



BERMUDA

PRISONS ACT 1979

1979 : 24

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SCHEDULE Jamaica

[preamble and words of enactment omitted]

Short title and commencement

1 This Act may be cited as the Prisons Act 1979 and shall come into force on such day as the Minister shall appoint by notice in the Gazette.

Interpretation

2 (1) In this Act—

“adjudged term” means, in relation to the imprisonment or preventive detention of an offender, the term of imprisonment or the term of preventive detention, to which the offender was sentenced by a court;

“court” does not include a court martial or a coroner’s court;

“court martial” means a court martial convened under any one of the Acts of the Parliament of the United Kingdom entitled respectively the Naval Discipline Act, the Army Act and the Air Force Act;

“Minister” means the Minister for the time being responsible for the Department of Corrections;

“Parole Board” means the Board established under section 3 of the Parole Board Act 2001;

“prison officer” includes any person who is employed in a prison for purposes connected with its administration;

“prison rules” means rules made by the Minister under this Act;

“prisoner” means a person lawfully detained in a prison;

“probation officer” means a person appointed under section 70E of the Criminal Code [*title 8 item 31*] to be a probation officer;

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“prohibited high risk article” means any—

- (a) controlled drug;
- (b) firearm (including an imitation firearm);
- (c) hand-held mobile telephone (including any equipment or apparatus fit and intended for use in connection with a hand-held mobile telephone); or
- (d) offensive weapon.

“senior officer” means the senior officer in charge of a prison;

“sum adjudged to be paid on a conviction” includes any costs, damages or compensation adjudged to be paid by any person on his conviction.

(2) In this Act—

“the Treatment of Offenders Board” or “the Board” means the body of members appointed in pursuance of the Treatment of Offenders Board Act 1979 [*title 10 item 31*]; and “member” means any member of the Board so appointed.

[Section 2 subsection (1) “Parole Board” inserted by 2001:2 s.13 & Sch 2 effective 1 October 2001; “probation officer” amended by 2001:29 s.11(1) & Sch effective 29 October 2001; “Minister” amended by 2002:17 s.3 effective 14 December 2002; “prohibited high risk article” inserted by 2013 : 14 s. 2 effective 24 June 2013]

Savings

3 Nothing in this Act shall be construed—

- (a) so as to abridge or derogate from any provision of the Criminal Code [*title 8 item 31*] or of the Mental Health Act 1968 [*title 11 item 36*], or of the Young Offenders Act 1950 [*title 10 item 33*], or of any Act under which a person may be ordered to be imprisoned under any civil or Admiralty process issuing out of a court; or
- (b) so as to affect Her Majesty’s Royal Prerogative of mercy or any power vested in the Governor by the Constitution to exercise such Royal Prerogative on behalf of Her Majesty, or to grant a pardon either free or subject to conditions, or any remission of any sentence, or any respite of the execution of any sentence.

Department of Corrections established

4 (1) For the purposes of this Act there shall be established a department of the Government of Bermuda to be called the Department of Corrections to have the charge and administration of Her Majesty’s prisons in Bermuda.

(2) The Department of Corrections shall, subject to the general directions and control of the Minister, be under the supervision of a public officer who shall be known as the Commissioner of Prisons; and the Commissioner of Prisons shall have the powers and discharge the duties conferred or imposed upon him by or under this Act or any other statutory provision.

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(3) The Department of Corrections shall consist of the Commissioner of Prisons and such other public officers as may from time to time be appointed to the Department.

(4) The Minister may from time to time appoint such number of Prison Medical Officers and Prison Chaplains as may appear to him to be necessary.

[Section 4 amended by 2002:17 s.3 effective 14 December 2002]

Prisons to be provided

5 (1) For the purposes of this Act there shall be provided and maintained a prison or prisons, that is to say, a building or buildings or premises in which persons of the age of sixteen years or over who have been sentenced to a term of imprisonment or preventive detention by any court may be detained in lawful custody.

(2) Subject to this Act, a person under the age of sixteen years who, upon his conviction by any court of an offence, is sentenced to a term of imprisonment, shall not be detained in a prison referred to in subsection (1); but a person under such age may be so detained upon his remand in custody while awaiting trial or sentence by any court in respect of a criminal charge.

(3) Where a person under the age of sixteen years is remanded in custody or otherwise detained in a prison, that person shall, during the period of remand or detention, be kept apart so far as is practicable, from any prisoner of the age of sixteen years or upwards.

