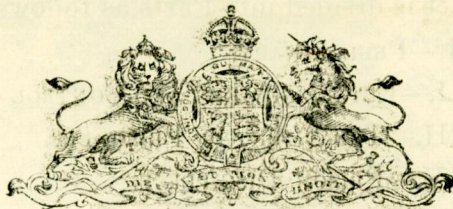


New South Wales.



ANNO PRIMO

ELIZABETHÆ II REGINÆ

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Act No. 9, 1952.

An Act to make provision for the establishment regulation and control of prisons and for the custody of prisoners; to repeal the Prisons Act 1899, the Prisoners Detention Act, 1908, and certain other Acts; to amend the Habitual Criminals Act, 1905, and certain other Acts; and for purposes connected therewith. [Assented to, 17th April, 1952.]



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**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

Short title  
and com-  
mencement.

**1.** (1) This Act may be cited as the "Prisons Act, 1952."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division  
into Parts.

**2.** This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—ESTABLISHMENT AND CONTROL OF PRISONS.

PART III.—TREATMENT OF PRISONERS.

PART IV.—PRISON DISCIPLINE.

PART V.—TRANSFER OF PRISONERS.

PART VI.—PRISON OFFICERS.

PART VII.—OFFENCES.

PART VIII.—GENERAL.

SCHEDULES.

Repeals  
and savings.

**3.** (1) The enactments mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

cf. Act No.  
27, 1899,  
s. 2.

Act No. 19,  
1944, s. 2  
(3).

(2) (a) All persons appointed or continued in office under or by virtue of the provisions of any enactment hereby repealed and holding office immediately before the commencement of this Act shall remain in office as if this Act had been in force at the date of their appointment and they had been appointed or employed hereunder, and this Act shall apply to them accordingly.

(b)



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(b) The period before the commencement of this Act during which any such person held office shall be counted as service for the purposes of the Public Service Act, 1902, and of section thirteen of the Public Service (Amendment) Act, 1919, or of any Act amending the said Acts. But this paragraph shall not be construed to entitle any such person to claim, in respect of the same period of service, benefits under the Public Service Act, 1902, or the Public Service (Amendment) Act, 1919, or of any Act amending the said Acts, and also benefits under any other Act.

(c) Nothing in this section shall affect any rights which at the commencement of this Act have accrued or are accruing under the Superannuation Acts, 1916-1951, to any such person.

(3) All regulations and rules, in so far as they are not inconsistent with nor repugnant to the provisions of this Act, made or deemed to have been made under the authority of any enactment hereby repealed and being in force immediately before the commencement of this Act shall be deemed to have been made under the authority of this Act, and references in any such regulations and rules to the provisions of any enactment hereby repealed shall be construed as references to the corresponding provisions of this Act.

(4) All gaols, prisons and places of detention enumerated in the Second Schedule to this Act and used and occupied as such immediately before the commencement of this Act shall be deemed to be prisons under this Act.

4. In this Act, unless the context or subject matter otherwise indicates or requires—

“Comptroller-General” means the Comptroller-General of Prisons;

“convicted prisoner” means—

(a) a person under sentence of penal servitude or imprisonment imposed by any court, judge or justice or ordered

to



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to be kept in strict custody pursuant to subsection three of section sixty-five of the Lunacy Act, 1898-1949;

- (b) a person under sentence of death;
- (c) a person undergoing imprisonment in default of payment of any fine, penalty, costs or sum of money imposed on him or ordered to be paid by him by any court, judge or justice, or in default of entering into a recognizance to be of good behaviour upon the order of any court, judge or justice;
- (d) a person committed to prison under Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII, Part XIV or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts;
- (e) a person detained in a place of confinement pursuant to the Habitual Criminals Act, 1905, as amended by subsequent Acts ;

“governor of a prison” means the superintendent, governor, gaoler, or other officer for the time being in charge of the prison;

“medical officer” means, in relation to any prison, the person who pursuant to section nine of this Act has been appointed or is acting as such;

“prescribed” means prescribed by this Act or by the regulations made thereunder;

“prison” includes any gaol or place of detention, irrespective of the title by which the same is known, and includes the whole area, whether or not walled or fenced, declared or deemed to be a prison;

“prisoner” means—

- (a) any convicted prisoner;

(b)



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- (b) any person ordered to be imprisoned in or committed to a prison, otherwise than as referred to in paragraphs (a) to (e) inclusive of the definition of "convicted prisoner", by any court, judge or justice or other competent authority.

