rules made under this Act;

“subordinate officer” means any prison officer below the rank of Principal Officer;

“Visiting Justice” means a member of the Board of Visiting Justice appointed under section 60;

“young prisoner” means any person who, in the absence of proof to the contrary, is under the age of 18 years and, whether convicted or not, under detention in any prison.



## PART II

## CONSTITUTION AND ADMINISTRATION

**Power to declare prisons.**

3. His Majesty the Sultan and Yang Di-Pertuan may, by notification published in the *Gazette* declare that —

[S 12/1989]

(a) any house, building, enclosure or place or any part thereof to be a prison for the purpose of this Act, for the imprisonment or detention of persons lawfully in custody; and/or

(b) any prison shall cease to be a prison; and on the publication of such declaration, or from and after any later date specified therein, such prison shall cease to be a prison.

**Extent of prisons.**

4. Every prison shall include the grounds and buildings within the prison enclosure and also the airing grounds, or other grounds or buildings belonging or attached thereto and used by prisoners.

**Existing building declared prison.**

5. Any house, buildings, enclosure or place or any part thereof, which immediately before 1st July 1979, being the commencement of this Act, is being used as a prison, shall be deemed to be a prison for the purposes of this Act.

**Description of prison in writs etc.**

6. In any writ, warrant or other legal instrument, in which it may be necessary to describe a particular prison, any description designating a prison by reference to the name of the place or town where it is situated, or other definite description, shall be valid and sufficient for all purposes.

**Appointment of police lockups as places of detention.**

7. (1) It shall be lawful for His Majesty the Sultan and Yang Di-Pertuan by notification published in the *Gazette* to appoint lockups at such police stations and court houses and other public buildings as may be specified in such notification to be places for the confinement of persons, remanded or

sentenced to such terms of imprisonment, not exceeding one month, as may be specified in each case.

[S 12/1989]

(2) A lockup appointed as a place of confinement under subsection (1) shall not, unless provided otherwise in subsection (3), be deemed to be a prison for the purposes of this Act, and the rules made thereunder shall not apply thereto, but every such lockup shall be deemed to be a prison for the purposes of Chapter XXVI of the Criminal Procedure Code (Chapter 7) and to be proper custody for the purposes of section 149 of the Criminal Procedure Code.

(3) A lockup appointed as a place of confinement under subsection (1) shall be deemed to be a prison for the purposes of section 61 and also for the purposes of Part IV, other than of sections 28(2) and 43, and, for such purposes, “Officer-in-Charge” shall include the Police Officer and any public officer in charge of the lockup.

[S 12/1989]

(4) The Minister of Home Affairs may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make rules with regard to lockups appointed under subsection (1) to provide for all or any of the following matter —

[S 12/1989]

(a) the inspection and management of lockups and the officers to be in charge thereof;

(b) the employment of persons confined therein;

(c) the diets to be supplied to such persons;

(d) the maintenance of discipline;

(e) generally for regulating lockups.

### **Temporary prison.**

8. Whenever it appears to the Director that —

[GN 68/1985]

(a) the number of prisoners in any prison is greater than can be conveniently kept therein and it is not convenient to transfer the excess number to some other prison; or

(b) by reason of an outbreak within any prison of a disease or diseases, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoner, such provision shall be made, as the Director may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in such prison, and every such temporary prison shall be a prison for the purposes of this Act:

[GN 68/1985]

Provided that when such disease or diseases or such other reason has or have ceased, any prisoner so removed from any prison shall be taken back to the prison whence they were removed, if still liable to be confined therein.

#### **Administration of prison officers and prisons.**

9. (1) Subject to the orders of the Minister, the control and direction of prison officers throughout Brunei Darussalam shall be vested in the Director who may make such transfers and direct the employment and distribution of prison officers as he may think fit.

[GN 68/1985]

(2) Subject to the orders of the Minister, the general charge administration of prisons in Brunei Darussalam shall be vested in the Director.

[GN 68/1985]

(3) The powers and duties of the Director under this Act or any rules made thereunder may be exercised, in the case of the absence or incapacity of the Director, by an officer appointed by His Majesty the Sultan and Yang Di-Pertuan to exercise and perform them:

[GN 68/1985]

Provided that pending such appointment, the powers and duties of the Director shall be exercised and performed by the officer next in seniority after the Director in the Prison Department.

[GN 68/1985]

## PART III

## OFFICERS

**Appointment of officers.**

10. (1) His Majesty the Sultan and Yang Di-Pertuan may appoint a Director of Prisons for Brunei Darussalam an Assistant Director of Prisons and such number of Chief Officers, Wardens and other officers as His Majesty the Sultan Yang Di-Pertuan may consider necessary for the carrying out of the provisions of this Act and any rules made thereunder.

[GN 68/1985]

(2) All such officers when appointed shall be under the general direction of the Director.

