

CHAPTER 54

PRISONS

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING TO PRISONS.

- Ordinances Nos. 16 of 1877, 1 of 1883, 24 of 1890, 3 of 1894, 14 of 1907, 17 of 1916, 4 of 1923, 50 of 1935, 53 of 1939, 3 of 1940, 9 of 1941, 41 of 1944, 12 of 1945,

- Acts Nos. 10 of 1948, 12 of 1952, 35 of 1952, 21 of 1958, 6 of 1980.

Short title.

[1st May, 1878.]

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

PART I

ESTABLISHMENT AND OFFICERS OF PRISONS

Establishment of prisons.

2. The prisons situated at the places mentioned in the Schedule shall he or continue to be prisons for the reception of prisoners of every description committed or remanded under the authority of any court, having jurisdiction within any part of the districts or limits set opposite the name of such places respectively in the said Schedule :

Prisons may be closed and new prisons established.

Provided always that it shall be lawful for the Minister, by Order, at any time or from time to time to close any of the prisons mentioned in the Schedule, or to make ay alteration in the districts or limits within which any such prisons are appointed, and also to establish any other prison or prisons for Sri Lanka or for any part thereof, and any such Order to revoke, alter, or amend; and every prison so established shall become subject to the provisions of this Ordinance in the same manner as if such prison had been mentioned in ihc Schedule.

3. Whenever it appears to the Minister that the number of prisoners in any prison is greater than can conveniently or safely be kept therein ; or whenever from the outbreak of epidemic disease within any prison or for the performance of labour or for any other reason it is desirable to provide for the temporary shelter or safe custody of any prisoners without the walls of any prison, provision shall be made in such manner as the Minister may from time to time specially or by any general rules to be made in the manner provided in section 94 direct, for the temporary shelter or safe custody without the walls of the prison of so many of the prisoners as cannot be conveniently or safely kept therein. Prisoners for whom such shelter or custody is provided as aforesaid shall be subject to the provisions of this Ordinance and to any rules to be made under section 94 in the same manner in every respect as if they were within a prison.

Temporary-shelter of prisoners.

4. It shall be lawful for the Minister or the Commissioner-General, by writing under his hand, to direct the removal of any prisoner from one prison to another ; and such writing shall be sufficient warrant for the Superintendent or the jailer of the prison, to which such prisoner shall be so directed to be removed, to receive and detain such prisoner and deal with him according to law.

Minister or Commissioner-General may remove prisoners from one prison to another. [§ 2, 53 of 1939.]

5. The warrant or sentence of any Judge, Magistrate, committing any person for any offence cognizable by such Judge or Magistrate to any prison wherein such person may be lawfully detained, shall be good and sufficient, whether such prison shall or shall not be within the jurisdiction of such Judge or Magistrate.

Warrants of commitment by Judges, &c., when good out of their jurisdiction.

6. (1) There may be appointed—

(a) a person, by name or by office, to be or to act as Commissioner-General of Prisons.

(b) a person, by name or by office, to be or to act as Commissioner of Prisons.

Appointment of Commissioner-General and Commissioner of Prisons. [§ 2, 41 of 1944.] [§ 2, 10 of 1948.]

Direction and control of prisons.
[§ 3, 41 of 1944.]

(2) The general direction and administrative control of all prisons in Sri Lanka shall, subject to the orders of the Minister, be vested in the person for the time being holding the office of Commissioner-General of Prisons.

[§ 3, 41 of 1944.]

(3) Any power, duty or function vested in, or imposed or conferred upon, the Commissioner-General, by this Ordinance or by any other written law may, subject to such general or special directions as may be issued in that behalf by the Commissioner-General with the approval of the Minister, be exercised, performed or discharged by the person for the time being holding the office of Commissioner of Prisons.

Prison officers.
[§ 4, 53 of 1939.]

7. (1) The staff of every prison shall consist of a Superintendent, a medical officer, a jailer and such number of subordinate officers as the Minister may in each case determine.

(2) In any case where the Minister deems it necessary the staff of a prison may also include one or more of any of the following classes of officers, namely, Assistant Superintendents, Probationary Superintendents, assistant medical officers, deputy jailers, and apothecaries.

(3) In every prison in which female prisoners are detained there shall be at least one female officer.

(4) In every prison there shall be at least one officer competent to interpret the Sinhala language and one officer competent to interpret the Tamil language.

Appointment and supervision of medical officers and apothecaries.
[§ 5, 53 of 1939.]

8. (1) The medical officer, assistant medical officer or apothecary required for any prison shall be posted to such prison by the Director-General of Health Services with the concurrence of the Commissioner-General.

(2) The medical officer, assistant medical officer or apothecary of a prison shall, for the purposes of section 81, be deemed to be a prison officer ; but shall in all other respects be under the supervision and control of the Director-General of Health Services.

9. All appointments of any such officers as aforesaid heretofore made shall be deemed to have been made under the provisions of this Ordinance.

Past appointments valid.

10. (1) Every prison officer shall, for the purposes of this Ordinance, be deemed to be always on duty.

Officers to be deemed always to be on duty and prisoners always under discipline.

(2) Every prisoner while being taken to or from any prison or while working outside prison walls or remaining for any other authorized purpose under the custody and control of any prison officer beyond the limits of any prison, shall be deemed to be in prison and to be subject to the discipline prescribed by this Ordinance and the rules made thereunder.

11. All prison officers shall be provided with such weapons including batons, staves, arms, ammunition and accoutrements as may be prescribed by rules made under section 94.

Weapons and arms for prison officers. [§ 7, 53 of 1939.]

11A. (1) The Minister may, with the concurrence of the Minister in charge of the subject of Finance, make rules providing for the establishment and operation of a scheme for the grant of compensation to any prison officer who is permanently totally or partially disabled, or to the legal heir or heirs of any prison officer who is dead, in any case where such disablement or death, as the case may be, is due to any injury—

Power to make rules for the establishment and operation of a scheme for the grant of compensation in respect of the permanent total or partial disablement or death of prison officers in the discharge of their duties. [§ 2, 6 of 1980.]

- (a) received by such officer while on duty, or
- (b) received by such officer while not on duty in the performance of some act which is within the scope of his ordinary duties, or
- (c) received by such officer in consequence of any act performed in the execution of his duties, or
- (d) received by such officer as a result of any act of reprisal occasioned by or arising out of any action taken by him in the execution of his duties.

Such rules may provide for the principles, exceptions, restrictions and conditions according, and subject, to which such compensation will be granted and for all other matters necessary or expedient for the establishment and operation of such scheme.

(2) Any compensation granted in accordance with rules made under the preceding provisions of this section shall be a charge on the Consolidated Fund.

(3) Where in any case a dispute arises as to whether or not compensation is payable or as to the amount of compensation payable under any rules made under the preceding provisions of this section, such dispute shall be determined by the Secretary to the Ministry charge with the subject of Justice.

(4) Any compensation granted in accordance with rules made under the preceding provisions of this section in respect of the disablement or death of a prison officer shall be in addition to any pension, gratuity, compensation, allowance, or other benefit, granted in respect of such disablement or death under the Minutes of Pensions.

(5) For the purposes of this section "prison officer" means the Commissioner-General of Prisons, Commissioner of Prisons, officers of the prison staff and includes any other person employed in the Department of Prisons.

PART II

DUTIES OF OFFICERS

12. (1) All prison officers shall obey the directions of the Superintendent.

Officers to obey Superintendent.

(2) The matron and all subordinate officers shall perform such duties as may be directed by the jailer with the sanction of the Superintendent; and the duties of the matron and of each subordinate officer shall be inserted in a book to be kept by her or him.

13. It shall be the duty of every prison officer to preserve order and discipline among the prisoners in accordance with the provisions of this Ordinance and the rules made under section 94 and of any other written law applicable to prisons; and for such purpose it shall be lawful for a prison officer to use all such means, including such degree of force, as may reasonably be necessary to compel obedience to any lawful directions given by him.

Duty of prison officers to maintain discipline and order among prisoners.
[§8, 53 of 1939.]

Officers not to sell or let to prisoners.

14. No prison officer shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner.

Officers not to contract with prisoners.

15. No prison officer shall, nor shall any person in trust for or employed by him, have any interest direct or indirect in any contract for the supply of the prison; nor except so far as is expressly allowed by rules made under section 94, shall he derive any benefit directly or indirectly from the sale of any article on behalf of the prison or belonging to a prisoner.