PART II.

ESTABLISHMENT AND CONTROL OF PRISONS.

5. (1) The Governor may by proclamation published in the Gazette declare any building, premises or place to be a prison.

Proclamation of prisons.  
cf. Act No. 27, 1899, s. 4.

(2) The Governor may by proclamation published in the Gazette declare that any prison shall, as from a date to be specified therein, cease to be a prison and thereupon the prison to which such proclamation relates shall as from the said date cease to be a prison.

(3) Every prison shall contain a lock hospital.

6. (1) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Comptroller-General of Prisons.

Comptroller-General of Prisons.  
cf. *Ibid.* s. 5.

(2) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Deputy Comptroller of Prisons, who shall when the office of the Comptroller-General is vacant or during the absence from duty of the Comptroller-General have the same powers, authorities, duties and functions as the Comptroller-General.

7. The Comptroller-General shall, subject to this Act and subject to the direction of the Minister, have the care, direction, control and management of all prisons.

Duties of the Comptroller-General.  
cf. *Ibid.* s. 6.



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Savings as  
to powers  
of Sheriff.  
cf. Act No.  
27, 1899,  
ss. 6, 7.

Medical  
officers.

8. Nothing in this Act shall abridge or otherwise affect the powers, authorities, duties and functions vested in or imposed upon the Sheriff by or under any statute or at common law in relation to prisoners.

9. (1) The Governor may appoint a medical officer for each prison.

(2) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of medical officers to whom the right of private practice is reserved and any such medical officer shall not in his capacity as a medical officer be subject to the provisions of any such Act during his tenure of office.

(3) Where a medical officer is for any reason unable to act as such any person who is a legally qualified medical practitioner and is a partner with such medical officer in the practice of medicine or who is carrying on the medical practice of such medical officer as locum tenens may exercise and discharge the powers, authorities, duties and functions of the medical officer who is unable to act as such. Such person shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer.

(4) Where no medical officer has been appointed to a prison pursuant to subsection one of this section the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison is situated, shall be the medical officer for that prison.

(5) Where the medical officer appointed under subsection one of this section is for any reason unable to act as such and there is no person in partnership with such medical officer or acting as locum tenens as referred to in subsection three of this section, or where the person who may exercise and discharge the powers, authorities, duties and functions of the medical officer under subsection three of this section fails or is unable to act as medical officer the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison in respect of which the medical officer has been appointed is situated, shall exercise and discharge the powers,



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powers, authorities, duties and functions of such medical officer and shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer for that prison.

**10.** (1) For each prison there shall be a Visiting Justice.

Visiting  
Justices.

cf. Act  
No. 27,  
1899, s. 12.

The Visiting Justice for a prison shall be such stipendiary magistrate as the Minister may from time to time designate as the Visiting Justice for such prison.

(2) A Visiting Justice may visit and examine the prison in respect of which he is the Visiting Justice at any time he may think fit, and, unless prevented by illness or other sufficient cause, shall visit and examine such prison at such intervals as may be prescribed.

(3) A Visiting Justice may and shall, when requested so to do by the Minister or the Comptroller-General, inquire into and report to the Minister or the Comptroller-General, as the case may be, upon any matter relating to the security, good order, control or management of the prison in respect of which he is the Visiting Justice.

**11.** Any Judge of the Supreme Court or Chairman of Quarter Sessions may visit and examine any prison at any time he may think fit.

Judge to  
examine.  
cf. *Ibid.*  
s. 12 (4).

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PART III.

TREATMENT OF PRISONERS.

