

THE ZAMBIA CORRECTIONAL SERVICE BILL, 2021

MEMORANDUM

The objects of this Bill are to—

- (a) continue the existence of the Zambia Prisons Service and rename it as the Zambia Correctional Service and redefine its functions;
- (b) provide for the establishment, management and control of prisons and correctional centres;
- (c) provide for the correction and reformation of inmates;
- (d) establish the Directorate of Extension Services and provide for its functions;
- (e) provide for compulsory aftercare orders;
- (f) establish the National Parole Board and provide for its functions;
- (g) domesticate the United Nations Standard Minimum Rules for Treatment of Prisoners;
- (h) repeal and replace the Prisons Act, 1965; and
- (i) provide for matters connected with, or incidental to the foregoing.

L. KALALUKA,
Attorney-General

THE ZAMBIA CORRECTIONAL SERVICE BILL, 2021

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N.A.B. 35, 2021

A BILL

ENTITLED

An Act to continue the existence of the Zambia Prisons Service and rename it as the Zambia Correctional Service and redefine its functions; provide for the establishment, management and control of prisons and correctional centres; provide for the correction and reformation of inmates; establish the Directorate of Extension Services and provide for its functions; provide for compulsory aftercare orders; establish the National Parole Board and provide for its functions; domesticate the United Nations Standard Minimum Rules for Treatment of Prisoners; repeal and replace the Prisons Act, 1965; and provide for matters connected with, or incidental to, the foregoing.

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY PROVISIONS

1. This Act may be cited as the Zambia Correctional Service Act, 2021, and shall come into operation on the date the Minister may appoint by statutory instrument.

Short title and commencement

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

Interpretation

“appellant inmate” means a convicted criminal inmate who is detained in a prison or correctional centre as a result of a conviction which is the subject-matter of an appeal;

N.A.B. 35, 2021

Cap. 53	“approved school” has the meaning assigned to the words in the Juveniles Act;	
	“authorised officer” means an officer who is a member of the Defence Force, national security service and an investigative authority authorised for the purposes of this Act;	5
Cap. 1	“child” has the meaning assigned to the word in the Constitution;	
	“child in conflict with the law” means a child in respect of whom court proceedings are contemplated or instituted under any written law;	10
	“circumstantial child” means a child born in a prison or brought in a prison or correctional centre, by virtue of the mother’s incarceration;	
	“civil inmate” means an inmate other than a criminal inmate from noncriminal processes including failure to pay debts;	15
Cap. 1	“Commission” means the Zambia Correctional Service Commission established under the Constitution;	
	“Commissioner” means a person appointed as Commissioner under section 6;	20
	“Commissioner General” means a person appointed as CommissionerGeneral under section 6;	
	“Commissioner of Social Welfare” means the Commissioner of Social Welfare appointed under the Juveniles Act;	
Cap. 53	“convicted criminal inmate” means a criminal inmate who is under sentence of a court or court-martial;	25
	“correctional centre” means a correctional centre declared under section 10;	
	“correctional officer” means a person appointed as a correctional officer under section 7;	
	“criminal inmate” means a person duly committed into custody under a writ, warrant or order of a court exercising criminal jurisdiction or by order of a courtmartial;	30
	“Deputy CommissionerGeneral” means a person appointed as Deputy Commissioner General under section 6;	
Act No. 6 of 2019	“designated health facility” means a facility designated for the admission, treatment, care, rehabilitation and palliative service to a forensic patient under the Mental Health Act, 2019;	35

- “discharged inmate” means a person who is lawfully released from a prison or correctional centre;
- “forensic mental patient” has the meaning assigned to the words in the Mental Health Act, 2019; Act No. 6 of 2019
- 5 “health practitioner” has the meaning assigned to the words in the Health Professions Act, 2009; Act No. 24 of 2009
- “inmate” means a person, whether convicted or not, in custody or under detention in a prison or correctional centre;
- 10 “inspector” means a person appointed as an inspector under section 96;
- “junior officer” means a correctional officer of a rank of Chief Inspector or Inspector;
- “legal aid” has the meaning assigned to the words in the Legal Aid Act, 2021; Act No. 1 of 2021
- 15 “legal aid service provider” has the meaning assigned to the words in the Legal Aid Act, 2021; Act No. 1 of 2021
- “major prison offence” means an offence which is provided as a major prison offence under section 68;
- 20 “mechanical restraint” means restraint by the use of handcuffs, leg irons, straight jacket, or any other form of restraint prescribed by the Minister;
- “minor prison offence” means an offence which is provided as a minor prison offence under section 66;
- 25 “officerincharge” means a correctional officer appointed as an officer-in-charge under section 8;
- “parole” means the conditional release of a convicted inmate from a prison or correctional centre, to serve the remainder of sentence in the community under supervision;
- 30 “Parole Board” means the National Parole Board continued under section 80;
- “probation officer” means a probation officer appointed under the Probation of Offenders Act; Cap. 93
- 35 “prohibited article” means an article whose introduction or removal into or out of a prison or correctional centre is prohibited under this Act;
- “prison” means a prison declared under section 10;
- “reformatory school” has the meaning assigned to the words in the Juveniles Act; Cap. 53
- 40 “rehabilitation programme” means a programme designed for the treatment and correction of an inmate;

Cap. 97	“repealed Act” means the Prisons Act, 1965;	
Cap. 1	“Service” means the Zambia Correctional Service established under the Constitution;	
	“subordinate officer” means a correctional officer of the rank of Sub-Inspector and below;	5
Cap. 269	“trade union” has the meaning assigned to the words in the Industrial and Labour Relations Act;	
	“unconvicted inmate” means a person, who is not a convicted inmate, but committed to custody under a writ, warrant or order of a court or an order of detention issued by a person authorised by any written law or by order of a courtmartial;	10
	“visiting justice” includes a human rights officer and magistrate who visit a prison or correctional centre; and	
	“weapon” includes a firearm, baton, tear smoke or other instrument as prescribed.	15
Purposes of sentence of imprisonment	<p>3. The purposes of a sentence of imprisonment or similar measures deprivative of a person’s liberty are primarily to—</p> <p>(a) protect against crime and to reduce recidivism; and</p> <p>(b) ensure, as far as possible, the reintegration of an inmate into society on discharge through provision of programmes in a prison or correctional centre.</p>	20
Guiding principles	<p>4. (1) The Service shall be guided by the following principles:</p> <p>(a) respect for inherent dignity and value of human beings;</p> <p>(b) protection from torture and other cruel, inhuman or degrading treatment or punishment;</p> <p>(c) use of the least restrictive measures consistent with the protection of society, correctional officers and inmates;</p> <p>(d) consideration of alternatives to custody in a prison or correctional centre, including community service;</p> <p>(e) ensuring the effective delivery of programmes to inmates including correctional, educational, vocational training and volunteer programmes, progressively;</p> <p>(f) retention of the rights of citizens, except those that are as a consequence of the lawful sentence and restriction of liberty;</p> <p>(g) correctional decisions are made in a forthright and fair manner, with access by an inmate to an effective grievance procedure;</p>	30 35

- 5 (h) correctional policies, programmes and practices respect gender, ethnic, cultural and religious linguistic differences, and are responsive to special needs of women, persons with disabilities, the aged, children and persons requiring mental health care;
- (i) obedience to discipline and rules relating to work release, parole, statutory release and compulsory aftercare; and
- (j) full and effective access to prison or correctional centre facilities on an equitable basis by persons with disabilities.

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PART II

ADMINISTRATION OF SERVICES

5. (1) The Service is, in addition to the functions under the Constitution, responsible for the management and control of prisons and correctional centres. Functions of Service Cap. 1
- 15 (2) The Second Schedule applies to the Service.
6. (1) The President shall appoint the Commissioner-General and such number of Deputy Commissioner-Generals and Commissioners of the Service. Commissioner-General, Deputy Commissioner-General and Commissioner
- 20 (2) The Commissioner-General is responsible for the day-to-day administration of the Service.
- (3) Where the Commissioner-General is absent from the Republic or is unable to perform the functions of office due to illness or other reason, a Deputy Commissioner-General shall act as Commissioner-General.
- 25 7. (1) The Commission shall appoint as public officers, correctional officers of the rank of Deputy Commissioners and below as may be necessary for the performance of functions under this Act. Appointment of correctional officer
- (2) A rank in the Service is as prescribed.
- 30 8. (1) The Commission shall, appoint an officer-in-charge of a prison or correctional centre. Officer-in-charge
- (2) The functions of an officer-in-charge are to—
- 35 (a) supervise and control matters in connection with a prison or correctional centre to which the officer-in-charge is appointed;
- (b) keep or cause to be kept records that the Commissioner-General may determine;
- (c) manage the conduct and treatment of correctional officers and inmates under the officer-in-charge's control;

	(d) ensure that correctional officers and inmates under the control of the officer-in-charge observe the provisions of this Act and any directions and orders made in accordance with this Act;	
	(e) ensure the safe custody of warrants;	5
	(f) ensure the safe custody of weapons, accoutrements, clothing and other public stores and foodstuffs issued and delivered for use by the prison or correctional centre;	
	(g) oversee and supervise correctional officers and inmates under the control of the officer-in-charge;	10
	(h) account for public money held for the purposes of that prison or correctional centre;	
	(i) ensure that circumstantial children receive the necessary vaccines; and	
	(j) secure and maintain valuables, money, articles of clothing and other property belonging to inmates entrusted to the officer-in-charge, and account for the loss or damage, if any.	15
Correctional centre where officer-in-charge is not appointed	9. (1) The CommissionerGeneral may, where an officer-in-charge has not been appointed to a prison or correctional centre, designate a correctional officer to be in-charge of that prison or correctional centre.	20
	(2) A correctional officer shall perform the functions under section 8, subject to the directions imposed by the Commissioner-General.	25
	PART III	
	DECLARATION AND CONTROL OF PRISONS AND CORRECTIONAL CENTRES	
Declaration of prison or correctional centre	10. (1) The Minister may, by notice in the <i>Gazette</i> , declare a building, enclosure or place, or any part building enclosure or place, to be a prison or correctional centre.	30
	(2) A prison or correctional centre shall provide facilities for persons with disabilities in accordance with the relevant written laws, and post natal care of female inmates.	
Temporary prison or correctional centre	11. Subject to section 10, the Commissioner-General may establish a temporary prison or correctional centre in any building, enclosure or place, or part of a building, enclosure or place where	35
	(a) the CommissionerGeneral considers that the number of inmates in any prison or correctional centre is greater than the capacity of the prison or correctional centre and that it is not convenient to transfer the excess number to another prison or correctional centre; or	40

(b) temporary shelter or safe custody of inmates is required in the event of an outbreak of an epidemic disease within the prison or correctional centre.