SUPERINTENDENT

Duties of Superintendent.

16. Subject to the directions of the Commissioner - General, the Superintendent shall —

- (a) manage the prison in all matters relating to discipline, labour, expenditure, punishment, and control;
- (b) correspond on all matters connected with the prison with the Commissioner - General;
- (c) submit to the Commissioner-General all prison accounts with proper vouchers for audit;
- (d) periodically inspect all property of the Government in his charge and report thereon to the Commissioner-General;
- (e) generally obey all rules made under section 94 for the guidance of the Superintendent.

Duties and powers of Assistant Superintendent and Probationary Superintendents. [§9,53 of 1939.]

17. Any of the duties or functions, imposed in the Superintendent by the provisions of this Ordinance and the rules made under section 94 or of any other written law, may be performed or exercised by an Assistant Superintendent or a Probationary Superintendent, under the general or special directions of the Superintendent, or in the absence of the Superintendent; and for the purposes of the performance or exercise of such duties or functions, an Assistant Superintendent or Probationary Superintendent shall be deemed to have all the powers, privileges, protections and immunities conferred by any of the aforesaid provisions of law upon the Superintendent.

MEDICAL OFFICER

18. (1) It shall be lawful for the Minister after consulting the Minister charged with the subject and function of Health to make rules as to each of the following matters:—

Power to make rules as to medical officer's duties.

- (a) how often the medical officer shall visit the prison and see each prisoner ;
- (b) the records to be made respecting sick prisoners ;
- (c) periodical inspection of every part of the prison ;
- (d) reports on its cleanliness, drainage, warmth, and ventilation ;
- (e) reports on the provisions, water, clothing, and bedding supplied to the prisoners.

(2) The medical officer shall obey all rules made under subsection (1).

Medical officer to obey rules.

19. Whenever the medical officer has reason to believe that the health of a prisoner is or is likely to be injuriously affected by the discipline, diet, or treatment to which he is subjected, the medical officer shall report the case in writing to the Superintendent, together with such recommendations as the medical officer thinks proper.

Medical officer to report cases requiring special attention.

20. (1) It shall be the duty of the medical officer to keep under close observation every prisoner whose health is or is likely to be injuriously affected by any inability or failure to take food or sufficient food, and to subject every such prisoner to any medical treatment that may be necessary at the earliest possible stage after his condition is discovered.

Treatment of prisoners failing or refusing to take food.
[§ 10, 53 of 1939.]

(2) The medical officer may, whenever he considers it to be necessary or advisable, adopt any device or means which may appear to him to be suitable—

- (a) for the compulsory feeding of any prisoner who, in the opinion of the medical officer, feigns inability to take food or wilfully refuses food with intent to procure a discharge from prison or any exemption from labour or for any other reason; or

(b) for the artificial feeding of any prisoner who has become unconscious or otherwise unable to feed himself.

(3) The medical officer shall personally carry out the compulsory or artificial feeding required in any case referred to in subsection (2), and shall, in every such case, take all due precautions to ensure that no greater force is used than may be reasonably necessary for the purposes of such feeding.

(4) The medical officer shall report to the Superintendent for the information of the Commissioner-General, and to the Director-General of Health Services, full particulars of every case of compulsory or artificial feeding carried out by him.

(5) No criminal prosecution or civil action shall be instituted or maintained against the medical officer in respect of any injury caused or alleged to have been caused to any prisoner by any act of the medical officer in the course of any compulsory or artificial feeding carried out by him or by the omission of the medical officer in the exercise of his discretion to adopt any measures for the compulsory or artificial feeding of the prisoner.

Medical officer to make entries as to death, of prisoners.

21. On the death of any prisoner the medical officer shall forthwith record in writing the following particulars, namely:—

- (a) when the deceased was taken ill;
- (b) when the medical officer was first informed of the illness ;
- (c) the nature of the disease ;
- (d) when the prisoner died ;
- (e) and (in cases where a post-mortem examination is made) an account of the appearances after death ; together with any special remarks that may appear to the medical officer to be required.

Assistant medical officer.

22. Where an assistant medical officer is appointed to a prison, he shall be competent to perform any duty required by this Ordinance or by any rule made hereunder to be performed by the medical officer.

23. The medical officer, and any assistant medical officer or apothecary appointed to a prison shall perform their duties in the prison in co-operation with the prison staff and with due regard to the maintenance of discipline and the security and the proper administration of the prison in accordance with this Ordinance and the rules made in that behalf under section 94 or with any other written law.

Duties of medical officer, &c. [§ 11, 53 of 1939]

JAILER

24. (1) The jailer shall reside in the prison or in such convenient place near thereto as the Superintendent shall by writing appoint.

Residence of jailer.

(2) The jailer shall not without the Commissioner-General's sanction be concerned in any other employment.

25. The jailer shall deliver to the medical officer daily a list of such prisoners (if any) as are confined in punishment cells.

Jailer to deliver lists of prisoners (if any) in punishment cells.

26. Upon the death of a prisoner the jailer shall give immediate notice thereof to the Superintendent and to the Magistrate having jurisdiction over the area in which the prison is situated, and also when practicable, to the nearest relative of the deceased. The jailer shall also report to the Superintendent from time to time, as they occur, all escapes and recaptures. He shall also report to the Superintendent and to the medical officer, without delay, all outbreaks of epidemic disease.

Jailer to give notice of death of prisoners.

27. The jailer shall keep or cause to be kept the following records :—

Jailer to keep books and accounts.

- (a) a register of warrants ;
- (b) book showing when each prisoner is to be released;
- (c) punishment book for the entry of the punishments inflicted for prison offences ;
- (d) a Visitors' book for the entry of any observations made by Visitors to the prison ;

(e) a record of the money and other articles taken from prisoners ;

and all such other records as may be prescribed by rules made under section 94.

Jailer responsible for safe custody of documents.

28. The jailer shall be responsible for the safe custody of the records to be kept by him under the preceding section, and also for the commitments and all other documents committed to his care.

Jailer not to be absent without leave.

29. The jailer shall not be absent from the prison or from his residence, if residing outside the prison, for a night without permission in writing from the Superintendent ; but if absent without leave for a night from unavoidable necessity, he shall at the earliest opportunity report the fact and the cause of it to the Superintendent.

Assistant jailer.

30. When an assistant jailer is appointed to a prison, the Superintendent may at his discretion by written order assign any part of the jailer's duties to such assistant jailer ; and in such case the same responsibilities shall attach to such assistant jailer in respect of such duties as attach to the jailer.

Substitute for jailer in case of necessity.

31. Where there is no assistant jailer, or when his services are not available by reason of sickness or other cause, the Superintendent shall, when the jailer is absent from the prison or temporarily incapacitated, appoint by writing under his hand some person to act as his substitute during such absence or incapacity, and the substitute so appointed shall have all the powers and perform all the duties of the jailer.

MATRON

Residence and duties of matron.

32. The matron shall reside in the prison or in such convenient place near thereto as the Superintendent shall by writing appoint ; and she shall not without the Superintendent's sanction absent herself from the prison or from her other dwelling place, nor shall she

without such sanction be concerned in any other employment. It shall be her duty constantly to superintend the female prisoners.

SUBORDINATE OFFICERS

33. The officer acting as gate-keeper, or any other prison officer, may examine anything carried into or out of the prison and may stop and search any person suspected of bringing spirits or other prohibited articles into the prison, and if any such articles or property be found shall give immediate notice thereof to the jailer:

Powers of gate-keeper.

Provided that the persons of females shall be searched by some female prison officer.

34. Subordinate officers shall not be absent from the prison without leave from the Superintendent or from the jailer, and before absenting themselves they shall leave their keys in the jailer's office.

Subordinate officers not to be absent without leave.

PART III

VISITORS

35. (1) It shall be lawful for the Minister, by notice published in the Gazette, to appoint —

- (a) for all prisons in Sri Lanka generally, a Board of Prison Visitors consisting of seven members, all of whom shall be persons who do not hold any public office under the State;
- (b) for each of the prisons in Sri Lanka, a Local Visiting Committee consisting of four persons who are not members of the Board of Prison Visitors and do not hold any public office under the State; and
- (c) for any specified prison or group of prisons, one or more Additional Prison Visitors, each of whom shall be a person who is not a member of the Board of Prison Visitors or of a Local Visiting Committee and does not hold any public office under the State.