[GN 68/1985]

**Prisons Standing Orders.**

11. The Director may make and issue orders to be called "Prisons Standing Orders" not inconsistent with the provisions of this Act or any rules made thereunder.

[GN 68/1985]

**Inspection by Director.**

[GN 68/1985]

12. (1) The Director shall periodically visit and inspect, or cause to be visited and inspected, all prisons in Brunei Darussalam.

[GN 68/1985]

(2) The Director may exercise and perform any of the powers conferred or duties imposed by law on an Officer-in-Charge.

[GN 68/1985]

**Duties of Director.**

[GN 68/1985]

13. (1) The Director shall —

[GN 68/1985]

(a) supervise and control all matters in connection with any prison, the administration of which is vested in him; and

(b) be responsible to the Minister for —

- (i) the conduct and treatment of the prison officers;
- (ii) the conduct and treatment of prisoners under his control; and
- (iii) the due observance by prison officers and prisoners of the provisions of this Act and of all other written laws relating to prison or prisoners.

(2) Subject to the orders of the Director, the Officers-in-Charge shall —

[GN 68/1985]

(a) supervise and control all matters in connection with any prison the administration of which is vested in him; and

(b) be responsible to the Director for —

[GN 68/1985]

- (i) the conduct and treatment of the prison officers and prisoners under his control; and
- (ii) the due observance by prison officers and prisoners of the provisions of this Act and of all other written laws relating to prisons or prisoners.

#### **Medical Officer and Dental Officer for prisons.**

**14.** (1) The Director-General of Health Services shall appoint a Medical Officer and a Dental Officer for the prisons, and, whenever circumstances permit, a Medical Officer for each of the other prisons in Brunei Darussalam.

[GN 274/2002]

(2) If the circumstances do not permit of the Director-General of Health Services making an appointment under subsection (1), the Director-General of Health Services may appoint any registered medical practitioner or any registered dentist to be the Medical Officer or Dental Officer of any specified prison.

[GN 274/2002]

(3) Whenever a Medical Officer or Dental Officer is, owing to illness or temporary absence or for other sufficient reasons, unable to perform his duties as such Medical Officer or Dental Officer, the Director shall arrange with the Director-General of Health Services for the

performance of such duties by such other person or officer as the Director-General of Health Services may direct.

[GN 68/1985; GN 274/2002]

### **Duties of Medical Officer and Dental Officer.**

15. A Medical Officer and a Dental Officer shall perform such duties as may be prescribed.

### **Terms of engagement and re-engagement of prison officers.**

16. (1) All prison officers shall be engaged in accordance with the conditions of service applicable to them at the date of their engagement.

(2) Every subordinate officer who shall have completed the period of service for which he was engaged may offer himself for re-engagement for a further period and, if approved, may be re-engaged on such terms and conditions as may be prescribed by the Director.

[GN 68/1985]

(3) Every such re-engagement shall be evidenced by an endorsement on the original engagement signed by the person re-engaged and by the Director.

[GN 68/1985]

(4) No prison officer shall be entitled, without written permission of the Director, to resign or withdraw from prison duties unless he has given not less than one month notice in writing to the Director of his intention to resign.

[GN 68/1985]

(5) Every such notice shall be given on or before the first day of the month at the end of which such officer intends to cease performing prison duties.

(6) Any prison officer who contravenes the provisions of subsection (4) is guilty of an offence and liable on conviction to a fine of \$500 and imprisonment for 3 months; and all arrears of pay due to him may be forfeited.

(7) The Director may at any time, with the consent of the Minister, discharge any Warder whose appointment has been confirmed —

[GN 68/1985]

(a) if the Director considers that the officer is unlikely to become or has ceased to be an efficient prison officer;

[GN 68/1985]

(b) the officer is certified by a Government Medical Officer to be physically or mentally unfit for service in the Prison Service; or

(c) on reorganisation or reduction of the establishment of the Prison Service.

### **Appointment of Principal Officer, Probation Officer and Matron.**

17. Promotion and appointment to a Principal Officer, a Probation Officer or a Matron may be made by His Majesty the Sultan and Yang Di-Pertuan under section 10 on the recommendation of the Director.

[GN 68/1985]

### **Warrant card.**

18. A warrant card, signed by the Director, shall be issued to every prison officer and shall be evidence of his appointment under this Act.

[GN 68/1985]

### **Application of General Orders.**

19. (1) Prison officers, other than subordinate officers, shall be subject to the General Orders for the time being in force and to the disciplinary provisions thereof.

(2) All prison officers, other than subordinate officers, may be interdicted or suspended in accordance with the General Orders:

Provided that, if, in the opinion of the Director, it is essential in the interest of the security or discipline of the prison that a subordinate officer should cease forthwith to exercise the function of his office, the Director may interdict such officer from duty pending an investigation.

[GN 68/1985]

### **Duties of Chief Officers, Wardens, Principal Officers etc.**

20. Chief Officers, Wardens, Principal Officers, Probation Officers, Matron, Warders and other prison officers shall perform such duties as may be prescribed.