5 **12.** (1) A male correctional officer may be deployed to work in a female prison or correctional centre, or with female inmates, except that the female inmates shall be in the company of a female correctional officer.

Deployment of correctional officers to prison or correction centre

(2) A female correctional officer may be deployed to work in male prison or correctional centre, or with male inmates, except that the male inmates shall be in the company of a male correctional officer.

PART IV

CORRECTIONAL HEALTH SERVICE

15 **13.** (1) The Civil Service Commission shall appoint as public officers, the Director responsible for providing and administering health care services to a prison or correctional centre and other officers as the Civil Service Commission shall consider necessary.

Director Correctional Health Services

(2) The Director appointed under subsection (1) is responsible for the—

20 (a) day-to-day administration of health care services to a prison or correctional centre; and

(b) supervise a health practitioner appointed under section 14.

25 **14.** (1) The Civil Service Commission shall, in consultation with the ministry responsible for health, appoint a health practitioner for a prison or correctional centre as is necessary for the provision of health care to the inmates and correctional officers at that prison or correctional centre.

Appointment of health practitioner

30 (2) Subject to this Act, a health practitioner appointed under subsection (1) shall visit a prison or correctional centre daily, where practicable, or when called on by an officer in charge.

(3) A health practitioner shall, where it appears that an inmate requires treatment on medical or health grounds, submit a report to the officer-in-charge.

35 (4) A public officer appointed as a health practitioner by the Civil Service Commission in a district shall, in the absence of a health practitioner appointed under subsection (1), provide health care services to inmates and correctional officers at a prison or correctional centre in that district, as prescribed.

Medical inspection	<p>15. (1) A health practitioner shall carry out medical examination of an inmate on admission to, and before discharge from, a prison or correctional centre, and shall perform other duties as prescribed.</p> <p>(2) An officer-in-charge shall, where an inmate has not been examined by a health practitioner on admission to a prison or correctional centre, be kept apart from other inmates.</p>	5
Observation of inmates charged with capital offence	<p>16. A health practitioner shall, on each visit to a prison or correctional centre, examine and observe the mental condition of an inmate under a sentence of death or charged with a capital offence, and submit a report to the officer-in-charge as prescribed.</p>	10
Examination of inmate in separate confinement or in health facility	<p>17. A health practitioner shall ensure that an inmate under a sentence of death, or charged with a capital offence, or in separate confinement, or in a health facility in prison, is medically examined each day on which the health practitioner visits the prison or correctional centre.</p>	15
Powers of the officer-in-charge to order examination of inmate	<p>18. An officer-in-charge may order an inmate to submit oneself to medical examination and treatment as often as that officer-in-charge considers necessary.</p>	
Death of inmate	<p>19. A health practitioner shall keep and maintain a register of the death of an inmate, otherwise than by lawful execution, which shall include —</p> <ul style="list-style-type: none"> (a) the day on which the deceased inmate was sentenced; (b) the day on which the deceased inmate was admitted to a prison or correctional centre; (c) the day on which the deceased inmate first complained of illness, or was observed to be ill, the labour, if any, on which the inmate was engaged in and the scale of that deceased inmate's diet on that day; (d) whether, and if so the day on which, the deceased inmate was admitted to a health facility; (e) the day on which the health practitioner was first informed of the illness; (f) the nature of the disease; (g) when the deceased inmate was last seen by the health practitioner before the inmate's death; 	20 25 30 35

- (h) when the inmate died and, where a postmortem examination is made, details of the appearance of the deceased inmate, together with any special remarks that the health practitioner considers necessary; and
- 5 (i) the health practitioner's opinion as to the cause of death of the inmate.
- 20.** An officer-in-charge shall, on the death of an inmate in a prison or correctional centre, immediately notify a magistrate and comply with the provisions of the Inquests Act.
- Notification of death of an inmate
Cap. 41
- 10 **PART V**
- FUNCTIONS, POWERS AND PRIVILEGES OF CORRECTIONAL OFFICERS**
- 21.** (1) A correctional officer shall exercise and perform functions assigned to the officer under this Act and shall obey lawful directions relating to the execution of the duties from senior
- 15 correctional officers.
- (2) A correctional officer shall be available for duty at all times and may at any time be deployed for duty in any part of the Republic.
- (3) A correctional officer is not to engage in any employment relationship other than the functions assigned to the officer under
- 20 this Act.
- 22.** Subject to this Act, a correctional officer shall, in the exercise of that correctional officer's functions, exercise the same power, authority, protection and privilege as those conferred on a police officer.
- Correctional officer to exercise same powers of police officer
- 25 **23.** (1) A correctional officer shall examine and search anything within, or being brought into or taken out of, a prison or correctional centre, and shall stop and search or cause to be stopped and searched any vehicle or person within a prison or correctional centre, or going into or out of a prison or correctional centre.
- 30 (2) A correctional officer may, where a correctional officer finds a prohibited article or any property belonging to the Government in use in a prison or correctional centre, during a search of any vehicle or person under subsection (1), arrest that person or the person in charge of the vehicle carrying the article or property
- 35 and shall as soon as practicable hand over the person to the nearest police station.
- (3) A correctional officer, who is on duty in a prison or correctional centre may—
- (a) refuse admission of a person who is not willing to be
- 40 searched in to a prison or correctional centre; or

- (b) order a person within a prison or correctional centre, who refuses to be searched to leave the prison or correctional centre, and, where that person refuses to leave, may cause that person to be removed from the prison or correctional centre. 5
- Punishment by correctional officer 24. A correctional officer shall not punish an inmate unless lawfully ordered by the officer in charge.
- Use of weapon by correctional officer 25. A correctional officer may use a weapon against—
- (a) an inmate who—
- (i) escapes or attempts to escape; 10
- (ii) engages in a mass escape or in an attempt to force, break open or scale the outside door, gate, fence or enclosure wall of the prison or correctional centre; or
- (iii) uses violence on a correctional officer, another inmate or any other person; and 15
- (b) a person who—
- (i) while assisting an inmate to escape, uses violence on a correctional officer, or any other person; 20
- (ii) is engaged in a combined break in, an attempt to force, break open or scale the outside door, gate, fence or enclosure wall of the prison or correctional centre or an inside door, gate, fence or wall of that prison or correctional centre; or 25
- (iii) while engaged in any activity mentioned in subparagraph (ii), uses violence on a correctional officer, or any other person.
- (2) Despite subsection (1), a correctional officer shall not resort to the use of a weapon unless the correctional officer 30
- (a) has reasonable grounds to believe that the correctional officer cannot otherwise prevent an escape;
- (b) gives warning to the inmate that the correctional officer is about to use the weapon against that inmate and the warning given by the correctional officer is unheeded; and 35
- (c) has reasonable grounds to believe that a correctional officer, or any other person, is in danger of suffering grievous bodily harm.

(3) A correctional officer shall not, in the presence of a senior correctional officer, use a weapon, except on the orders of the senior correctional officer.

(4) A correctional officer shall, in a case where force is used, use reasonable force necessary and use a weapon to disable and not cause the death of a person.

26. A correctional officer shall, for the purpose of apprehending a person who has escaped from lawful custody, have power to arrest the person and to convey the person to a prison, correctional centre or the nearest police station, and in the case of a child in conflict with the law, to a place of safety.

Power to arrest

27. (1) An officer incharge shall take or cause to be taken, as authorised by the Commissioner-General, photographs, measurements, footprints and casts thereof, palm prints and fingerprints of an inmate and where any inmate refuses to permit the photographs, measurements, footprints or casts thereof, palm prints or fingerprints to be taken, the officer incharge may use or cause to be used force that may be necessary to secure compliance.

Power to take photographs, fingerprints, etc., of inmate

(2) Where the photographs, measurements, footprints and casts thereof, palm prints and fingerprints of an unconvicted inmate are taken in accordance with subsection (1), and the unconvicted inmate is not subsequently convicted, the photographs, measurements, footprints and casts thereof, palm prints and fingerprints shall be destroyed on the inmate's release.

28. (1) A court shall, where the defence to any suit instituted against a correctional officer is that the act complained of was done in obedience to a warrant purporting to be issued by a judge, magistrate or other competent authority, on the production of a warrant containing the signature of the judge or magistrate and on proof that the act complained of was done in obedience to the warrant, enter judgment in favour of the correctional officer.

Nonliability for act done under authority of warrant

(2) For the purposes of subsection (1), proof of the signature of a judge or magistrate shall not be required unless the court has reason to doubt the genuineness of the signature and, where it is proved that the signature is not genuine, an act done by the correctional officer in pursuance of the warrant, shall be lawful and judgment shall be given in favour of the correctional officer if it is proved that, at the time when the act complained of was committed, the correctional officer believed on reasonable grounds that the signature was genuine.

PART VI

ADMISSION AND CONTROL OF INMATES

- Admission of inmates
- 29.** (1) A person shall be admitted into a prison or correctional centre under the authority of Commissioner-General and accompanied by 5
- (a) a remand warrant, order of detention, warrant of conviction or committal under the hand of a person authorised to sign or countersign that warrant or order, in accordance with any relevant written law;
- (b) an order of a court martial; or 10
- (c) an order in writing signed by a police officer of an appropriate rank as provided for in the Police Act.
- Cap. 107
- (2) An order under subsection (1)(b) and (c) shall be valid for a period necessary to obtain a valid warrant or order from the court. 15
- (3) An officer in charge shall be satisfied that the inmate is the person named in the warrant or order of detention or order accompanying the inmate and that the warrant or order bear the signature of the proper authority lawfully authorised to issue it, and admit an inmate to the prison or correctional centre. 20
- (4) Despite subsections (1) and (3), an officer in charge shall not refuse to accept an inmate on the ground that there is an error on the face of a warrant or order of detention or an order accompanying an inmate, but take steps, as soon as practicable, to have the error corrected. 25
- Admission of expectant mother and circumstantial child
- 30.** (1) An expectant mother admitted to a prison or correctional centre may be provided with necessaries and care at the public expense as prescribed. 30
- (2) A circumstantial child of a female inmate may be received into the prison or correctional centre with its mother and shall be supplied with clothing and necessaries at the public expense, except that when the child is weaned and is capable of being cared for by a person other than the female inmate, the officer in charge shall— 35
- (a) on being satisfied that there is a relative or friend of the female inmate who is able and willing to support the child, cause the child to be handed over to the relative or friend; or 40
- (b) where there is no relative or friend of the female inmate who is able and willing to support the child, subject to any other written law, hand the child over to the care of the Commissioner of Social Welfare.