(4) The Minister may from time to time by notice in the Gazette declare any building, buildings or premises to be a prison.

(5) Where it appears to the Minister that the use of any building, buildings or premises as a prison should be discontinued the Minister may by notice in the Gazette order that after a date to be specified in the notice such building, buildings or premises shall cease to be a prison.

Who may be received and detained in prisons

6 Subject to section 54 of the Young Offenders Act 1950 [*title 10 item 33*], any person—

- (a) *[Deleted]*
- (b) who has been sentenced to a term of imprisonment by the Supreme Court or by a court of summary jurisdiction or by a court martial; or
- (c) who has been sentenced to a term of preventive detention by the Supreme Court; or
- (d) who has been sentenced by the Supreme Court to be detained during Her Majesty's pleasure; or
- (e) who has been committed for sentence to the Supreme Court, or who has been committed to the Supreme Court to be dealt with for a breach of a probation order or of an order for conditional discharge; or

- (f) who has been ordered by any court to be committed to prison in default of payment of a sum adjudged to be paid by a conviction or of the amount of a recognizance; or
- (g) who has been ordered by any court to be committed to prison by reason of any refusal or inability to enter into a recognizance; or
- (h) who has been ordered to be detained in connection with his deportation or extradition or in connection with his return from Bermuda as a fugitive offender; or
- (i) who has been conveyed to a prison under the directions of a Justice of the Peace or a police officer in pursuance of section 461 of the Criminal Code [*title 8 item 31*]; or
- (j) who has been remanded to prison by a Justice of the Peace or a magistrate under section 13 of the Indictable Offences Act 1929 [*title 8 item 32*]; or
- (k) who being a child, is ordered to be detained in a prison under section 37 of the Young Offenders Act 1950 [*title 10 item 33*]; or
- (l) who has, upon the adjournment or postponement of any criminal proceedings, been ordered by a court to be remanded in custody; or
- (m) who has been committed for trial by a magistrate or (in the case of perjury) by the Supreme Court; or
- (n) who, being an offender released on licence under section 12, 13 or 14, is recalled to prison by the Parole Board; or
- (o) who, being an offender discharged from prison under section 15, returns or is returned to prison; or
- (p) who, having been removed from a prison to a hospital for the treatment of a mental disorder under section 44 of the Mental Health Act 1968 [*title 11 item 36*], is returned to prison under section 46 of that Act; or
- (q) [*Deleted*]
- (r) [*Deleted*]
- (s) who, being an offender detained in the senior training school, is required under the Young Offenders Act 1950 [*title 10 item 33*], to be transferred to and detained in a prison; or
- (t) who, being a person arrested after being unlawfully at large from a training school, is ordered under the Young Offenders Act 1950 [*title 10 item 33*], to be detained in a prison; or
- (u) who has been ordered to be imprisoned under any civil or Admiralty process issuing out of any court; or
- (v) who is committed to prison under any other lawful process of a court,

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shall, on the production of the appropriate warrant or other document, be received in a prison and may, subject to this or any other Act, be detained in custody therein.

[Section 6 amended by 1998:32 effective 13 July 1998; paras (a), (q), (r) deleted by 1999:51 s.4 & Sch effective 23 December 1999; para (n) amended by 2001:2 s.13 & Sch 2 effective 1 October 2001]

Prison rules

7 (1) The Minister may make rules for the regulation and management of prisons and for the classification, treatment, employment, payment, discipline and control of persons required to be detained therein; and rules so made are hereinafter in this Act referred to as “prison rules”.

(2) The Minister may from time to time by order publish the rates of earnings to be paid to any person detained in any prison for any work performed by such person under the supervision of the Department of Corrections.

(3) Prison rules shall, in the interest of good conduct and training, provide for the establishment of such system or systems of privileges to be enjoyed by prisoners serving terms of imprisonment as may be appropriate for different classes of prisoners; and any such system shall include arrangements under which prisoners may, if of good conduct, progressively advance as respects the privileges enjoyed by them by way of stages during their detention in a prison.

(4) Where part of a prison is set aside for women prisoners, prison rules shall provide for the segregation of women prisoners in that part of the prison, and shall make special provision with respect to the regulation and management of that part of the prison and for the classification, treatment, employment, payment, discipline and control of women prisoners required to be detained therein.