**Accoutrements.**

21. Every prison officer shall be provided with such staves, arms, ammunition, uniform and other accoutrements as may be prescribed by the Director.

[GN 68/1985]

**Place of service.**

22. Every prison officer shall be bound to serve in any part of Brunei Darussalam, or on board any vessel, aircraft or other vehicle in which prisoners are being removed, and shall, when so serving, be subject to the same rules as when on service in Brunei Darussalam, in so far as the law of Brunei Darussalam is applicable to him, also to such rules, regulations and Standing Orders as may be in force in Brunei Darussalam.

**Observance of laws, rules and orders.**

23. Every prison officer shall strictly conform to all written laws relating to prisons or prisoners and shall obey all lawful orders of his superior officers, whether verbal or in writing, and all Prisons Standing Orders.

**Prison officers deemed public servants.**

24. The Director, Medical Officer, Dental Officer, Chief Officers, Wardens, Principal Officers, Probation Officers, Matrons, subordinate officers and other prison officers appointed under this Act or any rules made thereunder shall be deemed to be public servants within the meaning of the Penal Code (Chapter 22).

[GN 68/1985]

**Use of weapons.**

25. (1) Every prison officer may use weapons against any prisoner escaping or attempting to escape:

Provided that resort shall not be had to the use of any such weapons unless the officer has reasonable ground to believe that he cannot otherwise prevent the escape or the attempt to escape.

(2) Every prison officer may use weapon on any prisoner engaged in any combined outbreak or in any attempt to force or break open the outside door or gate or enclosure wall of the prison, and may continue to use such weapons so long as the combined outbreak or attempt is actually being prosecuted.



(3) Every prison officer may use weapons against any prisoner using violence to any prison officer or other person if the officers has reasonable grounds to believe that the prison officer or the other person is in danger of life or limb or that other grievous hurt is likely to be caused by him.

(4) Before using firearms against a prisoner under the authority conveyed in subsection (1), the officer shall give a warning to the prisoner that he is about to fire on him.

(5) No prison officer shall, in the presence of his superior officer, use arms of any sort against a prisoner in the case of an outbreak or attempt to escape except under the orders of the superior officer.

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

(7) Every police officer who is for the time being in the capacity of an escort guard or of a guard in or about a prison or lockup for the purpose of ensuring the safe custody of any prisoner or prisoners in such prison or lockup, shall be deemed to have all the powers and privileges granted to prison officers under this section.

#### **Prison officer to have powers of police officer.**

26. Every prison officer while acting as such shall have by virtue of his office all the powers, authorities, protections and privileges of a police officer.

#### **Prison officer not to be member of trade union etc.**

27. (1) For the purposes of enabling prison officers to consider and bring to the notice of the Government all matters affecting their welfare and efficiency, including pay, pensions and conditions of service, other than questions of discipline and promotion affecting individuals, there may be established an association which shall operate and be administered in accordance with rules made by the Minister of Home Affairs with the approval of His Majesty the Sultan and Yang Di-Pertuan. Such association shall be entirely independent of, and unassociated with, any body or person outside the Prisons Department and shall be deemed not to be a trade union within the meaning of the Trade Union Act (Chapter 128) and shall be exempted from the provisions of the Societies Act (Chapter 203).

*[S 12/1989]*

(2) Subject to the provisions of subsection (1), no prison officer shall become, or after the expiration of one month from the coming into force of this section be, a member of any trade union or of any association having for its object or one of its objects to control or influence the pay, pensions or conditions of service of prison officers or of any association with political objects, and any prison officer who contravenes this provision is guilty of an offence and liable on conviction to a fine of \$1,000:

Provided that where a prison officer is, at the time of the enforcement of this section, a member of a trade union, such officer may, with the consent of the Director, continue to be a member of that trade union during the time of his service in the Prisons Department:

[GN 68/1985]

Provided further that the Minister\* may declare, by notification published in the *Gazette*, declare that the provisions of this section shall not apply in respect of any association or any particular membership or class of membership of an association to which this section applies.

(3) Any question whether any body is a trade union or association to which this section applies shall be determined by the Minister\*.

#### PART IV

#### CUSTODY AND REMOVAL OF PRISONERS

##### **Prisoners deemed in lawful custody.**

**28.** (1) Every prisoner confined in any prison shall be deemed to be in the lawful custody of the Officer-in-Charge thereof.

(2) Every prisoner shall —

(a) be subject to prison discipline and to all written laws relating to prisons or prisoners and to Prisons Standing Orders during the whole time of his imprisonment, whether he is or is not within the precincts of any prison or has been removed therefrom in pursuance of any order or authorisation made or given under this Part; and

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\* Transferred from the State Secretary to the Minister with effect from 31st December 1983 — [S 32/1983]

(b) walk to or from any prison whenever at any time so required, and any refusal so to walk, unless he is physically incapable, shall be and may be punished as, a breach of prison discipline.