**12.** Every prisoner shall be allowed so much exercise in the open air as is prescribed or where the medical officer in any particular case orders otherwise so much exercise as is so ordered.

Exercise.

**13.** Every convicted prisoner shall be clothed at the public expense with sufficient clothing to maintain health and decency.

Clothing.

Every



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Every prisoner other than a convicted prisoner who is not permitted to wear his own clothing by the governor of the prison in which such prisoner is detained shall be clothed in like manner.

**Diet.**

**14.** Every prisoner for whom provision is not otherwise made for his maintenance shall be supplied at the public expense with sufficient food to maintain health and the scale of diet shall be as prescribed.

**Separation  
of  
prisoners.**

**15.** To the fullest extent reasonably practicable, convicted prisoners shall be separated from other prisoners, and different classes of convicted prisoners and different classes of other prisoners shall be separated as prescribed.

**Medical  
attention.**

**16.** (1) Every prisoner shall be supplied at the public expense with such medical attendance, treatment and medicine as in the opinion of the medical officer is necessary for the preservation of the health of the prisoner and of other prisoners and of prison officers.

(2) Where in the opinion of the medical officer the life or health of a prisoner is likely to be endangered or seriously prejudiced by the failure of such prisoner to undergo medical treatment or the life or health of any other prisoner or prison officer is likely to be endangered or seriously prejudiced by such failure, the prisoner may be compelled to submit to such medical treatment as is ordered by the medical officer.

**Venereal  
disease.  
Act No. 11,  
1908, ss.  
4, 5.**

**17.** (1) Where the medical officer certifies in writing to the Comptroller-General that a convicted prisoner is suffering from a venereal disease, such prisoner may be brought before a stipendiary magistrate within a prison or at any other place and, on proof being made in private on oath that such prisoner is so suffering, the magistrate may order that he be detained in a lock hospital until discharged in pursuance of this Act.

(2) (a) Any prisoner against whom an order has been made under subsection one of this section may, on notice as prescribed, appeal therefrom to a Court of Quarter Sessions, and, subject to this section, the provisions of sections one hundred and twenty-two to one hundred and thirty-one, both inclusive, of the Justices Act, 1902-1947, shall apply, mutatis mutandis, to and in respect of such appeal.

(b)



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(b) Any such appeal shall be heard in private unless the Chairman of Quarter Sessions otherwise determines.

(c) No notice of appeal against any such order shall suspend or stay the operation of the order.

(d) The Court of Quarter Sessions hearing the appeal may, by its order, confirm, set aside or vary the order appealed from.

(3) The period of detention under any such order of detention as aforesaid shall run concurrently with but may exceed any term of imprisonment or detention to which the prisoner is subject.

(4) The medical officer shall, as soon as in his opinion any person detained in a lock hospital in accordance with the provisions of this section is free from venereal disease, so report to the Comptroller-General, and thereupon such person shall be discharged from such lock hospital and be remitted to custody to serve the remainder of the term of imprisonment or detention to which he had been sentenced or ordered if such term has not expired, but if such term has expired, he shall be discharged from custody.

**18.** (1) Every prisoner upon his reception into prison shall surrender to the governor of the prison all property in his possession. Such property shall be retained by the governor of the prison and returned to the prisoner immediately prior to his release from prison.

Private  
property.

(2) A record shall be kept of all such property as aforesaid and the prisoner may deal with such property only in such manner as is prescribed.

**19.** Every prisoner shall be liable to be photographed, to have the impression of his fingers and palms taken, and to have such details of his personal description as may be prescribed recorded.

Record of  
personal  
description  
of  
prisoners.

**20.** (1) Subject to the direction of the Comptroller-General, the governor of a prison may order any convicted prisoner in any such prison to be set to some work considered suitable to his physical capacity.

Work to  
be per-  
formed by  
prisoners.

cf. Act No.  
27, 1899, ss.  
16, 16A, 36.



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(2) Any convicted prisoner may, with the approval of the Comptroller-General, be set to work beyond the precincts of the prison in which he is imprisoned, and while so beyond the precincts shall be deemed to be within the prison.