(5) The negative resolution procedure shall apply to rules made under this section, but section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to orders made under subsection (2).

[Section 7 subsection (3) amended by 2001:29 s.11(1) & Sch effective 29 October 2001; subsection (2) amended by 2002:17 s.3 effective 14 December 2002]

Particular classes of prisoners under prison rules

8 (1) Prison rules may provide for the training of particular classes of prisoners and, subject to this Act, for their allocation for that purpose to any prison in which they may lawfully be detained.

(2) Without prejudice to anything relating to women prisoners contained in section 7(4), prison rules shall provide for the special treatment of the following persons whilst required to be detained in a prison, that is to say—

(a) *[Deleted]*

(b) *Deleted*

(c) a person serving a term of imprisonment on conviction of an offence under sections 93 to 95 inclusive of the Criminal Code [*title 8 item 31*] (which sections relate to sedition) or of conspiracy to commit any such offence;

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- (d) a person under the age of sixteen years;
- (e) a person who has petitioned for special leave to appeal, or who is appealing, to Her Majesty-in-Council against a conviction recorded or a sentence imposed by any court in Bermuda, and whose petition for special leave to appeal, or, as the case may be, whose appeal, has not been determined;
- (f) a person who is appealing to the Court of Appeal against a conviction recorded or a sentence imposed by the Supreme Court or against a ruling of the Supreme Court in its Appellate jurisdiction, and whose appeal has not been determined;
- (g) a person who is appealing to the Supreme Court against a conviction recorded or sentence imposed by a court of summary jurisdiction and whose appeal has not been determined;
- (h) any other person who is not—
 - (i) a person serving a term of imprisonment; or
 - (ii) a person imprisoned in default of payment of a sum adjudged to be paid on a conviction.

[Section 8 subsection (2)(a) deleted by 1999:51 s.4 & Sch effective 23 December 1999; subsection (2)(b) deleted by 2001:29 s.11(1) & Sch effective 29 October 2001]

Functions of Treatment of Offenders Board

9 (1) The Treatment of Offenders Board, subject to the Treatment of Offenders Board Act 1979 [*title 10 item 31*] shall, as respects prisons and prisoners, have the powers and discharge the duties conferred or imposed upon it by or under this Act.

(2) Without prejudice to anything in the succeeding provisions of this Act, prison rules shall prescribe the functions of the members of the Board, and shall among other things require the members to pay visits to each prison and hear any applications which may be made by prisoners detained therein and to report to the Minister any matter which they consider it expedient to report; and any member may by arrangement with the senior officer enter any prison and shall have free access to every part thereof and to every prisoner detained therein.

(3) Prison rules shall require the Board to consider periodically the character, conduct and prospects—

- (a) of each prisoner serving a term of imprisonment for life;
- (b) *Deleted*
- (c) *[Deleted]*

and to report to the Minister.

[Section 9 subsection (3) amended and para (c) deleted by 2001:2 s.13 & Sch 2 effective 1 October 2001; subsection (3)(b) deleted by 2001:29 s.11(1) & Sch effective 29 October 2001]

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Remission for good conduct

10 (1) Without prejudice to any of the succeeding provisions of this Act, a prisoner serving a term of imprisonment (other than a term of imprisonment imposed by a court martial) adjudged to be of thirty-one days or more shall, subject as hereinafter in this section provided, be granted remission of one third part of his adjudged term as may result from the operation of subsection (2).

(2) In each case where a prisoner is by virtue of section 22 punished, in respect of the commission by him of an offence against prison rules, by forfeiture of remission of his adjudged term of imprisonment, then in each such case any remission which might have been granted to him under subsection (1) shall be reduced by the period of forfeiture.

(3) Upon the release of a person from a prison in pursuance of any such remission granted his term of imprisonment shall expire.

(4) Nothing in the foregoing provisions of this section shall have effect in relation to a prisoner—

- (a) who is serving a term of imprisonment for life; or
- (b) who, having been sentenced to be detained during Her Majesty's pleasure, is by direction of the Governor being detained in a prison; or
- (c) who is serving a term of imprisonment as a result of an order committing him to prison in pursuance of any civil or Admiralty process issuing out of that court.