- 31.** An officer-in-charge shall, on admission of an inmate to a prison or correctional centre, cause to be recorded particulars of the inmate, as prescribed. Particulars of inmate to be recorded
- 32.** (1) An officer-in-charge shall, on admission of an inmate to a prison or correctional centre, avail facilities to allow an inmate access to information including- Provision of information to inmate
- (a) the provisions of the Act; and
- (b) information about the—
- (i) inmates rights and manner of obtaining information;
- (ii) procedure for making requests or complaints; and
- (iii) inmates obligation and applicable disciplinary sanction.
- (2) An officer-in-charge shall, where an inmate is illiterate or a person with a disability, cause the information under subsection (1) to be conveyed orally or in a manner appropriate to that inmate's needs.
- 33.** (1) An inmate shall have access to legal aid in accordance with the Legal Aid Act, 2021. Access to legal aid Act No.1 of 2021
- (2) An inmate shall be provided with an opportunity and facilities to be visited by, and to communicate and consult with, a legal advisor of the inmate's choice or a legal aid service provider on any legal matter.
- (3) The opportunity granted to an inmate under subsection (2) shall be without undue delay and in full confidentiality.
- 34.** (1) A correctional officer shall, on admission of an inmate to a prison or correctional centre, search the inmate of the same sex in a respectful manner that recognises inherent human dignity and privacy of the inmate being searched as prescribed. Search of inmate
- (2) A correctional officer shall confiscate any prohibited article found on an inmate and hand over the prohibited articles to the officer-in-charge.
- (3) The Commissioner-General may issue orders on the disposal of prohibited articles confiscated during a search.
- 35.** (1) An officer in charge shall keep an inventory of the money, clothes or other personal effects brought into a prison or correctional centre by an inmate or sent to a prison or correctional centre for the inmates' use, which the inmate is not permitted to retain, and return the inmate or the inmates's money, clothes or other personal effect on the inmate's release or discharge. Custody and disposal of money and other effects of inmate

(2) An officer in charge may, where clothes of an inmate are worn out or dirty, order the clothes to be destroyed and may provide suitable clothing on the release or discharge of that inmate at the public expense.

(3) An officer in charge may refuse to take into a prison or correctional centre any property of an inmate which, by reason of its bulk, nature or excessive quantity, cannot be conveniently stored in the prison or correctional centre.

(4) An officer-in-charge shall cause to be recorded in a register the name of the person or next of kin to whom any money or personal effects of that inmate may be delivered in the event of the death of an inmate who dies intestate.

(5) If, within six months after the release or discharge of an inmate from a prison or correctional centre or the death of an inmate, any money or personal effects have not for any reason been claimed by that inmate or the inmate's personal representative or next of kin, the officer in charge shall furnish an inventory or description of money or personal effects to a subordinate court.

(6) Where an inventory or description of money or personal effects is furnished to a subordinate court in accordance with subsection (5), the court shall detain or give orders for the detention of the money or personal effects and shall cause a notice to be posted in a conspicuous place at the court, a newspaper of general circulation in the Republic and any other place that the court considers appropriate, specifying the money or personal effects and calling on any person who may have any claim to appear before the court and establish their claim within fourteen days of the date of the notice.

(7) Subject to subsection (8), if no person claims the money or property specified in the notice, under subsection (6) within the period specified under subsection (6), the court shall order that the personal effects be sold or destroyed and notice of the sale be displayed prominently at the court for a period of not less than fourteen days before the date fixed for the sale.

(8) The proceeds from the sale of personal effects sold in accordance with subsection (7), and any money specified in the notice under subsection (6), which has not been paid to a claimant as provided in subsection (5), shall be paid into the Consolidated Fund.

PART VII

CLASSIFICATION, CUSTODY AND REMOVAL OF INMATES

36. (1) Different categories of inmates shall be kept apart and confined in a separate prison or correctional centre taking into account the inmate's sex, age, criminal record, the legal reason for detention and the necessities of that inmate's treatment.

Separation
of inmates

(2) Despite the generality of subsection (1), a male inmate, female inmate and a child in conflict with the law shall be kept apart and confined in a separate prison or correctional centre or in separate parts of the same prison or correctional centre to prevent, as far as is practicable, any form of contact.

(3) Subject to subsection (2), convicted and unconvicted inmates of each sex shall be divided into the following classes:

- (a) child in conflict with the law;
- (b) adults;
- (c) first offenders;
- (d) persons with disabilities;
- (e) inmates with previous convictions;
- (f) inmates suspected or certified as being mentally ill;
- (g) pre-natal mothers;
- (h) post-natal mothers; and
- (i) other classes that the Commissioner-General may determine.

(4) Where the accommodation at the prison or correctional centre renders it practicable, each class specified under subsection (3) shall be kept separately.

37. (1) Subject to this Act, an inmate shall be in the lawful custody of an officer-in-charge and be subjected to discipline meted out in a prison or correctional centre during the whole period of imprisonment, whether the inmate is or is not within the precincts of the prison or correctional centre.

Custody of
inmates

(2) An officer-in-charge shall keep and detain persons duly committed to the officer-in-charge's custody by any court or other competent authority in accordance with the provisions of the warrant or order by which the person was committed or until the person is discharged by a court or released.

(3) An inmate who is being removed or transferred from one prison or correctional centre to another or to any other place shall, while outside the prison or correctional centre, be kept in the custody of an authorised officer, in accordance with this Act or any other

	written law, and be considered to be in the lawful custody of the officer-in-charge of the prison or correctional centre from which the inmate is being removed or transferred.	
Removal of remand inmate by probation officer	38. A probation officer may be authorised by a court to remove from a prison or correctional centre an inmate on remand, in the prison or correctional centre, for the purpose of making inquiries at the direction of the court, and a correctional officer shall hand over custody of the remand inmate to the probation officer.	5
Production of inmate in court for civil proceedings	39. Where the attendance before a court of an inmate is required for the purpose of giving evidence in a civil proceedings, the court may issue an order directed to the officer-in-charge of the prison or correctional centre where the inmate is serving a sentence, requiring the officer-in-charge to produce the inmate at the time and place specified in the order, and the officer-in-charge shall ensure compliance with the order.	10 15
Inmate under police escort	40. (1) An inmate on remand or committed for trial, who is required to attend before a court may be taken for that purpose into police custody at the prison or correctional centre to which the inmate is committed and shall remain under police supervision and guard until returned to the prison or correctional centre or discharged by the court. (2) Where, on the removal of an inmate from a prison or correctional centre, the number of correctional officers are insufficient to provide escort to the inmate, the officer-in-charge of the prison or correctional centre from which the inmate is being removed may, with the general or special permission of the Inspector-General of Police, deliver the inmate to any police officer detailed for duty. (3) While an inmate is in the custody of a police officer, the inmate shall be considered to be in lawful custody, and escape from the custody of the police officer shall be considered to be escape from lawful custody for the purposes of any written law.	20 25 30
Statement to police officer	41. (1) A police officer may, with the approval of an officer-in-charge of a prison or correctional centre and on production of an order, in writing from a police officer who is in-charge of a police station or another police officer of or above the rank of Inspector, in the presence and hearing of a correctional officer, interview an inmate, within a prison or correctional centre, for purposes connected with the investigation of any offence. (2) An officer in charge of a prison or correctional centre may, when satisfied that an inmate is willing to be interviewed by a police officer in the absence of a correctional officer, permit that inmate to be interviewed by not less than two police officers within the prison or correctional centre.	35 40

42. An officer-in-charge may deliver an inmate into the custody of a police officer in the interests of justice or in connection with an investigation of a crime on production of an order, in writing, which shall, in the case of —
- 5 (a) an unconvicted inmate, be signed by a police officer who is in charge of a police station or a police officer of or above the rank of Inspector; and
- (b) a convicted inmate, by a police officer of or above the rank of Chief Inspector.
- 10 43. The Commissioner-General may, by general or special order, direct that an inmate be removed to another prison or correctional centre, other than the one in which the inmate is confined or to which the inmate is committed.
- 15 44. Whenever an officer-in-charge of a prison or correctional centre considers it necessary, for the safe custody of an inmate, that the inmate should be confined by means of mechanical restraint, the officer-in-charge may cause the inmate to be confined as prescribed, except that the use of chains, irons or other instruments which are degrading or painful shall be prohibited.
- 20 45. (1) A convicted inmate who is adjudged as a forensic mental patient shall be detained in a designated health facility in accordance with the Mental Health Act, 2019.
- (2) An officer-charge of a prison or correctional centre, shall, where an inmate is considered to be mentally ill, cause the inmate to be assessed and treated in accordance with the Mental Health Act, 2019.
- 25 46. (1) An officer-in-charge may make an order for the removal of an inmate to a health facility—
- (a) on the advice of a health practitioner; or
- 30 (b) in case of emergency, without the advice of a health practitioner.
- (2) An officer-in-charge shall, where an inmate has been hospitalised for a continuous period of ninety days, recommend to the Commissioner-General that—
- 35 (a) the inmate be discharged on medical grounds;
- (b) the inmate be transferred back to the prison or correctional centre;
- (c) the inmate's admission in the hospital be continued; or
- 40 (d) at the inmate's request, the inmate to be transferred to a private hospital.