**Officer-in-Charge to detain persons committed.**

29. Every Officer-in-Charge is hereby authorised and required to keep and detain all persons duly committed to his custody by any court, Judge, Magistrate or other competent public authority, according to the exigency of any warrant or order by which such person has been committed, or until such person is discharged by due course of law.

**Delivery of persons on remand.**

30. Every person remanded to any prison by any court, Judge, Magistrate, or other competent public authority, charged with any crime or offence shall be delivered to the Officer-in-Charge of such prison as may be appointed under this Act for the custody of such persons, together with the warrant of commitment, and the officer shall —

(a) detain such person according to the terms of such warrant, and cause such person to be delivered to such court, Judge, Magistrate or other competent public authority; or

(b) discharge such person at the time named in and according to the terms of such warrant.

**Delivery of persons arrested on warrant.**

31. Every person arrested in pursuance of any warrant or order of any court in Brunei Darussalam having civil or criminal jurisdiction shall be brought without delay before the court by which the warrant or order was issued, awarded or made, and, if such court is not then sitting, such person shall be delivered to an Officer-in-Charge for intermediate custody, and the officer shall cause such person to be brought before that court at its next sitting in order that such person may be dealt with according to law.

**Production of persons before the court and elsewhere.**

32. (1) Whenever the presence of any person confined in a prison is required in any court of civil or criminal jurisdiction —

(a) the court may issue an order in the prescribed form, addressed to the Officer-in-Charge requiring production before the

court of such person in proper custody at the time and place to be named in the order;

(b) the officer shall cause the person named in the order to be brought up as directed, and shall provide for his safe custody during his absence from prison; and

(c) every such court may by endorsement on the order require the person named therein to be again brought up at any time to which the matter wherein such person is required may be adjourned.

(2) The Director —

[GN 68/1985]

(a) on proof to his satisfaction or upon certificate of the Attorney General certifying that the presence of any prisoner at any place in Brunei Darussalam is required in the interests of justice; or

(b) for the purpose of any enquiry held under any written law in force in Brunei Darussalam,

may by writing under his hand order that the prisoner be taken to that place.

(3) A prisoner taken from a prison in pursuance of an order made under this section shall whilst outside that prison, be kept in such custody as the Officer-in-Charge or the Director may by writing under his hand direct and whilst in that custody shall be deemed to be in lawful custody.

[GN 68/1985]

(4) The interest of justice shall, without prejudice to the generality of such expression, be deemed to include medical observation or treatment, or both, of any prisoner suspected or alleged to be of unsound mind, or mentally disordered or defective.

### **Discharge of prisoners.**

**33.** An Officer-in-Charge shall be responsible for the due discharge of all prisoners immediately upon their becoming entitled to release, whether by the expiration of their terms of sentence, or by pardon, or by communication or by remission of sentence.

**Prisoners of unsound mind.**

34. (1) Whenever a prisoner undergoing a sentence of imprisonment or sentenced to death appears to a Medical Officer to be mentally disordered or defective, he may, by order under his hand and seal in the form in the Schedule, direct that such prisoner be removed to any psychiatric facility or other fit place of safe custody in Brunei Darussalam and be there detained, and the order shall be an authority for the reception of the prisoner and for his detention therein until removed or discharged as provided under this section.

*[S 25/2014]*

(2) Where a prisoner is detained in a psychiatric facility under the provisions of this Act and is in the opinion of the Medical Officer in charge for such psychiatric facility is no longer mentally disordered, such Medical Officer may report accordingly to the Director who shall, by order under his hand and seal, direct the return of such prisoner to the prison whence he was removed to be dealt with according to law.

*[GN 68/1985; S 25/2014]*

(3) Upon the expiration of the term of imprisonment to which he has been sentenced, the provisions of section 324 of the Criminal Procedure Code (Chapter 7) shall apply to any prisoner detained under this section as if he were detained in accordance with a certificate given under section 247 or 321 of the Criminal Procedure Code (Chapter 7).

(4) The time occupied in effecting any removal under this section and the period during which the prisoner is detained in a psychiatric facility shall be reckoned as part of the term of imprisonment imposed on such prisoner.

*[S 25/2014]*

**Removal and transfer of prisoners undergoing imprisonment.**

35. (1) The Director may, by order in writing, remove or transfer any prisoner undergoing a sentence of imprisonment for any offence to any other prison, to undergo the residue of the sentence or any part thereof:

*[GN 68/1985]*

Provided that any prisoner so removed shall be returned, at the expiration of his sentence and if he so desires, at the expense of the Government, to the place whence he was removed.

(2) A prisoner may be brought up for trial and may be removed by or under the direction of the Officer-in-Charge of the prison in which he is confined from such prison to another, for the purpose of being tried; and no prisoner whilst in the custody of a prison officer shall be deemed to have escaped, although he may be taken into different jurisdiction or different places of confinement.