(5) For the purposes of this section—

- (a) a person ordered to be committed to prison—
 - (i) in default of payment of a sum adjudged to be paid on a conviction or of the amount of a recognizance; or
 - (ii) by reason of any refusal or inability to enter into a recognizance, shall be treated as having been sentenced to a term of imprisonment for the term for which he is so committed; and
- (b) consecutive terms of imprisonment shall be treated as one term.

11 *[Section 11 repealed by 2001:2 s.13 & Sch 2 effective 1 October 2001]*

Release on licence; fixed term

12 (1) Without prejudice to sections 13 and 14, but subject to subsection (2) the Parole Board, having given due consideration to any recommendation made by the Commissioner of Prisons, may, in respect of any prisoner direct that instead of the prisoner being granted remission of his adjudged term of imprisonment under section 10, such prisoner shall, at any time on or after having completed one-third of his adjudged term of imprisonment, be released on licence under this section, but the provisions of this section are subject to section 70P of the Criminal Code.

(2) Subsection (1) shall not apply to a prisoner serving a term of imprisonment for life (other than a term of imprisonment imposed by a court martial) or a prisoner who has been sentenced to be detained during Her Majesty's pleasure.

(3) A prisoner eligible for release on licence under this section shall be considered, in the first instance, three months prior to the due date on which he first becomes so eligible, and thereafter at such intervals as may be deemed appropriate by the Parole Board.

(4) A person released on licence under this section shall until the expiration of his adjudged term of imprisonment be under the supervision of a probation officer or of such society or person as may be specified in the licence and shall comply with such other requirements as may be so specified; except that the Parole Board may at any time modify or cancel any such requirements.

(5) If before the expiration of his adjudged term of imprisonment the Parole Board is satisfied that a person released has failed to comply with any requirement for the time being specified in the licence, the Parole Board may by order recall him to a prison; and thereupon he shall be liable to be detained in a prison until the expiration of his adjudged term of imprisonment and, if at large, shall be deemed to be unlawfully at large.

(5A) Where the Parole Board has recalled a prisoner to a prison for failure to comply with any requirements specified in the licence, the prisoner shall be entitled to appear and be heard in person before the Parole Board, before a final decision is made on whether he will be recalled to prison.

(6) The Parole Board may release on licence a prisoner recalled to and detained in a prison under subsection (5) at any time before the expiration of his adjudged term of imprisonment; and subsections (3) and (4) shall apply in the case of a person released under this subsection as they apply in the case of a person released under subsection (1).

(7) Notwithstanding anything in this section, where the unexpired part of the adjudged term of imprisonment of a person released under subsection (1) is less than six months, subsections (3), (4) and (5) shall apply to him subject to the following modifications—

- (a) the period for which he is under supervision under subsection (4), and is liable to recall under subsection (5), shall be a period of six months from the date of his release under subsection (1);
- (b) if he is recalled under subsection (5) the period for which he may be detained thereunder shall be whichever is the shorter of the following periods—
 - (i) the remainder of such period of six months; or
 - (ii) the part of the adjudged term of imprisonment which was unexpired on the date of his release under subsection (1), reduced by any time during which he has been so detained since that date,

and he may be released on licence under subsection (6) at any time before the expiration of that period.

(8) For the purposes of this section—

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- (a) a person ordered to be committed to prison—
 - (i) in default of payment of a sum adjudged to be paid on a conviction or of the amount of a recognizance; or
 - (ii) by reason of any refusal or inability to enter into a recognizance,shall be treated as having been sentenced to a term of imprisonment for the term for which he is so committed; and
- (b) consecutive terms of imprisonment shall be treated as one term.

[Section 12 subsections (1), (3), (4), (5) & (6) amended, and (5A) inserted, by 2001:2 s.13 & Sch 2 effective 1 October 2001; subsections (1) and (2) amended by 2001:29 s.11(1) and Sch effective 29 October 2001]

Release on licence; life imprisonment

13 (1) The Parole Board, after giving due consideration to any recommendations which may be made by the Commissioner of Prisons, and in compliance with any order of the court, or section 700 of the Criminal Code, may release on licence a prisoner serving a term of imprisonment for life (other than a term of imprisonment for life imposed by a court martial) or a prisoner who, having been sentenced to be detained during Her Majesty's pleasure, is by direction of the Governor being detained in a prison, subject to such conditions as may be specified in the licence; and the Parole Board may at any time vary or cancel any such conditions.