Power to appoint, and remove from office, Board of Prison Visitors, Local Visiting Committees, and additional Prison Visitors. [§2, 21 of 1958.]

(2) Every member of a Local Visiting Committee shall for the purpose of this Ordinance be deemed to be a Visitor of the prison for which the committee is appointed, and, save as otherwise expressly provided, shall, in relation to that prison,

exercise the powers and perform the duties of a Visitor accordingly.

(3) Any person appointed under this Ordinance as a Visitor may be removed from office by the Minister at any time.

(4) Every visitor appointed under this Ordinance shall hold office for a period of three years from the date of his appointment, unless he is earlier removed from office by the Minister:

Provided, however that where any Visitor is appointed for any shorter period specified in the notice relating to his appointment, such Visitor shall hold office only for the period so specified.

Duties of Board of Prison Visitors, Local Visiting Committees, and Additional Prison Visitors.
[§3, 21 of 1958.]

36. (1) It shall be the duty of the Board of Prison Visitors —

- (a) to hold a meeting of the board at least once in three months;
- (b) to elect a chairman from among the members at the first meeting held after the appointment of the board;
- (c) to advise the Commissioner-General in matters relating to the general administration of prisons in Sri Lanka; and
- (d) to investigate and report on any matter concerning prisons referred to the board either by the Minister or by the Commissioner-General.

The quorum for any meeting of the board shall be three members.

[§ 3,21 of 1958.]

(1 A.) The chairman of the Board of Prison Visitors shall, unless he earlier resigns the office of such chairman or ceases to be a member of the board, hold such office during the term for which he is a member of the board.

(2) It shall be the duty of every Local Visiting Committee —

- (a) to elect a chairman from among the members at a meeting held as soon as may be after the appointment of the committee;
- (b) to conduct such inquiry as may be necessary, whenever any special matter, concerning the prison for which the committee has been appointed, is referred to the committee for inquiry by the Minister or the Commissioner-General, and to report their opinion thereon to the Minister or the Commissioner-General as the case may be;

- (c) to hold a meeting once in each half-year at the prison for the purpose of considering matters concerning the prison not specially referred to the committee by the Minister or the Commissioner-General under sub-paragraph (b), and to furnish a half-yearly report to the Commissioner-General on any matter which in the opinion of the committee it is expedient to refer to him for consideration.
- (3) It shall be the duty of the chairman of each Local Visiting Committee—
- (a) to prepare a rota of attendance and to make all such arrangements as may be necessary to ensure that at least one member of the committee shall visit the prison once at least in every week and shall hold himself in readiness to attend at the prison at any reasonable time to hear any complaint that a prisoner may desire to make ;
- (b) to sign all letters and reports on behalf of the committee; and
- (c) to summon the half-yearly meetings of the committee and all such other meetings as may from time to time be necessary for the purposes of any inquiry to be held under subsection (2) (b).
- (4) It shall be the duty of every Visitor who is a member of a Local Visiting Committee—
- (a) to inquire into and report on any matter relating to the prison which may be specially referred to him for inquiry or report by the Minister or the Commissioner-General;
- (b) unless he is prevented by illness or other sufficient cause, to visit the prison once at least in every week in any period during which he is required in accordance with the rota of attendance or other arrangements made by the chairman, to visit the prison, and to hold himself in readiness during that period to attend at the prison at any reasonable time to hear any complaint that a prisoner may desire to make;

- (c) to attend at the prison whenever he is summoned to act as member of a tribunal for the purposes of section 81;
- (d) to enter in the log book after each visit made by him to the prison, a statement of all matters relating to the prison which were investigated by him during the visit; and
- (e) to record in the complaint book each complaint made to him by a prisoner and the proceedings taken by him on such complaint.

(5) Any Additional Prison Visitor shall, in relation to the prison or any of the prisons to which he has been appointed, be entitled to exercise the rights of an individual member of a Local Visiting Committee, and shall, whenever called upon by the Superintendent of such prison, perform in respect of such prison any of the duties imposed by this Ordinance or any other written law upon an individual member of a Local Visiting Committee.

(6) Every Visitor shall, in the performance of his duties, act in conformity with the provisions of this Ordinance, the rules made thereunder and any other written law relating to prisons, and shall co-operate with the prison staff in the maintenance of discipline in, and the good management of, the prison in or in respect of which such duties are performed.

Powers of
Visitors.
[§ 12, 53 of 1939.]

- 37.** (1) Every Visitor shall be entitled—
- (a) to visit any prison at any time ;
 - (b) to have free access to any part of any prison or to any prisoner therein;
 - (c) to inspect the condition of any part of the buildings or the premises of any prison, or any appliance or equipment provided therein for the use of the prisoners ;
 - (d) to inspect or test the diet provided for the prisoners in any prison ;
 - (e) to inquire into the general condition and treatment of the prisoners in any prison ;

- (f) to record in the Visitors' book or in the log book, as the case may be, a statement of the facts discovered by him in the course of any inspection or inquiry under any of the foregoing paragraphs of this subsection and any observations he may desire to make as a result of such inspection or inquiry :

Provided, however, that no Visitor shall be entitled—

- (i) if he is a member of a Local Visiting Committee or an Additional Prison Visitor, to visit or to have access to, or to hold any inspection or inquiry in, any prison other than the prison or one of the prisons for which he has been appointed; or
- (ii) to hold any inquiry, or make any observation or recommendation, as to any matter connected with the appointment, promotion or transfer of any prison officer or the supervision, control or discipline of the prison staff; or
- (iii) save as provided in sections 41 (2) and 79, to issue any order to any prison officer or prisoner.

(2) Nothing in this section contained shall be deemed to authorize the Board of Prison Visitors or a Local Visiting Committee to hold any inquiry, or make any observation or recommendation, as to any matter connected with the appointment, promotion, or transfer of any prison officer or the supervision, control, or discipline of the prison staff or to issue any order to any prison officer or prisoner.

38. (1) It shall be the duty of the jailer of every prison—

- (a) to keep within the prison—
 - (i) a Visitors' book in which Judges of the Supreme Court, Judges of the Court of Appeal and Members of Parliament, Judges of the High Court, and Members of the Board of Prison Visitors may record any observations or recommendations after a visit paid by them to the prison;

Visitors' book, log book, and complaint book.
[§ 12,53 of 1939]

(ii) a log book in which members of Local Visiting Committees or Additional Prison Visitors may record statements or particulars of the business transacted during their visits which they are required or authorized to record by this Ordinance or the rules made thereunder ;

(iii) a complaint book in which any Visitor may record the complaints made to him by prisoners and the proceedings taken upon such complaints ; and

(b) to produce the Visitors' book, log book, or complaint book, as the case may be, on demand made by any of the aforesaid persons in the course of any visit made by him to the prison.

(2) It shall be the duty of the Superintendent to transmit to the Commissioner-General, within such period as may be specified by him, a copy of each new entry made in the Visitors' book or the log book.

(3) The Commissioner-General may, after consideration of any report transmitted to him under section 36 or section 41 or of any entry in a Visitors' book or log book, of which a copy is transmitted to him under subsection (2), take such action thereon as to him may seem expedient.

Power of Judges and Magistrates and of Members of Parliament to visit prisons.

[§ 12, 53 of 1939.]

[§ 2, 35 of 1952.]

39. (1) Nothing in this Ordinance shall be deemed to abridge or affect the power of a Judge of the Supreme Court, a Judge of the Court of Appeal or a Judge of a High Court to visit any prison at any time and to hold therein any inspection, investigation or inquiry which he may consider necessary.

(2) Any Member of Parliament, District Judge or Magistrate may visit any prison, between the hours of 5.30 a.m. and 5.30 p.m. on any day for the purpose of inspecting the general condition of the prison and of the prisoners therein, and may record in the Visitors' book any observations or recommendations which he may think fit to make after such inspection.

[§ 2, 35 of 1952.]

(3) The provision of section 38 as to the production of the Visitors' book and the transmission of copies of entries made therein to the Commissioner-General shall apply in

the case of Judges of the Supreme Court, Judges of the Court of Appeal, Members of Parliament, Judges of the High Court, District Judges and Magistrates in like manner as in the case of members of the Board of Prison Visitors.