Release of inmate for investigation

Removal of inmate from one prison or correctional centre to another

Mechanical restraint of inmate

Mental health status of inmate
Act No. 6 of 2019

Act No. 6 of 2019

Removal of sick inmate to health establishment

(4) A health practitioner in-charge of a health facility shall, on the admission of a sick inmate at that health facility, transmit to the officer-in-charge of the prison or correctional centre where that inmate was removed a certificate signed by the health practitioner, stating the health practitioner's opinion for the inmate to remain in a health facility. 5

(5) A health practitioner shall, where the health practitioner in-charge of a health facility considers that the inmate should be discharged, notify the officer-in-charge of a prison or correctional centre where an inmate was removed and if the inmate has— 10

(a) not completed the sentence in respect of which an inmate was committed, the officer-in-charge shall cause the inmate to be returned to a prison or correctional centre; or

(b) completed the sentence in respect of which an inmate was committed, the officer in-charge shall cause the inmate to be released. 15

(6) A health practitioner and other officers of a health facility shall take reasonable precaution to prevent the escape of an inmate at any time under their treatment and the officers may take lawful measures for preventing the escape of an inmate that are reasonably necessary, except that the health practitioner in-charge of a health facility may refuse to take or permit any action authorised under this section if the health practitioner considers that the action would be prejudicial to the health of the inmate. 20

(7) Where, on account of the gravity of the offence for which an inmate is in custody, or for any other reason, an officer-in-charge of a prison or correctional centre considers it necessary to take special measures for the security of that inmate while the inmate is undergoing treatment in a health facility, it shall be lawful for the officer-in-charge to give that inmate into the custody of an authorised officer— 25 30

(a) who shall be with that inmate by day and night to prevent the escape of the inmate; and

(b) who shall be responsible for the inmate's safe custody until the inmate is handed over to an officer-in-charge of the prison or correctional centre from which the inmate was remanded on the inmate's discharge from a health facility, or when the inmate's sentence expires. 35

Removal of
inmate to
quarantine
centre

47. (1) The Commissioner-General shall, where a health practitioner notifies the Commissioner-General that an inmate is suffering from a highly contagious disease, direct the removal of 40

that inmate to a quarantine centre for treatment of the contagious disease or until the inmate serves the sentence imposed, whichever comes first.

(2) A person in charge of the quarantine centre shall, where
5 an inmate, who has been moved to a quarantine centre in accordance with subsection (1), and is liable to confinement in a prison or correctional centre, transmit to the officer-in-charge of the prison or correctional centre where the inmate was removed, a signed certificate affirming that it is necessary that the inmate
10 remains in the quarantine centre.

(3) A person in charge of the quarantine centre shall, where a person in charge of a quarantine centre, considers that it not necessary for an inmate to remain at the quarantine centre, notify the officer-in-charge of the prison or correctional centre where the inmate was
15 removed and if the inmate has not served the sentence imposed on the inmate, the officer-in-charge shall cause the inmate to be returned to the prison or correctional centre or if the inmate has served the sentence imposed on the inmate, discharge the inmate.

(4) A person in charge of a quarantine centre and other persons
20 employed in the quarantine centre shall take reasonable precaution to prevent the escape of an inmate who is undergoing treatment and that person may take measures that may be necessary to prevent the escape of the inmate, except that nothing shall be done under the authority of this section which is likely to be prejudicial to the
25 health of an inmate.

48. (1) An inmate shall still be in lawful custody while in a health facility, designated health facility or a quarantine centre under this Act.

(2) A correctional officer shall, where an inmate escapes while
30 in a health facility, designated health facility or quarantine centre, not be held answerable unless the inmate was at the time of the escape in the personal custody of that correctional officer.

(3) A health practitioner, person in charge of a health facility, designated health facility or a quarantine centre or any other person
35 shall not be held answerable for the escape, unless it is proved that the health practitioner or person helped the inmate to escape.

49. The period during which an inmate is detained in a health facility, designated health facility or quarantine centre under this Act, shall be reckoned as part of the inmate's sentence of
40 imprisonment.

Liability for escape from health facility, designated health facility or quarantine centre

Serving sentence in health facility, quarantine centre or mental facility

PART VIII

REHABILITATION, REINTEGRATION AND EMPLOYMENT OF INMATES

Rehabilitation,
reintegration
and
employment
of inmate

50. The Service shall provide rehabilitation programmes including educational, work and social programmes which shall, as far as possible, improve the inmate's possibility of successful reintegration in the community after discharge. 5

General
requirement
to work

51. (1) Subject to subsections (2) and (3), a criminal inmate shall engage in work within or outside the precincts of a prison or correctional centre, as directed by the officer-in-charge and, as far as is practicable, the work shall take place in association with other inmates, except that a health practitioner may excuse an inmate from work or order that the inmate perform light work, on medical grounds. 10

(2) The Commissioner-General may direct inmates to perform tasks on public works as may be considered necessary. 15

(3) A female inmate shall not, except on the approval of the Commissioner-General, be employed outside a prison or correctional centre.

(4) A civil inmate and an unconvicted inmate may elect to work and, if the inmate so elects, shall receive payment at rates as prescribed. 20

Work
programmes
and
requirement
to work

52. (1) A civil and an unconvicted inmate shall be required to keep their cells, the precincts, furniture, clothing and utensils clean.

(2) An appellant inmate shall be required to keep an appellant inmates's cell, the precinct, furniture, clothing and utensils, clean and to perform labour as the officer-in-charge may, with the approval of the Commissioner-General, direct. 25

(3) The Commissioner-General may authorise a registered institution, person or body to employ or offer training to inmates under a sentence of imprisonment on terms and conditions that may be determined. 30

(4) The Commissioner-General may authorise specific services necessary or expedient in the public interest.

PART IX

ESCAPE, PROHIBITED ARTICLES AND AREAS

- 53.** (1) Subject to this Act, a person commits an offence if that person —
- 5 (a) removes from or introduces into or throws from or into or attempts by any means whatsoever to remove from or introduce into a prison or correctional centre or takes from or gives to an inmate any article whatsoever; or
- (b) communicates with any inmate without authorisation.
- 10 (2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.
- 54.** A correctional officer may arrest without a warrant a person and deliver that person into the custody of a police officer,
- 15 if that person—
- (a) commits or attempts to commit any offence under section 58;
- (b) on reasonable suspicion, is suspected of committing an offence under section 58, or refuses on demand made
- 20 by the correctional officer to give that person's name and address; or
- (c) on demand made by the correctional officer or any other correctional officer, gives a name or an address which that correctional officer knows or has reason to believe to be false or which subsequently proves to be false.
- 25 **55.** (1) A letter or document, except as prescribed, written or generated in a prison or correctional centre by or on behalf of an inmate shall be delivered to the officer-in-charge who shall, before the letter or document is removed from the prison or correctional centre, endorse or cause to be endorsed
- 30 (a) the name of the prison or correctional centre;
- (b) a statement to the effect that its removal from the prison or correctional centre is authorised; and
- (c) the signature or initials of the correctional officer making the endorsement.
- 35 (2) A person who comes into possession of a letter or document which is not endorsed in accordance with subsection (1), and has reasonable cause to believe that the letter or document is written in a prison or correctional centre by or on behalf of an inmate shall report that fact to the Commissioner-General or the officer-in-
- 40 charge of the nearest prison or correctional centre.

Penalty for introduction or removal of prohibited articles into and from prison or correctional centre and for unauthorised communication with inmate

Power of arrest

Unauthorised communication

(3) An inmate shall not be allowed to keep or have access to an electronic and telecommunication device.

(4) An officer-in-charge may permit an inmate to access an electronic and telecommunication device at a designated place.

(5) A person shall not, without the authority of the Commissioner-General, publish or cause to be published or transmitted to a person for publication or otherwise the whole or any part of a letter or document which that person has reasonable cause to believe was written in a prison or correctional centre by or on behalf of an inmate and is not endorsed in accordance with subsection (1).

(6) A person who contravenes this section commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

Removal of person loitering

56. (1) A person commits an offence if that person—

(a) is found loitering within one hundred metres of a prison or correctional centre or other place where inmates may be for the purpose of imprisonment or work and fails to depart on being requested to do so by a correctional officer or a police officer; or

(b) in any manner, willfully interferes with any inmate or group of inmates.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

Removal of offender

57. A person who commits an offence under section 56, may be removed from the place where the person has committed the offence by a correctional officer or a police officer and, if the offence is repeated by that person after the person has been removed under this section, that person may be arrested without warrant by a correctional officer and handed over to a police officer.

Unlawful possession of articles supplied to correctional officer

58. (1) A person commits an offence if that person—

(a) is found in possession of an article which is supplied to a correctional officer in the course of duty or of any other property belonging to a prison or correctional centre, and fails to account, for that possession;

(b) without lawful authority, purchases or receives an article or property from a correctional officer; or

(c) aids or abets a correctional officer in selling or disposing of an article or property.

(2) A person who is convicted of an offence under subsection (1) is liable to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

59. (1) Subject to this Act, a person, other than an inmate
5 commits an offence if that person—

Assisting
inmate
to escape

(a) aids an inmate in escaping or attempting to escape,
conspires with a person to procure the escape of an
inmate or incites an inmate to escape from a prison or
10 correctional centre, conveyance, health facility,
designated health facility, quarantine centre or other
place where, or in which, the inmate may be in lawful
custody; or

(b) with intent to facilitate the escape of an inmate

(i) conveys anything to an inmate, or a conveyance,
15 health facility, designated health facility or
quarantine centre other place where, or in
which, an inmate is; or

(ii) places anything outside a conveyance, health
20 facility, designated health facility, quarantine
centre or other place where, or in which, an
inmate for the purposes of possession or use of
an inmate.

(2) A person who is convicted of an offence under subsection
25 (1) is liable to a fine not exceeding seven hundred thousand penalty
units or to imprisonment for a term not exceeding seven years, or
to both.

60. A person who harbours or employs an inmate whom the
person knows to be unlawfully at large commits an offence and is
liable, on conviction, to a fine not exceeding two hundred thousand
30 penalty units or to imprisonment for a term not exceeding two years,
or to both.

Harbouring
inmate

61. (1) A person commits an offence if that person —

(a) wears or uses, without due authority, any uniform or
35 decoration supplied to or authorised for use by a member
of the Service or any uniform or decoration which
resembles that used by a member of the Service, for
purposes of deceit;

Offences in
connection
with uniform
and
decoration

(b) falsely represents by act or words to be a person who is
40 or has been entitled to use or wear any uniform or
decoration, under paragraph (a).

(2) A person who is convicted of an offence under this section
is liable to a fine not exceeding fifty thousand penalty units or to
imprisonment for a term not exceeding six months, or to both.

Notice to be displayed stating offence

62. An officer incharge shall cause to be affixed, in a conspicuous place outside a prison or correctional centre, a notice setting out the acts prohibited under this Part, and the penalties which may be imposed.

PART X

5

CIVIL AND UNCONVICTED INMATES

Maintenance of unconvicted inmate from private source

63. A civil or an unconvicted inmate may be permitted to maintain oneself and to arrange for the purchase of, or receipt from, private sources at prescribed hours, food, clothing, or other necessities that the Commissioner-General may, determine. 10

Food, etc., not to be transferred to other inmate

64. (1) An inmate that purchases or receives food, clothing, or other necessities under section 63 shall not hire or sell to any other inmate.