(2) The Parole Board may at any time by order recall to prison a person released on licence under this section, but without prejudice to the power of the Parole Board to release him on licence again; and where any person is so recalled his licence shall cease to have effect and he shall, if at large, be deemed to be unlawfully at large.

[Section 13 subsections (1) and (2) amended by 2001:2 s.13 & Sch 2 effective 1 October 2001; subsection (1) amended by 2014 : 14 s. 5 effective 19 September 2014]

14 *[Section 14 deleted by 2001:29 effective 29 October 2001]*

Transfer to or from Bermuda; release on licence

14A (1) Where the Minister is satisfied that reciprocal provisions have been made by the law of any of the countries listed in the Schedule (in this section referred to as "the listed countries") for the release of prisoners on licence or parole (whatever nomenclature is used) and for their supervision after having been released and until the adjudged term of imprisonment expires, the Minister may—

- (a) transfer from a prison in Bermuda, a prisoner who is a citizen or permanent resident of any of the listed countries, and who is eligible for release on licence or parole under section 12, 13 or 14;
- (b) arrange for the conveyance of the prisoner by as direct a route as possible to the listed country of which he is a citizen or permanent resident;
- (c) receive on transfer from any such country by a similar route as in paragraph (b), a person possessing Bermudian status serving a term of

imprisonment in that country who is eligible for release on parole or licence under the applicable provisions of its law.

(2) A prisoner who is transferred to Bermuda under this section shall be subject to the provisions of this Act relating to his supervision while on licence or parole, recall to prison or revocation of his licence or parole and shall, for such purposes, be deemed to have been released on licence by the Minister upon the date when he landed in Bermuda pursuant to the transfer.

(3) The Minister may, by order, add to or remove from the Schedule, the name of any country.

(4) Section 6 of the Statutory Instruments Act 1977 [*title 1 item 3*] shall not apply to an order made under this section.

Minister may release temporarily on account of ill-health

15 (1) Where the Minister is satisfied that by reason of the condition of the health of any prisoner (other than a prisoner serving a term of imprisonment imposed by a court martial) it is undesirable to detain him in a prison, but that, such condition of health being due in whole or in part to the prisoner's conduct while detained in prison, it is desirable that his release should be temporary and conditional only, then in any such case the Minister, having regard to all the circumstances of the case, may by order authorize his temporary release, for such period and subject to such conditions as may be specified in the order.

(2) Any person so released shall comply with any conditions specified in the order of temporary release, and shall return to prison at the expiration of the period specified in the order, or of such extended period as may be fixed by any subsequent order of the Minister and, if he fails so to comply or return, he shall, if at large, be deemed to be unlawfully at large.

(3) Where a prisoner serving a term of imprisonment is released in pursuance of an order of temporary release under subsection (1), then the currency of the term shall be deemed to be suspended from the day on which he is so released from prison under the order to the day on which he is received back into a prison, so that the former day shall be reckoned and the latter day shall not be reckoned as part of the term.

(4) Where an order of temporary release is made in the case of a prisoner detained otherwise than by reason of a sentence of imprisonment, the order shall contain conditions requiring his attendance at any further proceedings in respect of his case at which his presence may be required.

[Section 15 subsections (3) and (4) amended by 2001:29 s.11(1) & Sch effective 29 October 2001]

Prisoners taken outside for judicial or other purposes

16 (1) The Commissioner of Prisons—

- (a) if he is satisfied that the attendance of a prisoner at any place in Bermuda is desirable in the interests of justice or for the purposes of any public enquiry, may direct the prisoner to be taken to that place;

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- (b) if he is satisfied that a prisoner requires medical, dental or surgical treatment of any description, may direct the prisoner to be taken to a hospital or other suitable place for the purpose of that treatment;
- (c) if he is satisfied that the utilization of external facilities for recreation or for personality development would benefit a prisoner, he may direct the prisoner to be taken to any place where such facilities are located,

and where a prisoner is directed under this subsection to be taken to any place he shall, unless the Commissioner of Prisons otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the prison in which he is required to be detained.

(2) The Commissioner of Prisons, subject to any general or special directions given by the Minister, may arrange for prisoners to work outside the prison in which they are ordinarily detained; and where any prisoner does so work he shall be kept in custody at all times while outside the prison.

(3) Prison rules may provide in what manner a person when so in custody, is to be taken to, kept in custody at, and brought back from any place to which he is taken in pursuance of this section.