(4) Every District Judge or Magistrate shall for the purposes of this Ordinance be deemed to be a Visitor of any prison situated within his jurisdiction, and may, in relation to any such prison, exercise the powers and perform the duties of a Visitor accordingly. [§ 2, 35 of 1952]

40. (1) No jailer or subordinate prison officer shall refuse admittance or offer any hindrance or obstruction to a Visitor, a Judge of the Supreme Court, a Judge of the Court of Appeal, a Member of Parliament, a Judge of the High Court or a Magistrate or any other person authorized by any written law to enter a prison. Penalty for resistance or obstruction to persons authorized to enter prisons. [§ 3, 35 of 1952]

(2) A jailer or subordinate prison officer who acts in contravention of this section shall be guilty of an offence and shall be liable to be tried and punished therefor under the provisions of section 87. [§ 13, 53 of 1939]

41. (1) Every Visitor appointed under this Ordinance shall hear all complaints which may be made to him by any prisoner respecting any deficiency in the quantity or quality of the food or respecting any ill-treatment that he may have received in the prison. Visitors to hear complaints and punish or report under section 81.

(2) Where any complaint appears to be frivolous or malicious, the Visitor hearing it may order the confinement of the prisoner making such complaint in a punishment cell for not more than forty-eight hours, and may direct that during the period of such confinement the prisoner be placed on the most restricted diet prescribed by rules under this Ordinance, and the jailer shall comply with every such order or direction.

(3) Where any complaint is substantiated to the satisfaction of the Visitor—

- (a) if in his opinion the complaint is not of a serious character, he shall make a report thereon to the Commissioner-General, and
- (b) if he considers that the complaint discloses the commission of an offence sufficiently serious to

require the intervention of a Court, he shall immediately report the matter to the Attorney-General and send a copy of his report to the Commissioner-General.

PART IV

ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS

Prisoners to be searched on entrance and as often as necessary.

42. When a prisoner is first admitted, and at any time thereafter when considered necessary, he shall be searched, and all weapons and prohibited articles shall be taken from him.

Medical examination of criminal prisoners.

43. Every criminal prisoner shall also, as soon as convenient after admission, be examined by the medical officer who shall enter in a book to be kept by the jailer a record of the state of the prisoner's health and any observations which the medical officer thinks fit to add.

Finger-printing, &c., of criminal prisoners. [§ 14, 53 of 1939.]

44. (1) The Commissioner-General or the Superintendent may cause to be taken or recorded, in such manner as may be prescribed by rules made under section 94—

- (a) photographs, measurements, finger-prints and foot-prints of any criminal prisoner ; and
- (b) the name, age, height, weight, distinctive marks, and any other prescribed measurements and particulars, of any prisoner.

(2) Any prisoner refusing or failing to give any answer, or knowingly giving any answer which is false, to any question addressed to him for the purposes of subsection (1); shall be guilty of an offence against prison discipline.

(3) No photograph, finger-print, foot-print or record taken or kept under this section shall be supplied or sent save to such officers or persons as may be specified by rules made under section 94.

Effects of criminal prisoners retained.

45. All money or other effects in respect whereof no order of a competent court has been made, and which may be brought into prison by any criminal

prisoner or sent to the prison for his use, shall be placed in the custody of the jailer, and disposed of as may be directed by rules to be made under section 94.

46. All prisoners, previously to being removed to any other prison, shall be examined by the medical officer.

Medical examination before removal of prisoners.

47. (1) The jailer shall be responsible for the due discharge of each prisoner upon his becoming entitled to release whether by the expiration of his term of sentence, or on the grant of a pardon or on remission or commutation of sentence, or by operation of law.

Discharge of prisoners.
[§ 15, 53 of 1939.]

(2) The equivalent in days, and the date of expiry, of every sentence of imprisonment or preventive detention, shall be calculated in such manner as may be prescribed by rules made under section 94.

(3) Each prisoner entitled to release shall be discharged from prison on the date on which he becomes entitled to release, or, if that date falls on a Sunday or other day which is for the time being specified in any rule made under section 94 as a non-working day for all prisoners generally, then on the day next preceding that date, at such time as may be prescribed by any such rule :

Provided, however, that where any such prisoner is on that date under medical treatment for any acute or dangerous illness, he may be formally discharged, but unless he himself desires to leave, may be further detained in prison until the medical officer certifies that the prisoner can be removed from prison without danger to his health.

(4) On the discharge of a prisoner from any prison the Superintendent may, in accordance with such rules as may be made in that behalf under section 94, provide him with a railway warrant or with such amount of money as may be necessary, or with both such warrant and such money, to enable him to return to his home or intended place of residence. All expenses incurred by the Superintendent in providing such warrant or money shall be met out of such funds as may be allocated for the purpose out of the Consolidated Fund.

PART V

DISCIPLINE OF PRISONERS

Requisitions of Ordinance as to separation of prisoners.

48. The requisitions of this Ordinance with respect to the separation of prisoners are as follows :—

- (a) males shall be separated from females ;
- (b) juvenile prisoners, whenever it is practicable, shall be separated from adults ;
- (c) convicted prisoners, whenever it is practicable, shall be separated from unconvicted ;
- (d) civil prisoners, whenever it is practicable, shall be separated from criminal prisoners ;
- (e) prisoners committed for contempt of court or for the non-payment of any fine or penalty or of money due upon any estreated recognizance or for want of securities shall, whenever it is practicable, be separated from other criminal prisoners.

Cells to be furnished with means of communication.

49. No cell shall be used for separate confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with a prison officer.

Prisoners under sentence of death.

50. Every prisoner under warrant or order for execution shall, immediately on his arrival in the prison after sentence, be searched by or by order of the jailer, and all articles shall be taken from him which the jailer deems it dangerous or inexpedient to leave in his possession:

Provided that the prisoner, if a female, shall be searched by some female prison officer.

Every prisoner under warrant for execution to be separately confined and guarded.

51. Every prisoner under such warrant or order, as is mentioned in the preceding section, shall be confined in a cell apart from all other prisoners, and shall be placed by day and by night under the charge of an officer or guard.

Sentence of hard labour to be enforced.

52. Due provision shall be made in every prison for the enforcement of hard labour in the cases of such prisoners as may be sentenced thereto.

53. Female prisoners shall in all cases be attended by female officers.

Female prisoners to be attended by females.

54. No gaming shall be permitted in any prison, and the jailer shall seize and destroy all dice, cards, or other instruments of gaming found in the prison or on the person of any prisoner.

No gaming to be allowed.

55. No money shall be taken by any prison officer by way of garnish, fee, or gratuity from any prisoner or any person on his behalf or account, on his entrance into or discharge from or during his detention in the prison, under any pretence whatsoever.

No fee to be taken from a prisoner.

56. The classification, separation, safe custody, treatment and discipline of prisoners shall, without prejudice to the provisions of sections 48 to 55, be subject to such rules as may be made in that behalf under section 94.

Rules as to classification, &c., of prisoners. [§ 16, 52 of 1939.]

57. Facilities at the discretion of the Commissioner-General may be allowed in every prison, in accordance with such rules as may be made in that behalf under section 94, for imparting religious or other instruction to the prisoners.

Religious instruction and education. [§ 16, 53 of 1939.]

58. A remission of sentence, or a gratuity or privileges, according to such scales as may be prescribed by rules made under section 94, may be earned by industry and good conduct by any prisoner who is undergoing a sentence of imprisonment of either description for a term or terms in the aggregate exceeding one month :

Remission of sentences and rewards for good conduct. [§ 16, 53 of 1939.]

Provided, however, that this section shall not apply to—

- (a) a civil prisoner ; or
- (b) a person committed to prison under Chapter VII of the Code of Criminal Procedure Act, No 15 of 1979.
- (c) a person committed to prison to serve the unexpired portion of any sentence of imprisonment or preventive detention upon the forfeiture or revocation of a licence to be at large under the Prevention of Crimes Ordinance.

PART VI

FOOD, CLOTHING, AND BEDDING OF CIVIL PRISONERS

Civil prisoner may maintain himself. [§ 17,53 of 1939.]

59. A civil prisoner shall be permitted to maintain himself and to purchase or receive from private sources at proper hours, food, clothing, bedding, or other necessaries, but subject to examination and to such conditions as may be approved by the Commissioner-General.

Civil prisoner not to sell provisions.

60. No part of any food, clothing, bedding, or other necessaries belonging to any civil prisoner shall be sold to any other prisoner ; and any civil prisoner transgressing this regulation shall lose the privilege of purchasing food or receiving it from private sources for such time as the Superintendent thinks proper.

Allowance of clothing and bedding.

61. Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

Nature of food, clothing and bedding of prisoners. [§ 18,53 of 1939.]