**Evidence.**

36. Every order or warrant purporting to be issued in pursuance of this Act and to be under the hand of the Director or Officer-in-Charge of any prison shall be received in evidence in all courts without further proof, and shall be evidence of all facts therein stated, and all acts done in pursuance of such order or warrant shall be deemed to have been authorised by law.

[GN 68/1985]

**Illness of prisoner.**

37. (1) In the case of serious illness of a prisoner other than a prisoner referred to in subsection (2), confined in a prison in which there is no suitable accommodation for such prisoner, the Officer-in-Charge may, on the certificate of a Medical Officer, make an order for his removal to a Government hospital or, if the approval of the Minister\* is first obtained, to any other hospital.

(2) Where a prisoner confined in a prison appears to the Director on the certificate of a Medical Officer to be a leper, the Director may, by order in writing, direct his removal to any leper, asylum or settlement, to be kept and treated until cured of his leprosy.

[GN 68/1985]

(3) So long as any prisoner who shall have been removed to any such hospital, asylum or settlement under the provisions of this section shall remain therein, the Medical Officer thereof shall, at the end of every month, transmit to the Officer-in-Charge of the prison whence the prisoner was removed, a certificate signed by him that it is in his opinion necessary that he should remain in such hospital, asylum or settlement.

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\* Transferred from the State Secretary to the Minister with effect from 31st December 1983 — [S 32/1983]

**Return to prison.**

38. So soon as, in the opinion of the Medical Officer of any hospital, leper asylum or settlement, it is no longer necessary that any prisoner who shall have been removed to such hospital, asylum or settlement should remain therein, he shall transmit to the Officer-in-Charge of the prison whence the prisoner was removed a certificate stating that such necessity has ceased and thereupon the Officer-in-Charge shall forthwith cause such prisoner to be brought back to the prison if he is still liable to be confined therein.

**Liability for escape.**

39. If any prisoner escapes during such time as he is in any hospital, leper asylum or settlement, no prison officer shall be held answerable therefor, unless the prisoner has been in the personal custody of the officer.

**Duty to prevent escape.**

40. The Medical Officer and other officers of any hospital, leper asylum or settlement shall, in consultation with the Officer-in-Charge, take all reasonable precautions to prevent the escape of prisoners who may at any time be under treatment therein, and it shall be lawful for the officers to take such measures for preventing the escape of any such prisoners as shall be necessary, if, in the opinion of the officers, it is likely to be prejudicial to the health of such prisoner, should nothing be done under such authority.

**Special custody in hospitals.**

41. Where in any case from the gravity of the offence for which any prisoner may be in custody or for any other reason the Officer-in-Charge considers it desirable to take special measures for the security of such prisoner while under treatment in any hospital, leper asylum or settlement, it shall be lawful for him to —

(a) give such prisoner into the charge of prison officers or other fit and proper persons not being less than two in number, one of whom at the least shall always be with such prisoner day and night; and

(b) such persons shall be —

(i) vested with full power and authority to do all things necessary to prevent such prisoner from escaping; and

- (ii) answerable for his safe custody until such time as he is handed over to a prison officer on his discharge from such hospital, leper asylum or settlement or until such time as his sentence expires, whichever may first occur.

**Removal in vessel.**

42. (1) Whenever it is necessary for the purposes of this Part to remove any prisoner out of Brunei Darussalam by sea or by air, he shall be removed in a vessel or aircraft to be appointed for that purpose by order of the Minister.

(2) The time occupied in effecting such removal under this Part shall be deemed to be part of the term of imprisonment of the prisoner so removed; and such prisoner shall be deemed at all times during such removal to be in the legal custody of the person or persons empowered to remove him and to be subject to the same restraint and, in the event of misbehaviour, to the same punishment as if he were detained in prison.

**Remission of sentence.**

43. A prisoner who, for good conduct, is awarded a remission of part of his sentence under the rules for the time being in force relating to the remission of sentence shall be discharged upon the expiration of so much of his sentence as shall remain after deducting from it such part.

**Saving of powers of criminal court.**

44. Nothing in this Act contained shall be held to lessen or affect the powers of any criminal court to direct persons confined in any prison to be brought before the court.

**PART V****EMPLOYMENT AND PRISON DISCIPLINE****Effect of sentence of imprisonment.**

45. (1) Every sentence of imprisonment passed or to be passed upon any prisoner shall subject the prisoner, during the term of the sentence, to be imprisoned and to work at such labour as may be directed by the Officer-in-



Charge and so far as is practicable such labour shall take place in group or groups or outside cells.

(2) The Medical Officer may order any prisoner to be excused labour or to perform light labour, and any prisoner ordered to perform light labour shall be required to work on any labour prescribed by this Act for which he is certified as fit by the Medical Officer.