(4) Nothing in this section shall derogate from or abridge any power of the Supreme Court, or of a judge, to order, in pursuance of section 6 of the Evidence Act 1905 [*title 8 item 10*], that a prisoner is to be brought before the Supreme Court.

Day release

17 (1) The Commissioner of Prisons may, subject to the general or special directions of the Minister, arrange for the temporary release of any prisoner serving a term of imprisonment imposed upon him by a court from the prison where he is confined on any day for the purpose of his working or engaging in recreation on that day outside the prison premises.

(2) Any prisoner who is temporarily released from prison under subsection (1) shall attend the place of work or recreation specified in writing by the Commissioner at the time of such release and shall return to prison each day before the hour of seven o'clock in the evening or such other hour as may be so specified by the Commissioner; and a prisoner who fails so to attend or fails to return to prison in accordance with this subsection shall be deemed unlawfully at large.

(3) Any prisoner who is temporarily released under subsection (1) shall, notwithstanding such release, be deemed throughout any day upon which he is so released to be serving the term of imprisonment to which he was sentenced.

Release for training, etc.

17A (1) The Commissioner of Prisons may, subject to the general or special directions of the Minister, arrange for the temporary release of any prisoner serving a term of imprisonment imposed upon him by a court from the prison where he is confined for the purpose of his engaging in any training, educational, or other programmes approved by the Minister, outside the prison premises.

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(2) Except with the prior approval of the Minister, the Commissioner shall not release a prisoner pursuant to subsection (1) for a period exceeding fourteen days.

(3) Any prisoner who is released from prison under this section shall return to prison at the expiration of the period for which he was released; and a prisoner who fails to do so shall be deemed to be unlawfully at large.

(4) Where it appears to the Commissioner of Prisons that it is necessary so to do, he may, on releasing a prisoner under this section direct that the prisoner shall be kept in the custody of a prison officer during his absence from prison.

(5) Section 15(3) and (4) shall apply *mutatis mutandis* to a prisoner released from prison under subsection (1) as they apply to a prisoner released by order under section 15(1).

[Section 17A inserted by 2001:13 s.2 effective 3 July 2001]

Commissioner may release temporarily on compassionate grounds

18 (1) Where the Commissioner of Prisons is satisfied that it is desirable to permit a prisoner to be absent from prison on compassionate or other personal grounds, the Commissioner of Prisons, may authorize the temporary release from prison of the prisoner for such period and subject to such conditions as he may specify.

(2) The Commissioner of Prisons shall not authorize the temporary release of a prisoner under this section for a period in excess of forty-eight hours without the prior approval of the Minister.

(3) Where it appears to the Commissioner of Prisons that it is necessary so to do, he may, on authorizing the temporary release of a prisoner under this section, direct that the prisoner shall be kept in the custody of a prison officer during his absence from prison.

(4) Any prisoner who is released from prison under this section shall comply with any condition specified under subsection (1) and shall return to prison at the expiration of the period for which he was released; and a prisoner who fails to comply with any such condition or to return to prison in accordance with this subsection shall be deemed to be unlawfully at large.

(5) Section 15(3) and (4) shall apply *mutatis mutandis* to a prisoner released from prison under subsection (1) as they apply to a prisoner released by order under section 15(1).

Person unlawfully at large

19 (1) Any person who, having been sentenced to imprisonment, or otherwise having been ordered to be committed to and detained in a prison, is unlawfully at large, may be arrested by a police officer or prison officer without warrant and taken to the place in which he is required to be detained.

(2) Where any person sentenced to imprisonment is unlawfully at large at any time during his adjudged term of imprisonment, then, unless the Minister otherwise directs, no account shall be taken, in calculating the period for which he is liable to be detained in prison, of any time during which he is absent from prison.

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(3) Subsection (2) shall apply to a person who has been ordered to be committed to prison in default of payment of any sum of money or of entering into any recognizance as if he were sentenced to imprisonment; but shall not apply to a person sentenced to a term of imprisonment imposed by a court martial.

[Section 19 subsections (1) and (2) amended by 2001:29 s.11(1) & Sch effective 29 October 2001]

Lawful custody

20 A prisoner shall be deemed to be in lawful custody while he is confined in, or being taken to or from any prison and while he is working, or is for any other reason, outside the prison in the custody or under the control of a prison officer.