(2) A person who contravenes this subsection is liable to lose all privileges provided under section 63 as the officer-in-charge may determine. 15

Food, clothing and equipment for unconvicted inmate

65. Where a civil inmate or an unconvicted inmate does not provide oneself with food and clothing, the inmate shall receive the normal food, clothing and other requirements provided by a prison or correctional centre. 20

PART XI

DISCIPLINE OF INMATES

Minor offence

- 66.** An inmate commits a minor offence if that inmate—
- (a) disobeys an order of the officer-in-charge, another correctional officer or any rule or order made in accordance with this Act; 25
 - (b) treats with disrespect a correctional officer or person authorised to visit the prison or correctional centre;
 - (c) is idle, careless or negligent at work or refuses to work;
 - (d) uses abusive, insulting, threatening, insolent, indecent or other improper language; 30
 - (e) is indecent in acts or gestures;
 - (f) commits an assault or act of violence;
 - (g) compiles or writes any documents or writing without the permission of the Commissioner-General; 40
 - (h) leaves a cell or place of work or other appointed place, without permission;
 - (i) disfigures, damages or interferes with a part or fitting of the prison or correctional centre or any property which is not the property of the inmate; 45

- (j) commits a nuisance in any part of the prison or correctional centre or wherever inmates are;
- (k) receives or is in possession of a prohibited article or attempts to obtain that article;
- 5 (l) makes repeated and groundless complaints or malingers;
- (m) quarrels with other inmates;
- (n) wilfully brings a false accusation against a correctional officer or another inmate;
- 10 (o) does an act calculated to create unnecessary alarm among correctional officers or inmates;
- (p) refuses to wear clothing issued to the inmate or exchanges, loses, discards, damages, alters or defaces any part of clothing;
- (q) conducts political campaigns;
- 15 (r) establishes political party branches;
- (s) offends in any way against good order and discipline;
- (t) attempts to commit an offence specified in this section; and
- 20 (u) aids or abets the commission of an offence specified in this section.

67. (1) An officer-in-charge who finds an inmate guilty of a minor offence, may impose one or more of the following punishments:

Punishment
of minor
offence by
officer-in-
charge

- 25 (a) confinement in a separate cell for a period not exceeding five days;
- (b) forfeiture of remission of sentence not exceeding thirty days of the total remission earned;
- (c) extra work for a period not exceeding seven days;
- 30 (d) reduction in stage, or postponement of promotion in stage, or forfeiture of privileges;
- (e) forfeiture of earnings not exceeding onehalf of the amount earned or removal from a prescribed earnings scheme for a period not exceeding two months, or reduction in earnings grade until a time that the inmate is considered fit for restoration to the inmates original grade by virtue of inmate's good conduct and skill at the inmate's trade or effort at work, except that an inmate shall not be reduced from the highest grade in a prescribed earnings scheme without the approval of the Commissioner-
- 35
40 General.

- (2) For the purposes of this section—
- (a) “reduction in stage” means the removal of an inmate from a higher stage to a lower stage in the progressive system; and
- (b) “postponement of promotion in stage” means the delay of promotion from a lower stage to a higher stage in the progressive system, as prescribed. 5
- 68.** An inmate commits a major offence if that inmate—
- (a) commits or incites any act of mutiny;
- (b) commits or takes part in an aggravated or repeated assault on another inmate; 10
- (c) commits or takes part in an assault or attack on a correctional officer;
- (d) escapes, conspires with a person to procure the escape of an inmate or assists another inmate to escape from a prison or correctional centre in which the inmate is detained or from a conveyance, health facility, designated health facility, quarantine centre or other place where, or in which, the inmate may be in lawful custody; 15 20
- (e) possesses any instrument or other thing with intent to procure the inmate’s own escape or that of another inmate;
- (f) omits or refuses to help a correctional officer to prevent an escape, an attempted escape or an attack on that correctional officer or on another inmate; 25
- (g) commits sodomy or other indecent act with another inmate; and
- (h) aids or abets the commission of a major offence.
- 69.** (1) An officer-in-charge may order an inmate charged with an offence to be kept apart from other inmates, pending the hearing and determination of the charge. 30
- (2) Whenever it appears to the officer-in-charge that it is desirable, for the good order and discipline of a prison or correctional centre for an inmate to be segregated and not to work or be associated with other inmates, the officer-in-charge shall order the segregation of that inmate for a period that may be considered necessary. 40
- Major offence
- Separation of inmate charged with offence

70.	A charge against an inmate in respect of a major offence shall be heard and determined by a court of competent jurisdiction.	Hearing of major offences
71.	(1) An inmate who commits a major offence is liable to the sentence of imprisonment specified for that offence in the Penal Code. (2) A sentence of imprisonment imposed for an offence on an inmate by a court of competent jurisdiction—	Punishment imposed by court Cap. 87
10	(a) who is a convicted criminal inmate, shall commence on the date of expiry of the sentence of imprisonment being served by the inmate at the time of the offence; and (b) who is not a convicted criminal inmate, shall commence on the date the sentence of imprisonment is imposed.	
15	72. (1) An inmate who is confined in a separate cell, as a form of punishment for a minor or major offence, shall be given a full diet. (2) An inmate undergoing punishment under subsection (1), shall not be put to any form of manual labour until the punishment is completed.	Confinement in separate cell
20	73. (1) An inmate shall not be confined in a separate cell for an aggregate period exceeding ninety days in twelve months. (2) Where an inmate is punished to two periods of confinement in a separate cell, the two punishments shall be separated by a period of not less than the longer of the two confinement periods.	Period of confinement in separate cell
25	74. Any punishment, lawfully imposed, may be carried out partly in one prison or correctional centre and partly in another.	Punishment in different prison or correctional centre

PART XII

REMISSION OF SENTENCE

30	75. (1) Subject to subsection (3), a convicted inmate sentenced to imprisonment, whether by a sentence or consecutive sentences, for a period exceeding one month may, by industry and good conduct, earn a remission of one third of the sentence or sentences, except that, in no case shall—	Remission of part of sentence of inmate
35	(a) remission be granted, before the inmate has served for a month; or (b) remission be granted to an inmate sentenced to imprisonment for life or detained during the President's pleasure.	
	(2) A convicted inmate may, on the recommendation of the Commissioner-General, by reason of meritorious conduct, or the	

inmate’s mental or physical health, be granted remission of the whole or part of the inmate’s sentence.

(3) For the purpose of giving effect to subsection (1), an inmate, on admission, shall be credited with the full amount of remission to which the inmate would be entitled at the end of the inmate’s sentence if the inmate does not lose the remission of sentence as provided in subsection (4). 5

(4) An inmate may lose a remission of a sentence if it is forfeited as a punishment for an offence specified in this Act, and shall not earn any remission in respect of any period— 10

(a) spent in a health establishment through the inmate’s own fault;

(b) while malingering; or

(c) while undergoing confinement in a separate cell as punishment. 15

(5) The Commissioner-General may restore, in whole or in part, any remission forfeited or lost under this Act, including any remission forfeited or lost before the commencement of this Act.

PART XIII

DISCHARGE AND PAROLE 20

Officer-in-charge to be responsible for discharge of inmate

76. (1) An officer-in-charge shall be responsible for the discharge, of an inmate from a prison or correctional centre, who becomes entitled to a discharge.

(2) An inmate who is being treated by a health practitioner shall not be discharged from a prison or correctional centre, except at the inmate’s own request, in writing, and until, the health practitioner confirms that the inmate’s discharge can be effected without danger to the health of the inmate. 25

(3) Where, in accordance with any other written law, an inmate is entitled to be discharged from a prison or correctional centre, other than by the expiration of the inmate’s sentence, the officer-in-charge shall not discharge the inmate other than in accordance with the terms of an order, warrant or instruction issued, in writing, under the hand of a person authorised to do so in accordance with any written law. 30 40

Discharge of terminally ill inmate

77. (1) The Commissioner-General may, with the approval of the Minister, order the discharge from a prison or correctional centre of a terminally ill inmate on the recommendation of a health practitioner.

(2) The Commissioner-General shall, where the terminally ill inmate is an unconvicted person or an appellant inmate whose appeal is pending before a court, prior to releasing that inmate, notify the court of the intention to release the inmate and the court shall indicate whether or not it consents to the release.

(3) Where the court refuses to consent to the release of an appellant inmate under subsection (2), the court shall, within seven days of receipt of the notice give the reasons for its refusal.

78. A convicted inmate shall be discharged or released by noon on the day on which the inmate is entitled to be discharged or released, except that if the day falls on a Sunday or a public holiday, the inmate shall be discharged by noon on the preceding day not being a Sunday or public holiday.

Day of discharge or release of inmate

79. An inmate who is discharged or released from a prison or correctional centre, shall be entitled to travelling expenses that may be determined by the Commissioner-General.

Travelling expense of inmate on discharge

80. (1) The National Parole Board established under the repealed Act shall continue to exist as if established under this Act.

Continuation of National Parole Board

(2) The Parole Board consists of the following part-time members appointed by the Minister:

- (a) a retired public officer, as Chairperson;
- (b) a representative of the Attorney- General;
- (c) a representative of a faith based organisation;
- (d) a representative of the ministries responsible for—
 - (i) social welfare;
 - (ii) health;
 - (iii) national guidance and religious affairs; and
 - (iv) home affairs; and

(e) a representative from a non-governmental organisation whose activities relate to the welfare of inmates.

(2) The Vice-Chairperson shall be elected by the members from among themselves.

(3) The First Schedule applies to the Parole Board.