### **Segregation of prisoners.**

46. (1) Persons confined under civil process and persons on remand charged with crimes or offences, or committed to take their trial, or confined for want of sureties shall not ordinarily be associated with convicted prisoners, nor shall they be required to labour beyond such labour as is reasonably proper for keeping their persons and dress in a proper state and keeping the places in which they are confined clean:

Provided that should such persons elect to be employed during the period they are confined, they shall receive payment for such employment at such rates as may from time to time be prescribed.

(2) All young prisoners shall, so far as local conditions permit, be kept apart from adults.

### **Custody of prisoners outside prison.**

47. A prisoner when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison officer, shall be deemed to be in prison, and shall be subject to all the same incidents as if he were actually in prison.

### **Punishment of minor prison offences by Officer-in-Charge of prisons.**

48. (1) An Officer-in-Charge, if of or above the rank of Chief Officer, may punish any prisoner, found after due inquiry to be guilty of a minor offence, by ordering him to undergo one or more of the following punishments —

(a) confinement in a cell on the prescribed restricted diet for a term not exceeding such period as may be prescribed;

(b) forfeiture of remission not exceeding such amount as may be prescribed;

(c) reduction in stage, or forfeiture of privileges, or postponement of promotion in stage, or removal from the earnings scheme, or reduction in earnings grade, for such period as may be prescribed.

(2) An Officer-in-Charge, below the rank of Chief Officer, may punish any prisoner found after due inquiry to be guilty of a minor prison offence, by ordering him to undergo one or more of the following punishments —

(a) confinement in a cell on a prescribed restricted diet for a term not exceeding such period as may be prescribed;

(b) reduction in stage, or forfeiture of privileges, or postponement of promotion in stage, or removal from the earnings scheme, or reduction in earnings grade, for such period as may be prescribed.

#### **Punishment of aggravated prison offence by Chief Officer.**

49. An Officer-in-Charge, if of or above the rank of Chief Officer, may punish any prisoner found after due inquiry to be guilty of an aggravated prison offence, by ordering him to undergo one or more of the following punishments —

(a) corporal punishment with a rattan not exceeding such amount as may be prescribed;

(b) confinement in a cell on the prescribed restricted diet for a term not exceeding such period as may be prescribed;

(c) forfeiture of remission not exceeding such amount as may be prescribed;

(d) reduction in stage, or forfeiture of privileges, or postponement of promotion in stage, or removal from the earnings scheme, or reduction in earnings grade, for such period as may be prescribed:

Provided that —

- (i) corporal punishment, whether inflicted under this section or under section 50, shall be inflicted in accordance with such rules as may be prescribed;
- (ii) corporal punishment shall not be inflicted save for mutiny or for offences involving personal violence to prison officers, other prisoners, any other person;
- (iii) corporal punishment shall not in any case be inflicted on a person under sentence of death, upon males over 50 years of age or upon females; and
- (iv) no order for the infliction of corporal punishment shall be carried out unless it has been confirmed by the Minister.

**Punishment by Director or by Visiting Justices.**

[GN 68/1985]

**50.** (1) Where a prisoner is accused of any aggravated prison offence and the Officer-in-Charge is of the opinion that in the circumstances of the case, the power of punishment which he possesses is inadequate, he may either submit to the Director a copy of the record of the investigation, and the Director may thereupon decide the matter within the limit of his own power of punishment as conferred by subsection (3).

[GN 68/1985]

(2) In the alternative, the Officer-in-Charge may forthwith report the matter in writing to the Visiting Justices, the Visiting Justices shall upon receipt of such report, attend at the prison without undue delay and investigate the charge, and may punish any prisoner whom, after due inquiry, upon oath, they may find guilty of such offence with one or more of the following punishments —

(a) confinement in a cell on the prescribed restricted diet for a term not exceeding such period as may be prescribed;

(b) corporal punishment not exceeding such amount as may be prescribed;

(c) forfeiture of remission not exceeding such amount as may be prescribed;

(d) reduction in stage, or forfeiture of privileges, or postponement of promotion in stage, or removal from the earnings

scheme, or reduction in earnings grade, for such period as may be prescribed.

(3) The Director shall have power to investigate and decide complaints respecting any offence against prison discipline; and he may order any prisoner found guilty by him of any such offence to undergo one or more of the punishments prescribed in subsection (2).

*[GN 68/1985]*

(4) Whenever 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, it shall be lawful for such officer to order the segregation of the prisoner for such period as may be considered necessary.

#### **Register of punishment.**

**51.** The Officer-in-Charge shall enter in a register to be open to the inspection of the Visiting Justice a record of the punishments imposed by him upon prisoners showing in respect of each prisoner so punished, the name of the prisoner, the nature of his offence and the extent of his punishments.