Commutation of death sentence to sentence of imprisonment

21 Where Her Majesty, or the Governor acting on Her Majesty's behalf, pardons any person who has been sentenced to death on condition that he serves a term of imprisonment, that person shall be deemed to have been sentenced by the court before which, or (as the case may be) the court martial by which, he was convicted, to imprisonment for such term.

Punishment of offences by prisoners against prison rules

22 (1) Prison rules shall set out the offence against discipline which may be committed by prisoners, the procedure for dealing therewith, and, subject as hereinafter in this Act provided, the punishments therefor.

(2) Prison rules shall make provision for ensuring that a prisoner charged with an offence against prison rules shall be given a proper opportunity of presenting his case.

(3) Subject to any provision of prison rules with respect to the fitness of a prisoner to undergo punishment,—

- (a) the Commissioner of Prisons may in respect of an offence against discipline impose one or more of the following punishments—
 - (i) forfeiture of remission of an adjudged term of imprisonment for a period not exceeding fourteen days;
 - (ii) forfeiture or postponement of privileges for a period not exceeding twenty-eight days;
 - (iii) confinement to a cell for a period not exceeding seven days;
 - (iv) stoppage of earnings for a period not exceeding twenty-one days;
 - (v) reduction in grade.
- (b) the Board may in respect of an offence against discipline impose one or more of the following punishments—
 - (i) forfeiture of remission of an adjudged term of imprisonment;
 - (ii) forfeiture or postponement of privileges;

(iii) confinement to a cell for a period not exceeding fourteen days or, where the prisoner is found guilty of mutiny or incitement to mutiny, or of personal violence to a prison officer, for a period not exceeding twenty-eight days;

(iv) stoppage of earnings for a period not exceeding twenty-eight days:

Provided that the Minister may, if he thinks fit in any particular case, direct that the functions exercisable by the Board in respect of mutiny, incitement to mutiny or personal violence to a prison officer, shall be exercised by a magistrate appointed in that behalf by the Chief Justice.

(4) Prison rules shall provide for rendering reports of punishments imposed under this section to the Minister not less frequently than once in each fortnight.

(5) The Minister may remit or mitigate any punishment imposed under this section.

(6) Notwithstanding any provision of the Administration of Justice (Prerogative Writs) Act 1978 [*title 8 item 1A*], no order of prohibition or certiorari shall be made so as to prohibit the Commissioner or the Board from exercising any function vested in them by this section or prison rules or so as to remove into the Supreme Court the determination of the Commissioner, the Board or the Minister in respect of any such function.

23 [*Section 23 deleted by 1999:51 s.4 & Sch effective 23 December 1999*]

Photographing and finger-printing of convicted prisoners

24 (1) Any prisoner detained in a prison by reason of his conviction of an offence may be photographed and measured, and may be required to have his finger prints taken, either by a prison officer or by a police officer acting under the directions of the prison officer for the time being in charge of the prison.

(2) Any person acting in pursuance of subsection (1) may use reasonable force for the purpose.

(3) Any photographs, measurements and finger prints taken in pursuance of this section shall be transmitted to the Commissioner of Police, who shall cause them to be indexed in a register in such manner as he may from time to time direct.

(4) For the purposes of this section "finger prints" includes palm prints and foot prints.

Testing prisoners for drugs

24A When so authorised in writing by the Commissioner of Prisons, any prison officer may, at the prison, in accordance with prison rules, require any prisoner who is confined in the prison to provide a sample of urine for the purpose of ascertaining whether he has any controlled drug, as defined in the Misuse of Drugs Act 1972, in his body.

[*Section 24A inserted by 2002:17 s.2 effective 14 December 2002*]

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Testing prisoners for alcohol

24B When so authorized in writing by the Commissioner of Prisons, any prison officer may, at the prison, in accordance with prison rules, require any prisoner who is confined in the prison to provide a sample of breath for the purpose of ascertaining whether he has alcohol in his body.

[Section 24B inserted by 2002:17 s.2 effective 14 December 2002]

Failure to provide sample is an offence against discipline

24C It is an offence against prison discipline for a prisoner who is required to provide a sample pursuant to section 24A or 24B to refuse to provide a sample or to fail to provide such a sample as is, in the opinion of the prison officer, necessary to enable a proper analysis of the sample.