(3) The Comptroller-General may, out of moneys provided by Parliament for the purpose and subject to the regulations, make payments to prisoners for any reasons (including for work done).

(4) The regulations shall provide that where a convicted prisoner has been committed to prison pursuant to the provisions of Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts, such portion of his prison earnings as may be prescribed shall be applied in or towards satisfaction of the liability in respect of which he was committed.

Release of  
maintenance  
confinées.  
cf. Act No.  
27, 1899, s.  
16A (4).

**21.** (1) The Governor may release from prison any person committed to prison pursuant to the provisions of Part II of the Deserted Wives and Children Act, 1901-1939, or of Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts, and such release may be subject to such conditions as to the Governor appear meet.

(2) Any justice may in a summary way, on proof made before him that any such condition has been broken, rescind such release, or the release may be revoked by the Governor.

(3) Where a release is rescinded or revoked as aforesaid, the person released may be taken by any member of the Police Force and returned to prison, and there detained for the residue of the term for which he was originally committed, and subject to the same conditions as if he had not been released from prison.

Separation  
of  
prisoners.  
*Ibid.* s. 17.

**22.** (1) Any prisoner may, where the Comptroller-General or Visiting Justice is of opinion that it is necessary so to do in order to prevent the contamination arising from the association of prisoners, be detained away from association with other prisoners during the whole or any part of his imprisonment.

(2)



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(2) The detention referred to in subsection one of this section shall not be deemed solitary confinement within the meaning of any statute forbidding the continuance of solitary confinement for more than a limited time.

(3) No cell which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health shall be used for the purpose of such detention as aforesaid and every prisoner so confined shall have the means of taking exercise at such times and in such manner as in the opinion of the medical officer is necessary.

## PART IV.

## PRISON DISCIPLINE.

**23.** For the purposes of this Part the following shall be offences by prisoners against prison discipline—

- (a) mutiny;
- (b) open incitement to mutiny;
- (c) assaulting any prison officer;
- (d) escaping or attempting to escape;
- (e) wilfully or maliciously breaking, damaging or destroying any prison property;
- (f) preferring a complaint against a prison officer knowing the same to be false;
- (g) assaulting a prisoner;
- (h) making or attempting to make any wound or sore upon himself;
- (i) pretending illness;
- (j) being idle or negligent in work;
- (k) mismanaging work;
- (l) committing a nuisance;
- (m) preferring a frivolous complaint;
- (n) cursing or swearing profanely;
- (o) behaving indecently;
- (p) behaving irreverently at or during Divine service or prayer

Offences  
against  
prison  
discipline.

cf. Qld. Act  
54 Vic. No.  
17, ss. 28,  
29, 30.

W.A. Act,  
No. 14, 1902,  
ss. 37, 38.

(q)



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- (q) disobeying any regulation or any of the rules of the prison, or any lawful order of the Comptroller-General or of a prison officer.

For the purposes of paragraph (q) of this section "lawful order of the Comptroller-General or of a prison officer" includes any order given by the Comptroller-General or a prison officer for the purpose of securing the enforcement or observance of the provisions of this Act, which orders the Comptroller-General and prison officers are hereby authorised to give.

Offences  
against  
prison  
discipline—  
how dealt  
with.

24. (1) A complaint may be made to the Visiting Justice in any case where a prisoner has committed or is suspected to have committed an offence against prison discipline.

(2) Any such complaint shall, subject to section twenty-five of this Act, be heard and determined:—

- (a) by the Visiting Justice or the Visiting Justice and some other justice nominated in that behalf by the Visiting Justice;
- (b) summarily in the presence of the prisoner charged and in the prison where the offence is alleged to have been committed or either in the prison to which or the prison from which the prisoner was being transported or removed at the time when the offence is alleged to have been committed:

Provided that where a prisoner has been received into a prison by removal from another prison, a complaint in respect of an offence alleged to have been committed in the prison from which such prisoner has been removed may be heard and determined as if such offence had been committed within the prison into which he has been so received.