#### **Detention after date for discharge.**

**52.** Any punishment lawfully imposed on a prisoner under this Act or any rules made thereunder may be carried into effect notwithstanding that the carrying into effect thereof may necessitate the detention of the prisoner beyond the date at which he would have otherwise been entitled to be discharged from prison:

Provided that the period of the detention shall not exceed 48 hours, such period to be calculated from the last hour of the day upon which the prisoner would otherwise be entitled to be discharged.

And provided that no person shall be confined for a longer period than he would have served if he had earned no remission.

#### **Prosecution for offences.**

**53.** Nothing in this Act shall be construed to exempt any prisoner from being proceeded against for any offence by the ordinary course of law, but no prisoner shall be punished twice for the same offence.

**Prisoner may make his defence.**

54. No prisoner shall be punished until he has had an opportunity of hearing the charge or complaint against him and the evidence in support thereof and of making his defence and of calling evidence in support thereof.

## PART VI

## DISCIPLINE AS AFFECTING PRISON OFFICERS

**Offences concerning prison supplies.**

55. (1) No prison officer, any Medical Officer or any Dental Officer shall —

(a) sell or offer for sale;

(b) supply or offer for supply; or

(c) receive, directly or indirectly, any benefit or advantage from the sale or offer of sale or supply or offer of supply of,

any article to or for the use of any prisoner or for the use of any prison, nor shall any such officer directly or indirectly have any interest in any contract or agreement for the sale or offer of sale or supply of any such article.

(2) No prison officer, any Medical Officer or any Dental Officer, shall —

(a) directly or indirectly have any pecuniary interest in the purchase of any prison supplies;

(b) receive any discounts, gifts or other consideration from contractors for or sellers of such supplies; or

(c) have any pecuniary dealing with prisoners or with their friends with regard to them or on behalf of any prisoner held any unauthorised communications with any person.

(3) Any person who contravenes any provision of this section is guilty of an offence and liable on conviction to a fine of \$1,000 and

imprisonment for 12 months and may in addition be dismissed from his office and all arrears of pay due to him may be forfeited.

(4) In this section, references to selling or offering for sale include respectively references to letting on hire and offering to let on hire.

**Desertion.**

**56.** Any prison officer who unlawfully, or in breach of his engagement, absents himself from duty under circumstances which show that he has the intention of not returning to his duty shall be deemed to have deserted and is guilty of an offence imprisonment for 12 months, and all arrears of pay due to him shall be forfeited.

**Payment of money forbidden.**

**57.** (1) No money or other consideration shall on any pretext whatsoever be payable, paid, given or promised by or on behalf of any prisoner, either on his entrance into, commitment to, continuance in, or discharge from any prison, to any prison officer; and any prison officer receiving or demanding any such money or other consideration of the promising of such money or other consideration or undertaking any service in consideration or receiving or the promising of such money or other consideration is guilty of an offence and liable on conviction to a fine of \$500 and imprisonment for 6 months.

(2) Any prison officer convicted under this section may be dismissed from his office, and all arrears of pay due to him may be forfeited.

**Delivery of uniform etc. on leaving.**

**58.** (1) Every person upon ceasing to be a prison officer shall forthwith deliver up to the Officer-in-Charge of the prison in which he is serving at the time of ceasing to be a prison officer, every article of uniform and clothing and all arms, accoutrements, ammunition, staves and other effects of every kind belonging to the Government which are in his possession or control.

(2) Any person who fails to comply with the provisions of this section is guilty of an offence and liable on conviction to a fine of \$200 and imprisonment for 3 months; and in addition thereto such person shall be liable to pay the value of any article not delivered up, which value shall be summarily ascertained by the court and shall be recoverable as if it were a fine.

(3) Every person not being a person employed by, in or under the Prisons Department who shall have in his possession any article being part of the clothing, accoutrements or other effects supplied to any prison officer and who shall not be able satisfactorily to account for his possession of the same is guilty of an offence and liable on conviction to a fine of \$200 and imprisonment for 3 months.

### **Offences by prison officers.**

**59.** Any prison officer below the rank of Principal Officer who commits a disciplinary offence shall be liable, on conviction by a Magistrate or by any person empowered by the rules made under this Act to convict any such officer, but without prejudice to any provision for confirmation or appeal which may be prescribed by such rules, to such punishment as may be prescribed by the rules and to dismissal:

Provided that this section shall not be deemed to authorise the prescribing of punishments other than the following —

(a) in the case of conviction by a Magistrate, a fine of \$500 and imprisonment for 6 months;

(b) in the case of conviction by a prison officer —

- (i) reduction in rank;
- (ii) stoppage, deferment or forfeiture of any increment of salary;
- (iii) forfeiture of pay, whether by deduction or otherwise;
- (iv) compulsory performance of extra duties or drills;
- (v) severe reprimand, reprimand or warning;
- (vi) confinement to barracks not exceeding 14 days;
- (vii) payment of compensation for the destruction or loss of, or for injury to, any Government property, which, in the case of conviction by a Magistrate, may be assessed summarily by the court and recovered as if it were a fine;

(c) *in lieu* of or in addition to any of the aforesaid punishments, such prison officer may be dismissed from the Prisons Department.