62. The food, clothing and bedding issued to each prisoner or each class of prisoners shall, without prejudice to the provisions of sections 59, 60, and 61, be in accordance with such rules as may be made in that behalf under section 94.

PART VII

EMPLOYMENT OF PRISONERS

Work and earnings of civil prisoners.

63. Civil prisoners may with the Superintendent's permission work and follow their respective trades and professions, and when they find their own implements, and are not maintained at the expense of the prison or of the State, they shall be allowed to receive the whole of their earnings ; but the earnings of such as are furnished with implements or are maintained at the expense of the prison or the State shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Examination by medical officer of labouring prisoners.

64. The medical officer shall from time to time examine the labouring prisoners while they are employed, and shall enter in his journal the name of any prisoner whose health he thinks likely to be injured

by a continuance of hard labour, and thereupon such prisoner shall not again be employed at such labour until the medical officer certifies that he is fit for such employment; but if the medical officer certifies that such prisoner may without detriment to his health be employed on some lighter kind of labour, it shall be lawful for the jailer so to employ him.

65. Every prisoner shall perform such labour, whether manual or otherwise, as may be assigned to him ; and the nature and the amount of labour assigned to and exacted from each class of such prisoners shall be in accordance with such rules as may be made in that behalf under section 94 :

Nature of labour or employment to be assigned to prisoners. [§ 19, 53 of 1939]

Provided that unconvicted prisoners or civil prisoners shall not be required to perform any labour in excess of such labour as may, in the opinion of the Superintendent, be reasonably necessary for keeping in a clean and proper condition the prison or part of the prison in which they are confined and the clothing, bedding, furniture and utensils allotted to prisoners of the class to which they are assigned, and for preparing and serving the food of prisoners of that class.

PART VIII

HEALTH OF PRISONERS

66. The names of prisoners desiring to see the medical officer or appearing out of health in mind or body shall be reported by the officer attending them to the jailer ; and the jailer shall without delay call the attention of the medical officer to any prisoner desiring to see him, or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect the medical officer's written recommendations respecting alterations of the discipline or treatment of such prisoner.

Names of sick prisoners to be reported to jailer. Jailer to report them to the medical officer.

67. All recommendations given by the medical officer in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be

Entry of recommendations by medical officer.

entered day by day in his journal, which shall have a separate column, wherein entries shall be made by the Superintendent stating in respect of each recommendation the fact of its having been or not having been complied with, accompanied by such observations, if any, as the Superintendent thinks fit to make, and the date of the entry.

Infirmaries.

68. In every prison an infirmary or proper place for the reception of sick prisoners shall be provided.

Removal of prisoners to hospital, place of observation, or mental hospital.
[§ 20, 53 of 1939.]

69. (1) Where any prisoner is found or is suspected to be suffering from any disease (other than leprosy or a mental disease) which cannot adequately be treated or kept under observation in a prison, the Commissioner General may, by a warrant of transfer under his hand, direct the removal of the prisoner to any public hospital in Sri Lanka (other than a leprosy hospital or a mental hospital) maintained or controlled by the Government; and such warrant shall be sufficient authority for the detention of the prisoner in the hospital for such period as the medical officer in charge of the hospital may consider necessary.

(2) Where any prisoner is suspected to be of unsound mind or to be suffering from any mental disease, and adequate facilities for keeping him under observation or for diagnosing the disease are not provided in the prison in which the prisoner is detained, the Commissioner-General may, by a warrant of transfer under his hand, direct the removal of the prisoner to any place of observation or mental hospital appointed or maintained for the purposes of the Mental Diseases Ordinance, and such warrant shall be sufficient authority for the detention of the prisoner in such place or hospital for any period not exceeding fourteen days in the first instance ; and where any further observation is required, the Commissioner-General may authorise in writing the detention of the prisoner for such further period as may be necessary, but so that the aggregate period of detention in such place or hospital shall not exceed twenty-eight days in any case.

(3) Every prisoner who is removed to a hospital under subsection (1) or to a place of observation or mental hospital under subsection (2) shall, during the

period of his detention therein and so long as he is not entitled to be discharged from prison in due course of law, continue to be subject to the provisions of this Ordinance, the rules made thereunder and any other written law relating to prisons, in the same manner and to the same extent as if he were detained in a prison.

(4) The medical officer in charge of the hospital or the place of observation or mental hospital to which a prisoner is removed under subsection (1) or subsection (2), as the case may be, shall, in respect of that prisoner, and during the period of the detention of that prisoner in such hospital, place or mental hospital and so long as he is not entitled to be discharged from prison in due course of law, have the powers conferred, and perform the duties imposed, on the Superintendent of a prison by this Ordinance or the rules made thereunder or by any other written law.

(5) Where a prisoner removed under subsection (2) to a place of observation or a mental hospital is found by the medical officer in charge thereof to be of unsound mind, the medical officer shall, by writing under his hand, certify to the Commissioner-General that the prisoner is of unsound mind ; and such writing shall, for the purposes of section 9 of the Mental Diseases Ordinance be deemed to be the certificate of the medical officer referred to in that section.

(6) The Superintendent of the prison from which a prisoner is removed under this section to a hospital or place of observation or mental hospital shall cause him to be taken back to the prison as soon as may be after the medical officer certifies in writing that it is no longer necessary to detain the prisoner in such hospital, place of observation or mental hospital.

70. All prisoners shall be furnished with proper means of washing or otherwise cleansing themselves and of having their clothing washed ; and provision shall be made for their bathing within the prison, if possible, or otherwise at the nearest convenient place ; and during such bathing or washing care shall be taken that different classes and sexes of prisoners be kept separate.

Bathing of
prisoners.

PART IX

VISITS TO AND CORRESPONDENCE OF PRISONERS

Visits from and communication with relations, &c. [§ 21, 53 of 1939.]

71. Every prisoner shall be allowed, in accordance with such rules as may be made in that behalf under section 94, to receive visits from, and to communicate with, his relations and friends and his legal adviser, subject to such restrictions as may be imposed by the rules with a view to the maintenance of discipline and order in the prison and the prevention of crime.

Powers of jailers as to admission of persons desiring to visit prisoners. [§ 21, 53 of 1939.]

72. (1) The jailer may—
(a) demand the name and address of any person desiring to visit a prisoner ; and
(b) where he has ground for suspicion, search or cause such person to be searched before giving him admission ; and
(c) where such person does not submit to such search, deny him admission.

(2) Whenever the jailer denies admission to any person under subsection (1), the reasons for his decision shall be recorded by him in his journal.

(3) A search under this section shall not be carried out in the presence of any person other than a prison officer.

(4) Where a person desiring to visit a prisoner is a female, no search necessary for the purposes of this section shall be carried out except by a female prison officer or in the presence of any person other than a female prison officer.

PART X

OFFENCES IN RELATION TO PRISONS

Carrying liquor, tobacco, or drugs into prison. [§ 22, 53 of 1939.]

73. Whoever, without lawful authority, brings, throws, or attempts by any means whatever to introduce into any prison or any place provided under section 3 for the temporary shelter and safe custody of prisoners, or who supplies or attempts to supply to any prisoner, while in custody outside any prison, any

spirituous or fermented liquor, or tobacco, betel, opium, bhang, or other intoxicating or poisonous drug, or any money or any other article which may be prohibited by any rule made under section 94, and every prison officer who knowingly suffers any such liquor, tobacco, betel, opium, bhang, drug, money, or other article to be brought, thrown, or introduced into or used in any such prison or place or to be supplied to any prisoner, while in custody outside any prison, without lawful authority, and whoever aids and abets any person in committing any offence under this section, shall be guilty of an offence, and on conviction be liable to a fine not exceeding fifty rupees, or to imprisonment of either description, for any period not exceeding three months, or to both.

Suffering liquor, &c., to be sold or used in prison.

[§ 22, 53 of 1939.]

74. It shall be lawful for any prison officer to arrest any person who commits an offence under section 73 or who abets another in committing such offence, and forthwith to make over the person so arrested to the nearest police officer, or to produce him before the nearest Magistrate, to be dealt with according to law.

Offenders under section 73 may be arrested without warrant by prison officers.

75. Whoever, without lawful authority, conveys or attempts to convey any letter or other writing to any prisoner in custody, whether within or without any prison, or from any such prisoner to any other person, and every prison officer who aids and abets any person in committing any offence under this section, shall be guilty of an offence and on conviction be liable to a fine not exceeding fifty rupees, or to imprisonment of either description, for any period not exceeding three months, or to both.