(3) A prisoner against whom a complaint of an offence against prison discipline is found proved pursuant to this section shall be liable—

- (a) if the complaint is heard and determined by the Visiting Justice alone—to confinement to cell,  
on



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on restricted diet as prescribed, for a term not exceeding fourteen days;

- (b) if the complaint is heard and determined by the Visiting Justice and some other justice nominated as aforesaid—to confinement to cell, on restricted diet as prescribed, for a term not exceeding twenty-eight days;

and in either such case to such forfeiture of payments under subsection three of section twenty of this Act accrued due to him as to the Visiting Justice, or to the Visiting Justice and other justice, as the case may be, may seem fit.

**25.** In any case where upon the hearing of a complaint against prison discipline the Visiting Justice is, or the Visiting Justice and another justice are, of the opinion that such complaint:—

Offences  
may be  
dealt  
with  
summarily  
or upon  
indictment.

- (a) could be prosecuted summarily before a stipendiary magistrate or justices sitting in petty sessions and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall order the prisoner charged to be conveyed to a court of petty sessions to be dealt with according to law; or
- (b) could be prosecuted by indictment and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall deal with the case by committal as in an ordinary case of an indictable offence charged before a stipendiary magistrate or justices sitting in petty sessions.

Any such order as is referred to in paragraph (a) of this section shall have the like effect and be dealt with as an order made under subsection one of section thirty-five of the Justices Act, 1902-1947.

Any such committal as is referred to in paragraph (b) of this section shall have the like effect and be dealt with as a committal for trial pursuant to the Justices Act, 1902-1947.



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Punishment  
of offences  
to be  
recorded.

cf. Qld. Act,  
54 Vic. No.  
17, s. 33.

**26.** Where the Visiting Justice, or the Visiting Justice and some other justice, imposes or impose punishment for any offence against prison discipline, he or they, as the case may be, shall enter and sign in a book kept at the prison for the purpose, a statement of the nature and date of the offence punished, the name of the offender, the date of sentence and the punishment awarded.

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**PART V.**
**TRANSFER OF PRISONERS.**

Orders for  
removal of  
prisoners  
from one  
prison to  
another.

cf. Act No.  
27, 1899,  
s. 25.

**27.** Any prisoner may be removed from one prison to another prison by order of the Comptroller-General—

- (a) where the prison in which such prisoner is detained is to be repaired, altered, enlarged or rebuilt;
- (b) in case of an outbreak or threatened outbreak of contagious or infectious disease in a prison;
- (c) when any prison has ceased to be a prison pursuant to section five of this Act;
- (d) when any prison is overcrowded;
- (e) for the purpose of carrying the provisions of section fifteen of this Act into effect; or
- (f) for any other cause specified in such order.

Removal of  
prisoners  
to hospital.

cf. Act No.  
27, 1899,  
s. 27.

Qld. Act,  
54 Vic. No.  
17, s. 52.

**28.** (1) Any prisoner may, by order of the Comptroller-General, or in cases of exigency by order of the governor of the prison in which he is detained, made on the recommendation of the medical officer, be removed from a prison to a hospital or other place specified in the order for medical attendance and treatment.

(2) Any prisoner so removed shall, while in hospital or at such other place, be deemed to be in the custody of the governor of the prison from which he was removed, and the governor of such prison may, if he thinks fit, direct any prison officer to take charge of the prisoner whilst so in hospital or at such other place.



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(3) On the certificate of the medical superintendent or other person in charge of a hospital (which certificate such medical superintendent or person is hereby authorised and required to give when the circumstances justify it) that a prisoner removed to such hospital pursuant to subsection one of this section may be discharged therefrom, such prisoner shall forthwith be returned to prison.

**29.** (1) Any prisoner may be taken temporarily, by order of the Minister, from any prison to any place in the State for any purpose in aid of the administration of justice or in aid of the Public Service or for any other purpose which in the opinion of the Minister justifies such action.

Removal  
from  
prison on  
order of  
Minister.  
cf. Act No.  
27, 1899,  
s. 30.