## PART VII

## GENERAL

**Appointment of Visiting Justices.**

**60.** (1) The Minister shall for each year appoint a board to be called the Board of Visiting Justices.

(2) A Visiting Justice —

(a) may at any time —

- (i) visit the prison for which he is appointed and may inspect the several wards, cells, yards solitary or punishment cells and other apartments or divisions of the prison;
- (ii) inspect and test the quality and quantity of the prisoner's food;
- (iii) hear the complaints, if any, of the prisoners, and question any prisoner, and

(b) shall —

- (i) ascertain, so far as possible, whether this Act, the rules made thereunder and Prisons Standing Orders are adhered to; and
- (ii) call the attention of the Officer-in-Charge to any irregularity that may be observed in the working of the prison or in the treatment of any prisoner confined therein; and

(c) shall exercise and perform such powers and duties as may be prescribed.

(3) The Board shall appoint one or more of its members to be in rotation Visiting Justice or Justices for each month of the year, and such Visiting Justice or Justices shall hear, try and dispose of such prison offences as to which a report under section 50 has been made.



(4) Every Visiting Justice shall, for the purpose of this Act, have power to summon witnesses and to administer oaths.

### Visits by Judges.

**61.** Every Judge may, whenever he thinks fit, enter into and examine the condition of any prison, and the prisoners therein, and he may question any prisoner, and he may enter any observation he thinks fit to make in reference to the condition of the prison in a Visitor's Book to be kept for that purpose by the Officer-in-Charge, which book shall be produced to the Visiting Justices at their next visit.

### Rules.

**62.** (1) The Minister of Home Affairs may, with the approval of His Majesty the Sultan and Yang Di-Pertuan, make such rules, not inconsistent with the provisions of this Act, as he deems necessary for the good management and government of prisons and for carrying out the purpose of this Act.

*[S 12/1989]*

(2) In particular, and without prejudice to the generality of the foregoing, such rules may prescribe for all or any of the following purposes or matter —

(a) appointments, the conditions of service, training, and the powers, conduct, duties and discipline of prison officers and other persons employed in prisons;

(b) pensions, retiring allowance, gratuities and privileges of all prison officers and the dependants of such officers and all matters connected therewith;

(c) leave of absence;

(d) the medical examination, measuring, photographing, and taking of fingerprint impressions or other records of persons confined in a prison or otherwise detained in custody, including detailed personal statistics and histories, and for requiring full and truthful answers to all questions put to such person with the object of obtaining such statistics and histories;

(e) the persons, if any, to whom such measurements, photographs, fingerprint impressions or other records are to be sent or supplied;

(f) the employment, diets, classification, safe custody, separation, treatment and discipline of prisoners;

(g) the kind of labour to be exacted at the different stages of their imprisonment with the manner and place of exacting the same;

(h) the remission of sentences;

(i) the disposal of the products of the labour of prisoners;

(j) the establishment of prisoners' aid associations and societies and for the subsidising of their work and the utilising of the services of such association in connection with prisoners discharged on probation and convicted prisoners whose sentences have expired;

(k) the supply of money, food, clothing or means of travelling to prisoners on their discharge;

(l) the administration of the Prison Officers' Reward Fund;

(m) the duties, powers, proceedings and visits of the Visiting Justices;

(n) any other matter which under this Act is required or permitted to be prescribed.

**SCHEDULE**

(section 34(1))

**REMOVAL ORDER**

**PRISONS ACT (CHAPTER 51)**

To the Medical Officer in Charge of the Hospital at .....

.....

I, the undersigned\* .....

\*Here enter name and official designation

hereby certify that I on the ..... day of .....

20 ....., at ..... personally

examined‡ .....

‡Here enter name and residence of person examined

and that the said .....

is .....

a proper person to be taken charge of and detained \*under care and treatment \*for observation

\*Strike out the words that are not necessary

and that I have formed this opinion on the following grounds, namely:

**STATEMENT**

1. Facts indicating mental disorder observed by myself:\*

\*Here state the facts

SCHEDULE — (continued)

2. Other facts, if any, indicating mental disorder communicated to me by others —

and I hereby order that the said .....

..... be

\*Here state the information and from whom derived

received into the Hospital for \*care and treatment \*observation

Dated the ..... day of ..... 20 .....

Medical Officer,  
..... Prison

- (1) Name
- (2) Address
- (3) Occupation
- (4) Nationality
- (5) Religion
- (6) Married, single or widowed
- (7) How many children; age of youngest
- (8) First attack
- (9) Duration of illness
- (10) Addicted to opium or alcohol
- (11) Epileptic
- (12) Suicidal (if so by what method)
- (13) Dangerous
- (14) Name and address of nearest relatives or friends
- (15) Clinical history, if any