Carrying letters to prisoners.
[§ 22, 53 of 1939]

Prison officers abetting.

76. The Superintendent shall cause to be affixed in a conspicuous place outside the prison or the place provided as aforesaid a notice in the Sinhala, Tamil and English languages respectively, setting forth the penalties incurred by persons committing any offence under sections 73 and 75 respectively.

Notice of penalties to be affixed outside prison.

77. (1) A prison officer may use weapons on or against any prisoner escaping or attempting to escape from custody:

Use of weapons and force.
[§ 23, 53 of 1939.]

Provided that resort shall not be had to the use of any weapon unless such officer has reasonable ground for believing that he cannot otherwise prevent the escape of the prisoner ;

And provided further that no firearms shall be used on or against any such prisoner unless the prison officer shall have first given a warning to the prisoner that he is about to use such firearms against the prisoner.

(2) A prison officer may use weapons on or against any prisoner engaged in any combined outbreak of the prisoners or in any attempt to force or break open the doors, gates or enclosure wall of a prison, and may continue to use such weapons so long as such combined outbreak or attempt is actually continued.

(3) No prison officer shall, in the presence of a senior officer of rank not lower than a Jailer or Deputy Jailer or officer for the time being acting for the jailer, use weapons on or against any prisoner engaged in an outbreak or attempt to escape, unless such senior officer orders such weapons to be used.

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

(5) Every police officer who is for the time being engaged in escorting any prisoner or prisoners, or in guarding any prison or other place where prisoners are confined or employed, or in assisting in the quelling of any disturbance or violence on the part of any prisoners, or in recapturing any escaped prisoner, shall be deemed to have all the powers and rights granted by this section to prison officers.

(6) Nothing in this section contained shall be deemed to be in derogation of the provisions of sections 89 to 99, inclusive, of the Penal Code.

List of
prison
offences.

78. A prisoner shall be guilty of an offence against prison discipline if he—

- (i) mutinies or incites another prisoner to mutiny;
- (ii) assaults or uses criminal force on, or causes hurt or grievous hurt to, a prison officer or another prisoner, or incites a fellow prisoner to commit any such offence ;

- (iii) fails or refuses to obey any lawful order of the Superintendent or of any other prison officer or commits a breach of any prison regulation;
- (iv) escapes or conspires to escape from lawful custody;
- (v) swears, curses, or uses any abusive, insulting, threatening or other improper language or gesture;
- (vi) is indecent in language, conduct, act or gesture ;
- (vii) is impertinent, insubordinate or insolent in demeanour to any prison officer or to any Visitor;
- (viii) creates a disturbance or behaves in a disorderly manner ;
- (ix) refuses to work, or wilfully mismanages work, or fails to perform his allotted task, or is idle, careless or negligent at work;
- (x) wilfully evades labour by self-disablement or by refusing to take food or by feigning madness or illness or other incapacity for work;
- (xi) wilfully damages or disfigures any part of the prison, any prison property or any prison clothing or equipment;
- (xii) is in possession of, or keeps in a cell or any other place any article not permitted by the rules of the prison ;
- (xiii) leaves a cell or other place of work or location without permission ;
- (xiv) gives to, or receives from, or exchanges with, any other prisoner any article whatever without the permission of the Superintendent;
- (xv) trafficks or has any business dealings with any prison officer or with any other person;
- (xvi) without the authority of a prison officer, communicates whether by writing, speech or gesture with any person who is not connected with the administration of the prison ;

- (xvii) gambles, or possesses any playing cards, dice or other instrument or device for gambling ;
- (xviii) prefers a false charge against a prison officer or another prisoner or incites any other prisoner to do so ;
- (xix) makes groundless complaints or incites others to do so;
- (xx) removes food from the place where meals are consumed, or conceals food;
- (xxi) commits any nuisance ;
- (xxii) bathes or washes at unauthorized places or times;
- (xxiii) writes or receives any unauthorized letter or communication;
- (xxiv) refuses when called upon to assist a prison officer in quelling a mutiny or disturbance or in capturing any escaped or escaping prisoner, or leaves his seat, working place or other location during a mutiny or disturbance without an order from a prison officer ;
- (xxv) omits to give a warning or an alarm when it is known that a prisoner is escaping or attempting to escape ;
- (xxvi) omits to give immediate information to the prison authorities when he is aware of a design to commit an offence against the rules;
- (xxvii) files, cuts or tampers with iron bars, locks or doors;
- (xxviii) commits a breach of any rule or lawful order ;
- (xxix) offends in any other way against the good order and discipline of the prison ;
- (xxx) aids and abets another prisoner in committing or attempting to commit any of the foregoing offences against prison discipline; or
- (xxxii) attempts to commit any of the foregoing offences other than those specified in paragraphs (iii), (v), (vii), (viii), (ix), (xii) (xix), (xxiv), (xxv), and (xxvi).

79. Save as provided in section 81, the Superintendent' or in his absence a Visitor, may examine any person touching the offences in the preceding section mentioned, and determine thereupon and punish such offences—

Superintendent's power to punish prison offenders.

- (a) by warning or reprimand ;
- (b) by the forfeiture of any number of remission marks not exceeding three hundred and sixty for each offence ;
- (c) by reduction to a lower class or detention in any class for a period in respect of each offence not exceeding one month if that class is the prescribed penal stage, or ninety days in any other case ;
- (d) by postponement or forfeiture of any one or more privileges ;
- (e) by confinement in a punishment cell for any time not exceeding fourteen days ;
- (f) by ordering the offender for any time not exceeding three days to close confinement, to be there kept upon a diet reduced to such extent as shall be prescribed by any rule made under the provisions of section 94 ;
- (g) where the offender is not serving a sentence of rigorous imprisonment, by hard labour for any time not exceeding seven days ; or
- (h) by any two of the above-mentioned punishments:

Provided that—

- (i) in all cases where the complaint is made by or on behalf of the Superintendent or the Commissioner-General, and in other cases in which the interests of justice may so require, the offences shall be tried and punished only by a Visitor, and
- (ii) the Commissioner-General shall have power—
 - (a) to call for and revise any proceedings taken under this section by the Superintendent and to confirm, modify or reverse his findings;

- (b) to remit or vary the punishment awarded by the Superintendent; or
- (c) to make such order thereon as justice may require, other than an order increasing the punishment awarded by the Superintendent.

Jailer to enter punishments in a book.

80. The jailer shall enter in a separate book, called the Punishment Book, a statement of the nature of any offence that has been punished under the preceding section, with the addition of the name of the offender, the date of the offence, and the amount of punishment inflicted. Such statement shall be signed by the Superintendent or by the Visitor who shall have inflicted such punishment.

Constitution and powers of tribunal for punishment of prisoners. [§ 24, 53 of 1939.]

81. (1) (a) If any prisoner is charged with mutiny or incitement to mutiny, or with escape or attempt to escape or abetment of escape from lawful custody, or with causing hurt or grievous hurt to a prison officer or with attempt to cause hurt or grievous hurt to a prison officer by means of any instrument for shooting, stabbing or cutting, or any instrument which, when used as a weapon of offence, is likely to cause death; or

(b) if any prisoner is charged with any offence against prison discipline which, in the opinion of the Superintendent or a Visitor acting under section 79, is not adequately punishable by him or is not adequately punishable under that section by reason of the prisoner's record of previous convictions of offences against prison discipline, the Superintendent shall in the former case, and the Superintendent or Visitor may in the latter, cause the offender to be tried by a Magistrate of the Division in which the prison is situated and two Visitors who shall be members of the Local Visiting Committee, unless for any reason no member of that committee is able to serve on that tribunal.

(2) Every inquiry into a prison offence under this section shall be held in the prison on such date not later than seven days after the receipt of information of the offence from the Superintendent, as the Magistrate may appoint:

Provided that no delay beyond the aforesaid period of seven days shall be deemed to invalidate any inquiry held under this section, if the Magistrate certifies that the delay was due to a cause which, in his opinion, is good and sufficient. [§ 24, 53 of 1939.]

(3) Every Visitor summoned for the purpose of acting in a judicial capacity under the provisions of this section shall attend at the prison on the date and at the time specified unless prevented by illness or other sufficient cause :

Provided that in the event of either or both of the Visitors summoned failing so to attend, the Magistrate and the Visitor who is present or the Magistrate alone, as the case may be, may perform all the functions and exercise all the powers of the tribunal.