81. The functions of the Parole Board are to—

Functions of Parole Board

- (a) receive and consider applications for the release of an inmate;
- (b) consider applications for an inmate serving a sentence of more than twelve months and who has served a minimum sentence as prescribed;

- (c) order the release of a qualifying inmate on the terms and conditions that shall be prescribed;
- (d) receive reports on the conduct of each parolee while on parole;
- (e) revoke parole in respect of a parolee who contravenes terms and conditions of release; and 5
- (f) coordinate activities related to the release of inmates on parole.
- 82.** The Parole Board shall be devolved to a province and district progressively, as prescribed. 10
- Provincial and District Parole Board
- 83.** (1) An inmate may, through the officer-in-charge, apply to the Parole Board for release on parole in a prescribed manner and form.
- (2) An inmate shall not be permitted to apply unless that inmate has served a minimum sentence as prescribed. 15
- (3) An inmate who applies for release on parole under subsection (1), shall demonstrate good conduct and industry.
- (4) An inmate who is serving a terminal sentence may apply to the Parole Board for parole in a prescribed manner and form.
- 84.** (1) The President may release, on licence, an inmate serving a term of imprisonment for life, subject to conditions specified in the licence, and may modify or cancel any conditions. 20
- (2) The President may, by order, revoke a licence of an inmate released under subsection (1), except that, the President shall reserve the right to release the same inmate on licence again if the President considers necessary. 25
- (3) An inmate whose licence is revoked under subsection (2), shall—
- (a) immediately return to a prison or correctional centre; and 30
- (b) if the inmate remains at large, be considered to be unlawfully at large.
- (4) An order issued in accordance with subsection (2), to revoke the licence, shall be considered as a warrant of arrest.
- Release on licence of inmate serving life imprisonment

PART XVI

EXTENSION SERVICES AND COMPULSORY AFTERCARE ORDERS

85. (1) The Civil Service Commission shall appoint, as public officers—

Extension
Services and
Compulsory
Aftercare
Order

- 5 (a) a Director responsible for providing post imprisonment programmes, extension services, compulsory aftercare order and supervision of parolees; and
- (b) correctional officers qualified in social work for the purposes of administering the extension services,
- 10 compulsory aftercare orders and supervision of parolees and community service.

(2) Despite the generality of subsection (1), the functions of the Director are to—

- 15 (a) facilitate reintegration of inmates which involves connection with family, restorative justice, preparations for releases, job placement aftercare homes;
- (b) spearhead programmes aimed at helping inmates serving sentences in the community and ex-inmates to reintegrate well in the community;
- 20 (c) create effective partnerships with stakeholders and other community based organisations on the reintegration of inmates on discharge from a prison or correctional centre and re-entry into the community;
- (d) facilitate support to an inmate before the inmate's release, and to exinmates in the community, including accommodation, financial support, vocational, employment advocacy and access to, and engagement in, other support services;
- 25 (e) sensitise communities against discrimination of ex-inmates;
- 30 and
- (f) provide secretarial services to the Parole Board.

86. (1) An inmate shall not be eligible for selection to an extension service programme unless that inmate—

Eligibility
for extension
services

- 35 (a) has served a term of imprisonment of at least two years;
- (b) has proved to be of good conduct and is industrious; and
- (c) deserves to be settled back into the community following the expiry of that inmate's term of imprisonment.

87. (1) The Commissioner-General may make a compulsory after care order providing for the compulsory care of an inmate

Compulsory
after care
orders

for a period not exceeding one year after the inmate's discharge from a prison or correctional centre in the case of —

(a) an inmate who, having been sentenced to imprisonment for not less than two previous occasions, is serving a sentence of imprisonment for a term not exceeding three years; and 5

(b) any other inmate where the Commissioner-General considers it necessary or desirable in the interest of the rehabilitation of that inmate.

(2) A compulsory after care order shall be made on or prior to the discharge of an inmate in respect of whom the compulsory aftercare order is made and shall be in a form and subject to terms and conditions as prescribed. 10

Failure to
comply with
compulsory
after care
order and
commission
of further
offence
during
currency
of order

88. (1) A person commits an offence if that person in respect of whom a compulsory after care order is made— 15

(a) is convicted of an offence; or

(b) contravenes or fails to comply with a term or condition of the order.

(2) A person convicted of an offence under subsection (1) is liable to imprisonment for a term of three months. 20

(3) A sentence of imprisonment imposed on a person under subsection (2) shall commence on the expiration of any other sentence of imprisonment which that person is liable to serve.

(4) A remission of sentence granted to a person by the Commissioner-General under section 75 immediately prior to the making of the compulsory after care order made in respect of the person shall be conclusive evidence. 25

(5) On the conviction of a person of an offence under subsection (1), a compulsory after care order made in respect of that person shall cease to have effect. 30

(6) Despite section 87(1), the Commissioner-General may at any time make a further compulsory after care order in respect of a inmate where a prior compulsory after care order made in respect of that inmate ceases to have effect.

PART XV

REPORT ON LONG TERM INMATES

89. (1) The Commissioner-General shall submit to the President a report on an inmate who—
- 5 (a) in the case of an inmate sentenced to be detained during the President's pleasure and those sentenced to imprisonment for life, completes two years' imprisonment from the date of admission, and at intervals of one year of the date of sentence;
- 10 (b) in the case of other inmates sentenced to imprisonment for a period of seven years or more, completes four years' imprisonment from the date of sentence and at intervals of two years; and
- 15 (c) completes seven years or more of sentence and has attained, or is believed to have attained, the age of sixty years.
- (2) A report shall include
- (a) a statement by an officer-in-charge on the work and conduct of each inmate;
- 20 (b) a statement by a health practitioner on the mental and bodily condition of an inmate, with particular reference to the effect of imprisonment on the inmate's health; and
- (c) a social welfare report.
- 25 (3) The Minister shall submit to the President a report under subsection (1) in respect of an inmate detained during the President's pleasure.

Report on long term inmate

PART XVI

INMATE UNDER SENTENCE OF DEATH

- 30 90. An inmate sentenced to death shall be kept separately from other inmates and shall be placed under constant observation of a correctional officer, day and night.
- 35 91. A person, other than a correctional officer, health practitioner, a visiting judge, a minister of religion, or person authorised by the Commissioner-General, shall not have access to an inmate sentenced to death, except that, the inmate may, with the consent of and subject to, conditions which may be imposed by the Commissioner-General or the officer-in-charge, be visited by the inmate's legal representative, relative or any friend, as the inmate
- 40 may request.

Confinement of inmate sentenced to death

Access to inmate sentenced to death

Attendance
at execution
of official

92. (1) An execution of an inmate sentenced to death shall be conducted at a prison or correctional centre designated by the Commissioner-General, and shall be attended by—

- (a) a correctional officer designated by the Commissioner-General; 5
- (b) the officer-in-charge of a prison or correctional centre where the execution is conducted;
- (c) correctional officers;
- (d) a magistrate;
- (e) a minister of religion; 10
- (f) a health practitioner; and
- (g) any other person that the Minister may authorise.

(2) An execution under subsection (1), shall be conducted by a public executioner appointed by the Minister, and in accordance with instructions issued by the Commissioner-General as prescribed. 15

(3) An officer-in-charge and a public executioner shall ensure that all appliances for execution are maintained in good condition and an execution of an inmate sentenced to death is conducted effectively in accordance with the instructions under subsection (2). 20

(4) A health practitioner shall, after an inmate sentenced to death is executed in accordance with this Act, examine the body to ascertain the death and shall sign a death certificate and deliver it to the officer-in-charge, who shall sign the death certificate and submit it to the Registrar of the court which imposed the death sentence. 25

PART XVII

VISITING JUSTICES, INSPECTOR, MINISTERS OF RELIGION AND CIVIL SOCIETY 30

Judge's visit
to prison or
correctional
centre

93. A judge may visit and inspect a prison or correctional centre at any time, and, while visiting, may inquire into any complaint or request made by an inmate during the visit.

Visiting
justice

94. A visiting justice may, visiting a prison or correctional centre, and while visiting— 35

- (a) call for all books, papers and records relating to the management of and discipline at a prison or correctional centre;
- (b) visit the prison or correctional centre and see an inmate in confinement; 40

- (c) test and inspect the quality and quantity of inmates' food;
- (d) ascertain, as far as possible, if the standing orders and rules are observed; and
- (e) inquire into a complaint or request made by an inmate.
- 5 **95.** (1) A visiting justice shall, on completion of a visit to a prison or correctional centre, enter in a book to be kept by an officer in charge, observations, suggestions or recommendations for the information of the Commissioner-General. Record book of visiting justice
- (2) A visiting justice shall, submit a written and comprehensive report of the inspection to the Minister and copied to the Commissioner-General, relevant correctional officer and the officer-in-charge of a prison or correctional centre visited. 10
- 96.** The Minister may, appoint a public officer as an inspector for the purposes of the inspection of a prison or correctional centre at intervals that may be prescribed. 15 Appointment of inspector
- 97.** An inspector appointed under section 96 shall— Functions of inspector
- (a) visit a prison or correctional centre at least once in every two months;
- (b) test and inspect the quality and quantity of inmates' food;
- 20 (c) ascertain, as far as possible, if the standing orders and rules are observed; and
- (d) inquire into a complaint or request made by an inmate.
- 98.** (1) An inspector shall, on completion of a visit, enter in a book to be kept by an officer in charge, observations, suggestions or recommendations for the information of the Commissioner-General, as the inspector may consider appropriate. 25 Record book of inspector
- (2) An inspector shall submit a written and comprehensive report to the Minister, and copied to the Commissioner-General, correctional officer designated by the Commissioner-General and the officer-in-charge of a prison or correctional centre visited. 30
- 99.** A minister of religion, or any other accredited representative of a religious body recognised by the Minister, whose visits are approved by the Commissioner-General, may during prescribed hours be permitted to
- 35 (a) enter and visit an inmate who may need the services; and
- (b) conduct religious services. Minister of religion visit to prison or correctional centre

Probation officer or representative of non-governmental organisation **100.** A probation officer or a representative of a non governmental organisation, dealing with the welfare of inmates, who has obtained written permission from the CommissionerGeneral, may be allowed to enter a prison or correctional centre at times to be arranged by the officer-in-charge. 5

PART XVIII

GENERAL OFFENCES

Mutiny or sedition **101.** (1) A correctional officer or any other person commits an offence if that correctional officer or person—

(a) engages in mutiny; 10

(b) directly or indirectly, instigates, commands, counsels or solicits a mutiny or sedition among correctional officers or inmates or disobedience to any lawful command given by any senior correctional officer; or

(c) attempts to seduce a correctional officer from allegiance or duty. 15

(2) A person convicted of an offence under subsection (1), is liable to a fine not exceeding two hundred thousand penalty units or to imprisonment for a term not exceeding two years, or to both.

Absence from duty and desertion by correctional officer **102.** (1) A correctional officer shall not— 20

(a) withdraw from duty without express permission by the Commissioner-General or another correctional officer authorised by the Commissioner-General to grant permission; or

(b) desert the Service. 25

(2) A correctional officer who is absent from duty without reasonable cause for a period of twenty-one days shall be considered a deserter.