(2) A prisoner taken from prison under an order issued pursuant to subsection one of this section shall for the purposes of this Act during the period of his absence from prison be deemed to be in the custody of the governor of the prison from which he was so taken.

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PART VI.

PRISON OFFICERS.

**30.** All prison officers shall be appointed or employed under and subject to the provisions of the Public Service Act, 1902, or of any Act amending the same.

Appointment  
of prison  
officers.  
cf. Act No.  
27, 1899,  
s. 10.

**31.** Subject to section thirty of this Act the duties of prison officers of the various classes shall be as determined from time to time by the Comptroller-General.

Duties of  
prison  
officers.

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PART



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## PART VII.

## OFFENCES.

Rescuing  
person  
from lawful  
custody.

cf. W.A. Act  
No. 14, 1903,  
s. 57.

Aiding  
escape.

*Ibid.*  
s. 58.

**32.** Any person who, by force, rescues or attempts to rescue from lawful custody any prisoner shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding fourteen years.

**33.** Any person who—

(a) aids a prisoner in escaping or attempting to escape from lawful custody; or

(b) conveys anything or causes anything to be conveyed into a prison or to a prisoner with intent to facilitate the escape of any prisoner,

shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years.

Escaping.  
cf. *Ibid.*  
s. 59.

**34.** Any person who, being a prisoner in lawful custody, escapes or attempts to escape from such custody shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years, to be served after the expiration of any term of imprisonment, penal servitude or detention to which the prisoner was subject at the time of his escape or attempt to escape.

Permitting  
escape.

W.A. Act  
No. 14,  
1903, s. 60.

**35.** Any person, who being an officer of a prison or member of the Police Force, and having, for the time being, the actual custody of a prisoner, wilfully or negligently permits him to escape from custody, shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding two years.

Harbouring  
escapee.  
*Ibid.* s. 61.

**36.** Any person who knowingly harbours, maintains or employs an escaped prisoner shall be guilty of an offence and shall be liable—

(a) if convicted on indictment—to penal servitude for a term not exceeding three years;

(b) if convicted summarily—to a penalty not exceeding five hundred pounds.



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**37.** Any person who without lawful authority brings or attempts by any means whatever to introduce into any prison any spirituous or fermented liquor or any drug shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds or to both such imprisonment and penalty.

Trafficking.  
W.A.  
Act No. 14,  
1903, s. 62.

**38.** (1) Any person who without lawful authority—

- (a) enters or attempts to enter any prison;
- (b) communicates, or attempts to communicate with any prisoner;
- (c) conveys or delivers, or causes to be conveyed or delivered, or in any manner whatsoever attempts to convey or deliver, or to cause to be conveyed or delivered to any prisoner, or introduces or attempts to introduce into any prison, any money, letter or other document, clothing, or other article or thing;
- (d) conveys or receives for conveyance or causes to be conveyed or received for conveyance any letter or other document, clothing or any article or thing out of any prison;
- (e) loiters about or near any prison; or
- (f) secretes or leaves at any place any money, letter, document, clothing, article or thing, for the purpose of being found or received by any prisoner,

Miscellaneous  
offences.  
*Ibid.* s. 63.

shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds or to both such imprisonment and penalty.

(2) In respect of any such offence as is referred to in subsection one of this section, every prison officer shall have the same powers of arrest as a member of the Police Force.



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## PART VIII.

## GENERAL.

Custody of  
prisoners.

cf. Act  
No. 27,  
1899, s. 6.  
W.A. Act  
No. 14,  
1903, s. 45.

**39.** Every prisoner shall whilst detained in a prison be deemed to be in the custody of the governor of the prison to which he has been committed or removed and the liability of the Sheriff or other person delivering such prisoner shall cease on delivery of such prisoner to the governor of the prison.

Responsi-  
bility of  
governors  
of prisons.  
*Ibid.* s. 46.

**40.** Every governor of a prison shall have the charge and superintendence of the prison for which he is appointed and he shall be liable to answer for the escape of any prisoner from his custody whenever such escape shall happen by or through his neglect or default, but not otherwise.