(4) The tribunal shall have power to inquire into the offence upon oath or affirmation and by a majority verdict to punish the offender—

- (a) with confinement in a punishment cell for any time not exceeding one month ; or
- (b) with any one of the several punishments a Superintendent is authorized to impose under section 79 ; or
- (c) with imprisonment of either description for a term not exceeding five years in the case of the offence of escaping or attempting to escape from lawful custody or the abetment of any such offence and not exceeding six months in any other case;
- (d) with corporal punishment not exceeding twenty-four lashes with a whip or twenty-four strokes with a rattan in the following cases :—
 - (i) mutiny or incitement to mutiny,
 - (ii) causing hurt or grievous hurt to a prison officer, or attempting to cause hurt to any such officer by means of an instrument for shooting, stabbing, or cutting or any instrument which, when used as a weapon of offence, is likely to cause death ; or

(e) with a combination of any two of the above-mentioned punishments.

[§ 24, 53 of 1939.] (5) Nothing in this section shall authorize the infliction of corporal punishment on any offender below the age of sixteen years otherwise than in accordance with the provisions of the Corporal Punishment Ordinance, or on any female prisoner or on any civil prisoner or on any person remanded by a court pending inquiry or trial.

(6) In any case where the whole or any part of a sentence of corporal punishment cannot for any reason be carried into execution, the Superintendent shall report the fact to the Magistrate who, with the concurrence of the other members of the tribunal which inquired into the offence, may order that in lieu of corporal punishment or in lieu of so much of the corporal punishment as was not carried out, the offender be punished with imprisonment of either description for any term which the tribunal is competent to impose, any imprisonment so imposed being in addition to any other punishment already imposed on the offender for that offence:

Provided that if for any reason the report of the Superintendent under this subsection cannot be considered by the tribunal which originally inquired into the offence, it shall be competent for another tribunal duly constituted under this section to consider such report and to make order thereon as herein before provided.

(7) A term of imprisonment imposed under this section shall not run concurrently with, but shall be in addition to, any term of imprisonment or of preventive detention which the offender may be undergoing at the time of the inquiry.

(8) Any term of imprisonment imposed under any other written law on an offender at any time while he is serving a term of imprisonment imposed under this section, shall commence on the expiry of the term of imprisonment imposed under this section.

Punishment
for evasion
of labour.

[§ 25, 53 of 1939.]

82. (1) Where a prisoner, undergoing any sentence or punishment of any description duly imposed on him, is convicted, under section 79 or section 81 or under

any other written law, of any of the following offences against prison discipline, namely—

- (a) refusing to work,
- (b) failing to perform his allotted task,
- (c) wilfully evading labour by self-disablement or by refusing to take food or by feigning madness or illness or other incapacity for work,

he shall, after undergoing such sentence or punishment as may be imposed on him for that prison offence, undergo for an additional period equal to the period during which that prison offence may have been continued, the sentence or punishment which he was undergoing at the time the prison offence was committed.

(2) Where any new sentence of imprisonment is imposed on a prisoner after the date of his conviction of any of the offences specified in subsection (1), such new sentence shall commence only on the expiry of the additional period referred to in that subsection.

83. Every prisoner found guilty by a court of law, of by the authority or tribunal specified in section 79 or section 81 either of assaulting or using criminal force on or causing hurt or grievous hurt to a prison officer or of an escape or an attempt to escape, shall, if the Commissioner-General by order in writing so directs, in addition to any other punishment—

Additional penalties for prisoners guilty of escape or of assaulting prison officers.

- (a) forfeit all or any of the remission marks previously earned by him ;
- (b) be classed and treated in all other respects as a prisoner commencing a new sentence ;
- (c) wear, for such period as may be specified in the order, such distinctive clothing as may be prescribed by rules made under section 94.

84. There shall be no appeal from a conviction or sentence under section 79 or section 81.

No appeal from convictions under section 79 or section 81.

Ordinary criminal courts to retain jurisdiction.

85. Nothing contained in sections 79, 81, 82, 83, and 84 shall be deemed to deprive any competent court in Sri Lanka, of its jurisdiction to hear and determine any charge in respect of an offence punishable under the Penal Code or any other written law :

Provided, however, that no person shall be punished both under the aforesaid sections and by a court for the same offence.

Corporal punishment.

86. All corporal punishment within the prison shall be inflicted in the presence of the Superintendent or a Visitor and the medical officer, subject to the law for the time being in force relating to the infliction of corporal punishment.

Punishment of offences committed by prison officers.
[§ 26, 53 of 1939.]

87. (1) Any jailer or subordinate prison officer charged with ill-treating a prisoner, or with negligence or remissness or inefficiency in the discharge of his duties, or with a contravention of any of the provisions of this Ordinance or of any rule made thereunder, or with any other misconduct, may be dealt with in accordance with the regulations for the time being in force relating to the dismissal or other punishment of public officers,

(2) Every jailer or subordinate prison officer, who ill-treats a prisoner or contravenes any of the provisions of this Ordinance or of any rule made thereunder, shall be guilty of an offence and may, where he is not in the discretion of the Commissioner-General deal with under subsection (1), be prosecuted in the Magistrate's Court having jurisdiction over the place where the offence is alleged to have been committed, and punished by such court on conviction after summary trial with a fine not exceeding two hundred rupees, or with imprisonment of either description for a term not exceeding three months or with both such fine and such imprisonment.

(3) No person shall be punished both under subsection (1) and under subsection (2) for the same offence.

PART XI

RESTRAINTS

88. No prisoner shall be put under mechanical restraint as a punishment.

Prohibition of mechanical restraint as punishment.

89. (1) A prisoner may, when confined in an insecure place or whenever he is outside prison walls, be put in handcuffs solely as a measure of precaution against violence, disturbance, mutinous conduct, escape, or rescue and, where the number of such prisoners being males exceeds two, they may for the same reason, be secured by a gang chain and wrist-cuffs.

Means of restraint for purposes of extra-mural security.

(2) A male prisoner, when confined in an insecure place or whenever he is outside prison walls, may, with the approval of a medical officer, be put in body-belt with side-cuffs to prevent violence, disturbance, mutinous conduct, escape or rescue, but only on the orders of a prison officer not below the rank of Jailer.

90. When, in order to prevent any prisoner from injuring himself or others, or damaging property or creating a disturbance, or using violence, or in any case of insubordination or mutiny, it is necessary, in the interests of discipline, to place him under mechanical restraint, a prison officer not below the rank of Jailer (or in the case of a prisoner mentally deranged, the medical officer) may order him to be placed under mechanical restraint. The use of restraints under this section shall forthwith be reported to the Superintendent, who shall inquire into the matter, give such orders as appear to be necessary and report the circumstances to the Commissioner-General for final decision.

Means of restraint for purposes of intra-mural discipline.

91. No prisoner shall be kept under mechanical restraint for a longer period than is necessary, and in no case for more than twenty-four consecutive hours unless an order approving such restraint and specifying the cause and duration thereof is made by the Commissioner-General. Such order shall be preserved by the Superintendent as his authority for the employment of restraint.

Duration of restraint.

Register of Restraints.
[§ 27, 53 of 1939.]

92. Particulars of every case in which any mechanical restraint is used under section 89 (2) or section 90 shall be forthwith recorded by the Superintendent in a " Register of Restraints " which shall be kept in every prison in such form as may be prescribed by rules under section 94.

Means of restraint to be prescribed.
[§ 28, 53 of 1939.]

93. No handcuffs, body-belts or other mechanical means of restraint shall be used except of such patterns and in such manner and under such conditions as may be prescribed by rules made under section 94.

PART XII

MISCELLANEOUS

Power to make rules.
[§ 29, 53 of 1939.]