(3) A correctional officer or police officer may, without warrant, apprehend a correctional officer whom the correctional officer or police officer has reason to believe is a deserter from the Service and shall take the correctional officer to a police station. 30

(4) A correctional officer who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both. 35

Inciting correctional officer to desert **103.** (1) A person commits an offence if that person by any means, directly or indirectly—

(a) procures, persuades, or attempts to procure or persuade, a correctional officer to desert the service; 40

(b) aids, abets or is an accessory to the desertion of a correctional officer;

(c) harbours a deserter, or aids the deserter in concealing oneself; or

5 (d) assists in the deserter's rescue.

(2) A person convicted of an offence under subsection (1) is liable to a fine not exceeding fifty thousand penalty units or to imprisonment for a term not exceeding six months, or to both.

10 **104.** A correctional officer commits an offence if that correctional officer in the course of duty—

Other offences by correctional officer

(a) knowingly allows an intoxicating liquor, tobacco, drugs, opiate, money, clothing, provision, letter, document or other article to be sold or received from, or used by or on behalf of, any inmate;

15 (b) lends, gives or sells to an inmate intoxicating liquor, tobacco, drugs, opiate, money, clothing, provision, letter, document or other article;

(c) knowingly allows a letter, document or other article conveyed from any inmate to be brought out of a prison or correctional centre;

20 (d) sells, supplies or receives, directly or indirectly, a benefit or an advantage from the sale or supply of an article to, or for, the use of an inmate or for the use of a correctional officer or other person or, directly or indirectly, has an interest in a contract or agreement for the sale or supply of an article;

25 (e) without the permission of the Commissioner-General, informs the press or any other person of a matter concerning a prison or correctional centre, an inmate or other matter derived from official sources connected with or related to the Service;

30 (f) directly or indirectly has any pecuniary interest in the purchase of any supplies or receives a discount, gift or other consideration from any contractor or seller of those supplies; or

35 (g) has pecuniary dealing with an inmate or friend of an inmate.

(2) A correctional officer or person who contravenes subsection (1), commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

Correctional officer not to engage in illegal dealings with inmate

105. (1) A correctional officer shall not accept a fee, gratuity or reward from, or knowingly have any illegal dealings with inmates, discharged persons and visitors.

(2) A correctional officer shall not knowingly correspond with or hold any illegal dealing with friends of an inmate, without express authority to do so by the officer-in-charge. 5

(3) A correctional officer shall not communicate with, or convey any communication or article to, or from, an inmate, except in accordance with orders or directions issued by the Commissioner-General. 10

(4) A correctional officer who contravenes this section, commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand penalty units or to imprisonment for a term not exceeding one year, or to both.

PART XIX 15

GENERAL PROVISIONS

Discipline of correctional officers

106. (1) The Commission shall discipline a correctional officer of or below the rank of Commissioner in a prescribed manner.

(2) The Commission shall issue Disciplinary Code of Conduct for the Service. 20

Correctional officer not to be member of trade union

107. (1) A correctional officer shall not be or become a member of—

- (a) a trade union;
- (b) an association whose objects or one of its objects is to control or influence conditions of employment in any trade or profession; or 25
- (c) an association whose object or one of its objects is to control or influence the pay, pensions or conditions of service of the Service.

(2) Despite subsection (1), a correctional officer shall not be prohibited from becoming a member of a correctional officer staff association established or constituted in accordance with this Act. 30

(3) A correctional officer found guilty of misconduct in accordance with this section may be dismissed from the Service.

Submission of list of detained persons to High Court

108. The Commissioner-General or a correctional officer designated by the Commissioner-General shall submit to the High Court, at the commencement of each criminal session a list stating the— 35

- (a) name and date of admission of an unconvicted inmate in a prison or correctional centre; 40

(b) name and date of a convicted inmate in a prison or correctional centre with pending criminal cases; and

(c) the authority for detention.

5 **109.** (1) The Commissioner-General may offer a reward to a person who gives information leading to the apprehension of an inmate who escapes from custody, as the Commissioner-General may determine.

Rewards for apprehension of escaped inmate

10 (2) The Commissioner-General shall where a person apprehends, secures, hands over or causes to be handed over an inmate who escapes from custody, pay expenses incurred by that person and may give a reward, as the Commissioner-General may determine.

15 (3) A reward made under this section shall not be made to a correctional officer or a police officer unless, in the opinion of the Commissioner-General, exceptional circumstances exist to justify a reward being made.

20 **110.** (1) The Commissioner-General may, either on the Commissioner-General's own initiative or on the recommendation of a Judge or a magistrate, grant a monetary reward or any other reward to a correctional officer in respect of

Rewards

(a) wounds or injuries suffered on service or otherwise in the course of duty;

(b) special acts of bravery;

25 (c) valuable intelligence acquired by personal risk, hardship, or unusual skill; or

(d) any other special or meritorious service.

(2) The monetary reward or any other reward under subsection (1), shall be paid from moneys appropriated by Parliament.

30 **111.** Where the President pardons an inmate sentenced to death, on condition that the inmate serves a period of imprisonment, the inmate shall be considered to have been sentenced to a term by a court before which the inmate was convicted.

Commutation of death sentence to sentence of imprisonment

35 **112.** (1) Subject to this Act and any other written law, an inmate who is sentenced by a competent court in another country, may be imprisoned in the Republic until the expiry of a sentence or a portion thereof, and shall be considered as serving a sentence imposed by a competent court.

Detention of inmate from another country

	(2) A certificate signed by the Minister, stating that the person named in the certificate has been sentenced as provided in subsection (1), to a term of imprisonment specified in the certificate, shall be conclusive evidence that the inmate is lawfully imprisoned in accordance with this section.	5
Removal of inmate to another country	113. (1) An inmate who is sentenced to imprisonment by a competent court in the Republic may, by warrant signed by the Minister, be moved to another country of that inmate’s birth or where the inmate normally resides in order that the inmate may be detained in a prison or correctional centre until the expiry of the inmate’s sentence, except that an inmate who is a citizen shall not be removed.	10
	(2) An inmate shall, in the course of removal under a warrant signed in accordance with this section, shall be considered to be in lawful custody while within the Republic.	15
	(3) Nothing in this Act, shall prevent the conviction, judgment, finding, order or sentence made in respect of an inmate removed, in accordance with this section, from being questioned in the same manner as if the inmate had not been removed, and the sentence of that inmate may be cancelled and the inmate’s discharge ordered in the same manner and by the same authority as if the inmate’s had not been removed.	20
Cap. 1	(4) For the purposes of this section “citizen” has the meaning assigned to the word in the Constitution.	
Grant of permission to be absent from a prison, correctional centre	114. The Commissioner-General may grant an inmate permission, in writing, to be absent from a prison or correctional centre for a period that the Commission-General may determine, for personal, family or other reasons if, in the opinion of the Commissioner-General, the circumstances of the case warrant the granting of the permission.	25 30
Record of correctional officers	115. The Commissioner-General shall cause to be kept a personal record of a correctional officer in the Service, and the name of a person to whom, in the event of the death of a correctional officer, without having made a valid will, any money or other personal property shall be paid or delivered.	35
Witness’s expense	116. A witness, who attends an inquiry or hearing held under this Act, is entitled to the same allowances and expenses as a witness who attends criminal proceedings, in accordance with the Criminal Procedure Code, except that this section does not apply to an inmate, correctional officer or a public officer.	40

117. Nothing in this Act shall exempt a person from being prosecuted in accordance with any other written law in respect of an offence made, punishable by this Act, or from being liable in accordance with any other law to any higher penalty or punishment than is provided by this Act, except that, a person shall not be punished twice for the same offence.
118. (1) The Minister may appoint a committee of inquiry to investigate into, and report on, the conduct, management or administration of any prison or correctional centre or any matter connected with or incidental to that investigation.
- (2) A committee of inquiry shall be comprised of two or more persons of whom one shall be a senior officer.
- (3) For the purposes of any inquiry, a committee appointed under subsection (1), shall have the powers, rights and privileges conferred on commissioners by the Inquiries Act, and the provisions of that Act shall apply to an inquiry by the committee and to any person summoned to give evidence or giving evidence before it.
119. (1) A correctional officer shall, where a person ceases to be a member of the Service, deliver to an officer-in-charge of the prison or correctional centre where that officer was last stationed, arms, ammunition, accoutrements, uniforms and other equipment which were supplied to that officer.
- (2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding fifty thousand penalty units or imprisonment for a term of six months, or to both.
120. A person who commits an offence under this Act for which a penalty is not provided is liable, on conviction, to a fine not exceeding two hundred thousand penalty units, or imprisonment for a term not exceeding two years, or to both.
121. (1) The Minister may, by statutory instrument, make Regulations for the better carrying out of the provisions of this Act.
- (2) Without prejudice to the generality of subsection (1), the Regulations may provide for—
- (a) the powers, duties and responsibilities of a correctional officer and any other person employed in a prison or correctional centre;
- (b) the health inspection of a prison or correctional centre and inmates, and the prevention of contagious diseases in a prison or correctional centre;

Power to prosecute under other laws not affected

Committee of inquiry

Cap. 41

Arms and accoutrements to be delivered on ceasing to belong to service

General penalty

Regulations

-
- (c) the management and control of the correctional service farms and industries revolving fund;
- (d) the construction, description, equipment and supervision of cells for separate confinement and wards;
- (e) the classification of a prison or correctional centre and inmates into categories and their separation accordingly; 5
- (f) the safe custody, management, organisation, hours, mode and kind of labour and employment, clothing, bedding, maintenance, instruction, discipline, segregation, treatment, restraint, correctional and training of inmates; 10
- (g) a visit to, and communication with, an inmate;
- (h) the introduction of a progressive stage system;
- (i) the payment of an inmate in accordance with earning schemes for work done while in a prison or correctional centre; 15
- (j) the disposal of the products of an inmate's labour;
- (k) the establishment of a staff welfare fund and the method of administration of the fund by the Commissioner General;
- (l) the responsibility, accounting and safe-keeping of all stores, equipment, and accoutrements issued to a prison or correctional centre; 20
- (m) accounts and accounting procedure;
- (n) prohibiting a correctional officer, a visitor or any other person from disclosing to an unauthorised person, any information concerning the administration of a prison or correctional centre or the affairs of inmates; 25
- (o) the custody and maintenance, of persons committed to a prison or correctional centre in accordance with any written law relating to imprisonment for non-payment of debt; 30
- (p) the medical examination, measuring, photographing and taking of fingerprint impressions, footprints and casts, palm prints or other records of an inmate detained in a prison or correctional centre or otherwise detained in custody; 35
- (q) the procedure for supplying to an authorised person any information with respect to the medical examination, measurements, photographs, finger print impressions, footprints and casts, palm prints or other records of an 40

- inmate detained in a prison or correctional centre otherwise detained in custody;
- (r) the computation of the remission of sentences, including any period of public work;
- 5 (s) the manner in which a petition by an inmate shall be submitted;
- (t) the provision of suitable diet and dietary scales, for an inmate, and the conditions under which the diet and dietary scale may be varied;
- 10 (u) suitable diet and dietary scales or ration allowances for persons employed on public work; and
- (v) the effective administration of this Act, for the good management of a prison or correctional centre and the discipline and safe custody of inmates.
- 15 **122.** The Prisons Act, 1966, is repealed. Repeal of
Cap. 97
- 123.** The savings and transitional provisions set out in the Second Schedule apply for the purpose of this Act. Savings and
transitional
provisions

FIRST SCHEDULE

(Section 80 (3))

PART I

ADMINISTRATION OF PAROLE BOARD

Proceedings
of Parole
Board

1. (1) Subject to the other provisions of this Act, the Parole Board may regulate its own procedure. 5

(2) The Parole Board shall meet at least once in every three months for the transaction of business at a place and time as the Chairperson may determine.