[Section 24C inserted by 2002:17 s.2 effective 14 December 2002]

Aiding escape from prison

25 Any person—

- (a) who aids any prisoner (whether or not within a prison) in escaping or attempting to escape from lawful custody; or
- (b) who conveys, or causes to be conveyed, any instrument or article into a prison or into any other place in which a prisoner is for the time being in lawful custody, with intent to facilitate the escape of such prisoner therefrom,

commits an offence against this Act:

Punishment on summary conviction: imprisonment for 12 months or a fine of \$1,000 or both such imprisonment and fine;

Punishment on conviction on indictment: imprisonment for 3 years.

Conveying prohibited articles into prison

26 Any person—

- (a) who conveys, introduces, or attempts to convey or introduce, or causes to be conveyed or introduced, any article, commodity or thing into a prison in contravention of prison rules; or
- (b) who conveys or attempts to convey, or causes to be conveyed, any article, commodity or thing to a prisoner (whether or not within a prison) in contravention of prison rules; or
- (c) who enters or attempts to enter into communication with a prisoner (whether or not within a prison) in contravention of prison rules,

commits an offence against this Act:

Punishment on summary conviction: imprisonment for 12 months or a fine of \$2,000 or both such imprisonment and fine;

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Punishment on conviction on indictment: imprisonment for 2 years.

[Section 26 first proviso and second proviso amended by 2013 : 14 s. 3 effective 24 June 2013]

Conveying prohibited high risk articles into prison

26A Any person—

- (a) who conveys, introduces, or attempts to convey or introduce, or causes to be conveyed or introduced, any prohibited high risk article into a prison in contravention of prison rules; or
- (b) who conveys or attempts to convey, or causes to be conveyed any prohibited high risk article, to a prisoner (whether or not within a prison) in contravention of prison rules,

commits an offence against this Act:

Punishment on summary conviction: imprisonment for 2 years or a fine of \$3,000 or both such imprisonment and fine;

Punishment on conviction on indictment: imprisonment for 3 years.

[Section 26A inserted by 2013 : 14 s. 4 effective 24 June 2013]

Sections 25, 26 and 26A; interpretation

27 For the purposes of sections 25, 26 and 26A, a person shall be deemed to convey or introduce an article into a prison if he conveys it to a prisoner outside the prison, or deposits it outside the prison with intent that it shall come into the possession of a prisoner.

[Section 27 headnote and section amended by 2013 : 14 s. 5 effective 24 June 2013]

Prison officer wilfully allowing escape

28 Any person who, being a prison officer, wilfully allows any prisoner (whether or not within a prison) to escape from lawful custody commits an offence against this Act:

Punishment on conviction on indictment: imprisonment for 3 years.

Entering prison without lawful excuse

29 Any person who without lawful excuse, the proof of which shall be upon him, enters or is found in a prison, or upon any wall or other structure surrounding a prison, commits an offence against this Act:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$1,000 or both such imprisonment and fine.

False certificate of execution

30 Any person who subscribes a certificate or declaration required to be subscribed under prison rules as to the execution of a sentence of death upon a prisoner which certificate or declaration is, in any material particular, to his knowledge false, or is not to his knowledge true, commits an offence against this Act:

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Punishment on conviction on indictment: imprisonment for 12 months.

Medical examinations

31 (1) Without prejudice to anything in the Public Health Act 1949 [*title 11 item 1*], any person who is received in a prison under section 6 may while detained in a prison be examined by a Prison Medical Officer for the purpose of determining whether he is suffering from, or is a carrier of, any communicable disease.

(2) An examination may extend to the taking of specimens of blood and other bodily secretions.

(3) Any person acting in pursuance of this section may use reasonable force for the purpose.

Rules for discipline of prison officers

32 (1) Without prejudice to anything in this Act relating to the making of prison rules, the Minister may make rules with respect to the duties, obligations and discipline of prison officers; and, without prejudice to the generality of the foregoing provision, rules made under this section shall set out the offences against discipline, the procedure for dealing therewith, and the punishments therefor.

(2) Rules made under this section shall be subject to the negative resolution procedure.

Repeal

33 [*Omitted*]

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SCHEDULE

(section 14A)

JAMAICA

[Assent Date: 23 July 1979]

[this Act was brought into operation on 1 September 1979]

[Amended by:

1980 : 63

1998 : 32

1999 : 51

2001 : 2

2001 : 13

2001 : 29

2002 : 17

2013 : 14

2014 : 14]