94. (1) The Minister may from time to time make all such rules, not inconsistent with this Ordinance or any other written law relating to prisons, as may be necessary for the administration of the prisons in Sri Lanka and for carrying out or giving effect to the provisions and principles of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing powers, the Minister may make rules for all or any of the following purposes or matters :—

- (a) the medical examination and the taking of measurements, photographs, finger-prints, foot-prints or other records, of prisoners, including particulars of the previous history of any such prisoners;
- (b) the persons, if any, to whom such measurements, photographs, finger-prints, foot-prints or other records may be sent or supplied;
- (c) the disposal of the clothing and property of prisoners on admission ;
- (d) the classification, separation, safe custody, treatment and discipline of prisoners, and the classes of diet to be provided for prisoners ;
- (e) the specifications and requirements of the several types of cells and wards ;
- (f) the kind of labour to be exacted from prisoners at the different stages of their imprisonment, the manner in which and the place or places at which such labour may be exacted ;

- (g) the computation of sentences ;
- (h) visits to prisoners, and correspondence or other communication with prisoners ;
- (i) the religious instruction and the education of prisoners ;
- (j) rewards for good conduct and the remission of sentences to be allowed to prisoners for industry and good conduct, and the conditions in which such remissions may be allowed ;
- (k) means of restraint, the patterns or types that may be used and the circumstances and the manner in which they may be used ;
- (l) the supply of money, food, clothing or means of travelling to prisoners on their discharge ;
- (m) rewards for the recapture of escaped prisoners ;
- (n) the sanitation of the prisons and the health of prisoners and prison officers ;
- (o) inspection, inquiries and other proceedings by Visitors ;
- (p) the duties of the Superintendent and other prison officers, and of persons appointed to act as jail guards or sentries or as escorts for the purposes of the custody of prisoners outside prison walls ;
- (q) any other purposes or matters for which rules are authorized or required by this Ordinance or by any other written law in any context relating to prisons.

(3) No rule made under this section shall have effect until it is approved by Parliament and notification of such approval is published in the Gazette. Every rule, in respect of which such notification is published, shall be as valid and effectual as if it were herein enacted.

95. A copy of the committal of any prisoner by a competent court, or a copy of the extract from the calendar relating to any prisoner who may have been convicted by the High Court, shall, if such copy be certified by the Superintendent of any prison, be sufficient prima facie evidence for all purposes of the lawful custody of such prisoner :

Certified copy
of committal
sufficient
evidence of
lawful
custody.

Provided, however, that it shall be lawful for a competent court to require the production of the original committal, where the court shall deem the same necessary.

Order for production of prisoners before any court.

96. Whenever any prisoner is required to appear before any court, to give evidence, or for any other purpose, it shall be lawful for such court in its discretion, if it considers the presence of such prisoner necessary for the ends of justice, by an order in writing to direct the Superintendent of the prison, where such prisoner shall be imprisoned, to produce such prisoner before such court, and such Superintendent shall in the absence of good and sufficient cause to the contrary, cause such prisoner to be produced in compliance with such order.

No prisoner to be an assessor at an inquest.

97. In case any Magistrate or inquirer shall hold an inquest on the body of any prisoner who shall have died while in custody, no prison officer or prisoner or person engaged in any trade or dealing with the prison shall be an assessor at such inquest.

Warrants may be addressed to Fiscal, who shall give prisoner into charge of jailer.

98. All warrants of commitment (except warrants of commitment for trial) and all warrants of remand or of arrest in civil or criminal process issued by any court, may, as heretofore, be addressed to the Fiscal and such Fiscal shall, with as little delay as possible after taking charge of or arresting the person required by such warrant to be committed, remanded, or arrested, give such person into the charge of the Superintendent or Jailer of some prison of the district over which such court may have jurisdiction, together with a copy of the warrant certified under the hand of such Fiscal. It shall thereupon become the duty of such Superintendent or Jailer to take charge of and keep safely such prisoner until he shall be delivered from prison in due course of law. And the copy of such warrant, so certified as aforesaid, shall be sufficient prima facie evidence for all purposes of the lawful custody of such prisoner.

99. It shall be the duty of the jailer to deliver over to the Fiscal or to any person authorized in writing in that behalf by such Fiscal, any civil and any unconvicted criminal prisoner in charge of such jailer, whenever so required by such Fiscal or authorized person aforesaid:

Jailer to deliver over to Fiscal civil and unconvicted criminal prisoners, when so required.

Provided, however, that no civil prisoner shall be removed or allowed by the Fiscal to go beyond the walls or other enclosed limit of the prison, in which such prisoner may be confined, unless upon special rule and order of court requiring the attendance of such prisoner, or upon the application of such prisoner to be carried before any such court for the purpose of preferring any complaint or application.

Civil prisoner not to go beyond limit of prison except by order of court.

100. The allowance for the maintenance of judgment-debtors when supplied to the Fiscal under the provisions of section 315 of the Civil Procedure Code, shall be paid by the Fiscal to the jailer of the prison wherein such prisoners are confined, for the purpose of such maintenance.

Allowance for maintenance of judgment-debtors to be paid over by Fiscal to jailer.

101. All warrants of commitment for trial or of remand or deliverance from prison issued by any court, shall be addressed to the Superintendent or jailer of the prison to or from which the person named in the warrant is to be committed or delivered, and such Superintendent or jailer shall directly carry such warrant into effect according to law.

Warrants of commitment, &c., to be addressed to the Superintendent or jailer of the prison.

102. There shall be affixed in a conspicuous part of every prison in which judgment-debtors are confined a table of rates of prison allowance for judgment-debtors, in the Sinhala and Tamil languages, together with a translation thereof in the English language.

Table of rates of allowance for judgment-debtors to be affixed in prison.

103. All actions which may lawfully be brought against the Government of Sri Lanka or against any prison officer, in respect of any act done in pursuance of this Ordinance or the rules made thereunder or any

Bar of actions.
[§ 30, 53 of 1339.]

other written law for the time being in force relating to the prisons in Sri Lanka, shall be instituted within six months from the date of such act and not afterwards.

Interpretation. **104.** In this Ordinance, unless the context otherwise requires—

"assault", "criminal force", "hurt", and "grievous hurt", respectively, have the same meaning as in the Penal Code;

"civil prisoner" means—

- (a) a judgment-debtor committed to prison under the Civil Procedure Code ; or
- (b) a person committed to prison under section 252 of the Code of Criminal Procedure Act, No. 15 of 1979, in default of payment of a fine imposed under that section of that Act; or
- (c) a person ordered to be detained in prison under section 390 of the Code of Criminal Procedure Act, No. 15 of 1979; or
- (d) a person committed to prison under section 422 (4) of the Code of Criminal Procedure Act, No 15 of 1979.; or
- (e) a person committed to prison for contempt of court, not being a person sentenced—
 - (i) to rigorous imprisonment for contempt of court;
 - (ii) to simple or rigorous imprisonment as for a contempt of court under section 449 (1) of the Code of Criminal Procedure Act, No. 15 of 1979; or
- (f) a person committed to prison by order of a civil court under any provision of written law which does not authorize a sentence of rigorous imprisonment to be imposed;

" close confinement" means confinement which deprives a prisoner of all means of communication with other prisoners;

" Commissioner -General" means the Commissioner General of Prisons;

" court*" includes a Rural Court;

* Should be omitted consequent to the repeal of the Rural Courts Ordinance by Law No. 44 of 1973.

" criminal prisoner " means any prisoner other than a civil prisoner ;

"prison" includes any prison hospital and any grounds or buildings occupied or used for the purposes of the prison ;

" prison officer " means an officer of the prison staff ;

" punishment cell " means an unfurnished cell used for the purpose of carrying out any punishment ;

" Visitor " means—

- (a) a member of the Board of Prison Visitors or of a Local Visiting Committee, acting individually in any matter in which he is authorized by this Ordinance to act individually, or
- (b) an Additional Prison Visitor.

SCHEDULE

<i>Prisons</i>	<i>Limits or Districts</i>	[Section 2.]
Anuradhapura	} The whole of Sri Lanka	
Badulla		
Batticaloa		
Breakwater *		
Galle		
Hulftsdorp		
Jaffna		
Kalutara *		
Kandy, Bogambara		
Kandy, Remand Prison		
Keealla *		
Kundasale, Open Prison Camp		
Mahara		
Mannar *		
Matara, Old Fort premises		
Negombo		
Slave Island *		
Tangalla		
Trincomalee *		
Welikada		
Welikada, Remand Prison		
Welikada, Old Magazine premises		

<i>Prisons</i>	<i>Limits or Districts</i>
Chilaw *	.. The limits for the time being of the jurisdiction of the District Court of Chilaw.
Matale *	.. The limits for the time being of the jurisdiction of the Magistrate's Court of Matale.
Mullaittivu *	.. The limits for the time being of the jurisdiction of the District Court of Mullaittivu.
Panadure *	.. The limits for the time being of the jurisdiction of the Panadure Magistrate's Court.

* These prisons have been closed by Order of the Minister published in Gazette No. 10,640 of 12th February, 1954.