(3) The Chairperson may call a meeting of the Parole Board on giving notice of not less than fourteen days or where one third of the Parole Board members so request, in writing, except that if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called on giving a shorter notice. 10

(4) Five Parole Board members shall form a quorum at a meeting of the Parole Board. 15

(5) There shall preside at a meeting of the Board

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson; or 20

(c) in the absence of both the Chairperson and Vice-Chairperson, another Parole Board member that the Parole Board members present shall elect for the purpose of that meeting.

(6) A decision of the Parole Board on any question shall be by a majority of the Parole Board members present and voting at the meeting, and in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to that person's deliberative vote. 25

(7) The Parole Board may invite a person whose presence is in the Parole Board's opinion desirable to attend and participate in the deliberations of the meeting, but that person shall have no vote. 30

(8) The validity of any proceedings, acts or decisions of the Parole Board shall not be affected by a vacancy in the membership of the Parole Board or any defect in the appointment of a Parole Board member or by reason that a person not entitled to do so took part in the proceedings. 35

(9) The Parole Board shall cause minutes to be kept of the proceedings of every meeting of the Parole Board and of any committee established by the Parole Board. 40

2. (1) The Parole Board may, for the purpose of performing its functions in accordance with this Act, establish committees as it considers necessary, and delegate to any of those committees any of its functions as the Parole Board considers necessary. Committees
- 5 (2) Subject to subparagraph (1), the Parole Board may appoint as members of a committee, persons who are not members of the Parole Board, except that at least one member of a committee shall be a member of the Parole Board.
- (3) A person serving as a member of a committee shall hold
10 office for a period as the Parole Board may determine.
- (4) Subject to any specific or general direction of the Parole Board, a committee may regulate its own procedure.
3. (1) A member shall hold office for a term of three years and may be re-appointed for a further and final term of three years on terms and conditions that may be specified in the instrument of
15 appointment. Tenure of office for members and vacancy
- (2) On the expiration of the term for which a member is appointed, the member shall continue to hold office until another member is appointed, but in no case shall any extension of the
20 period exceed three months.
- (3) The office of a member becomes vacant if that member —
- (a) dies;
- (b) is absent, without reasonable cause from three consecutive meetings of the Parole Board for which the member
25 has had notice;
- (c) is adjudged bankrupt;
- (d) resigns;
- (e) is legally disqualified from performing the functions of a member;
- 30 (f) is convicted of an offence under this Act or any written law and has been sentenced to imprisonment for a period exceeding six months without an option of a fine; or
- (g) ceases to be an employee of the institution that nominated the member.
- 35 (4) The Minister shall, where a vacancy occurs in the membership of the Parole Board, before the expiration of the term of office, appoint another person to replace the member, but that person shall only hold office for the remainder of the former member's term of office.

Immunity	<p>4. An action or other proceeding shall not lie or be continued against a member of the Parole Board or committee of the Parole Board, for or in respect of an act or thing done or omitted to be done in good faith in the exercise or performance of the powers, functions or duties conferred under this Act.</p>	5
Allowances	<p>5. A member of the Parole Board or committee of the Parole Board shall be paid allowances that the Emoluments Commission may, on recommendation of the Minister, determine.</p>	
Disclosure of interest	<p>6. (1) If a person is present at a meeting of the Parole Board or a committee of the Parole Board at which a matter, in which that person or that person's associate or relative is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting disclose that interest and shall not, unless the Parole Board or Committee of the Parole Board otherwise directs, take part in the consideration of discussion of, or vote on, any question relating to that matter.</p> <p>(2) A disclosure of interest made in accordance with subparagraph (1) shall be recorded in the minutes of the meeting at which the disclosure was made.</p> <p>(3) For the purposes of this paragraph "associate" and "relative" have the meaning assigned to the words in the Anti-Corruption Act, 2012.</p>	10 15 20
Act No. 3 of 2012		
Prohibition of publication or disclosure of information to unauthorised person	<p>7. (1) A person shall not, without the consent in writing given by or on behalf of the Parole Board or as otherwise than in the course of duties of a person, publish or disclose to any other person, the contents of any document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of duties, of that person under this Act.</p> <p>(2) A person who contravenes subparagraph (1) commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand penalty units.</p> <p>(3) A person who, having information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates that information to any other person, that person commits an offence and is liable, on conviction, to fine not exceeding two hundred thousand penalty units, or to imprisonment for a term not exceeding two years, or to a both.</p> <p>(4) Nothing in this paragraph shall be interpreted to prohibit the publication and dissemination of a final decision of the Board.</p>	25 30 35 40

SECOND SCHEDULE

(Section 5)

ADMINISTRATION OF SERVICE

- 5 **1.** (1) The funds of the Service consists of money that may— Funds of Service
- (a) be appropriated to the Service by Parliament for the purposes of the Fund;
- (b) be paid to the Service by way of grants or donations; or
- (c) vest in, or accrue to, the Service.
- 10 (2) The Service may, subject to the approval of the Minister—
- (a) accept monies by way of grants or donations from any source in the Republic and from any source outside the Republic; or
- (b) raise, by way of loans or otherwise money that the Service may require for the performance of its functions;
- 15 (3) There shall be paid from the funds of the Service—
- (a) salaries, allowances, loans, gratuities and pensions of the staff of the Service;
- (b) reasonable travelling and subsistence allowances for members, when engaged on the business of the Service and at rates that the Emoluments Commission may, on the recommendation of the Minister, determine; and
- 20 (c) any other expenses incurred by the Service in carrying out its functions under this Act.
- 25 **2.** The financial year of the Service shall be a period of twelve months ending on 31st December of each year. Financial year
- 3.** (1) The Service shall cause to be kept proper books of accounts and other records relating to the accounts of the Service. Accounts
- (2) The accounts of the Service shall be audited annually by the Auditor-General or an auditor appointed by the Auditor-General.
- 30 (3) The fees for the Auditor-General or an auditor appointed by the Auditor-General shall be paid by the Service.
- 4.** (1) The Service shall, as soon as practicable, but not later than ninety days after the end of the financial year, submit to the Minister a report concerning the Service's activities during the
- 35 financial year. Annual report
- (2) The report under subparagraph (1), shall include information on the financial affairs of the Service and there shall be appended to the report—
- (a) an audited statement of financial position;

(b) an audited statement of comprehensive income and expenditure; and

(c) other information that the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report under subparagraph (1), lay the report before the National Assembly. 5

THIRD SCHEDULE

(Section 123)

SAVINGS AND TRANSITIONAL PROVISIONS

1. In this Schedule “former Service” means the Zambia Prisons Service established under the repealed Act. Interpretation
Cap. 97
2. (1) For the avoidance of doubt, a person who, before the commencement of this Act, was an officer or employee of the former Service, shall continue to be an officer or employee of the Service, as if appointed or employed under this Act. Staff of
Service
- 10 (2) The service of a person under subparagraph (1) shall be treated as continuous service.
- (3) Nothing in this Act affects the rights and liabilities of any person employed or appointed by the former Service before this Act comes into force.
- 15 3. (1) On or after this Act comes into force, there shall be transferred to, vest in, and subsist against the Service by virtue of this Act and without further assurance, all assets, rights and obligations which immediately before that date were the assets, rights, liabilities and obligations of the former Service. Transfer of
assets and
liabilities
- 20 (2) Subject to subparagraph (1), every deed, bond and agreement, other than an agreement for personnel service, to which the former Service was a party immediately before the commencement of this Act whether or not of a nature that rights, liabilities and obligations could be assigned, shall, unless its subject matter or terms make it impossible that it should have effect as modified, as provided under
25 this paragraph, have effect as if
- (a) the Service had been party to it;
- (b) for any reference to the former Service there was substituted, with respect to anything falling to be done
30 on or after this Act comes into force, a reference to the Service; or
- (c) for any reference to any officer of the former Service, not being a party to it and beneficially interested, there were substituted, as respects anything falling to be done
35 on or after the commencement of this Act, a reference to that officer of the Service as the Service shall designate.
- (3) Where under this Act, any assets, rights, liabilities and obligations of the former Service are deemed to be transferred to
40 the Service in respect of which transfer a written law provides for

registration, the Service shall make an application in writing to the appropriate registration authority for registration of the transfer.

(4) The registration authority, under subparagraph (3), shall make entries in the appropriate register that shall give effect to the transfer and, where applicable, issue to the transferee concerned a certificate of title in respect of the property or make necessary amendments to the register and shall endorse the deeds relating to the title, right or obligation concerned and no registration fees or other duties shall be payable in respect of the transaction. 5

(5) Any direction or authorisation granted in accordance with the repealed Act, whether to a company or an individual, shall be deemed, until expiry, to be a direction or authorisation granted in accordance with this Act, but subject to any rights or benefits accruing, or any liabilities suffered, under the repealed Act, but without the right of renewal. 10 15

Legal proceedings

4. (1) Any legal proceedings or applications of the former Service pending immediately before this Act comes into force by or against the former Service may be continued by or against the Service.

(2) After the commencement of this Act, proceedings in respect of any right, liability or obligation which was vested in, held, enjoyed, incurred or suffered by the former Service, may be instituted by or against the Service. 20

Parole Board

5. A person who, before the commencement of this Act was a member of the Parole Board, shall continue to be a member of the Parole Board for a period not exceeding three months. 25