Expiration  
of  
sentence.  
*Ibid.* s. 48.

**41.** (1) Any prisoner may be discharged from prison at any time during the twenty-four hours immediately preceding the time at which his imprisonment would otherwise have terminated.

(2) Any convicted prisoner whose term of imprisonment would terminate, either according to his sentence or to any law relating to the remission of sentences, on a Sunday, may be discharged on the Saturday immediately preceding such Sunday.

Address of  
warrant.  
W.A. Act  
No. 14,  
1903, s. 50.

**42.** Any writ, warrant or other instrument addressed to the governor of a prison describing the prison by its situation or other definite description shall be valid by whatever title such prison is usually known or whatever be the formal description of the prison.

Notice to  
coroner  
of death.  
cf. *Ibid.*  
s. 51.

**43.** Upon the death of a prisoner the governor of the prison in whose custody such prisoner was at the time of his death shall forthwith give notice to the coroner of the district where the prison is situated and an inquest shall be held by the said coroner on the body of such prisoner.

**44.**



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**44.** (1) Where any court of record or any judge or person constituting any such court or any coroner is satisfied that it is desirable that a prisoner should be in attendance before it or him for the purposes of any legal proceedings or inquest then pending, such court, judge, person or coroner, as the case may be, may make an order directing the governor of the prison in whose custody the prisoner is to produce such prisoner or to have such prisoner produced in court before it or him, as the case may be, and such order shall notwithstanding anything in this Act contained be a sufficient authority to the governor of the prison for producing or having produced such prisoner in accordance with the tenor thereof.

Attendance  
of prisoner  
before  
court, etc.

W.A.  
Act No. 14,  
1903, s. 52.

(2) Every prisoner shall, when produced under an order made under subsection one of this section in the actual custody of the governor of the prison, a prison officer or a member of the Police Force, be deemed to be in lawful custody and any such governor, prison officer or member of the Police Force shall in due course return the prisoner into the prison from which he was produced.

**45.** (1) Whenever a court of summary jurisdiction—

- (a) awards imprisonment, or
- (b) commits a person to prison in default of payment of any fine, penalty, costs or sum of money imposed on or ordered to be paid by such person by any court of summary jurisdiction, or in default of entering into a recognizance to be of good behaviour upon the order of any court of summary jurisdiction;

Sentences  
to be  
served in  
lock-up.

Act No. 27,  
1899, s. 37.

and in any such case the term of imprisonment is for a period not exceeding one month, it may order such imprisonment to be served in the lock-up or police station specified in the order.

(2) Whenever a court of summary jurisdiction orders a prisoner to be imprisoned as provided in subsection one of this section any justice may by direction under his hand order that the prisoner work within the precincts

Employ-  
ment  
outside  
lock-up.



*Prisons.*

precincts of such lock-up or police station in accordance with instructions given by any member of the Police Force on duty at such lock-up or police station.

(3) Any prisoner who refuses to obey any order given under subsection two of this section or who is guilty of idleness or negligence in his work under such order, shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a period not exceeding one month.

Actions and  
claims for  
damages.  
W.A. Act  
No. 14,  
1903, s. 75.

**46.** No action or claim for damages shall lie against any person for or on account of anything done or commanded to be done by him and purporting to be done for the purpose of carrying out the provisions of this Act, unless it is proved that such act was done or commanded to be done maliciously and without reasonable and probable cause.

Commence-  
ment  
of action.  
*Ibid.* s. 76.

**47.** (1) No action or claim as aforesaid shall be commenced until one month next after notice in writing has been delivered to the person against whom it is intended to be brought, or left at his usual place of abode.

(2) Such notice shall clearly state the proposed cause of action, the name and place of abode of the proposed plaintiff, and the name and place of business of his solicitor (if any) and shall be signed by the proposed plaintiff or his solicitor.

(3) Every such action shall be commenced within one year after its cause shall have arisen.

Penalties.

**48.** All penalties imposed by or under this Act shall be paid into the Consolidated Revenue Fund.

Rules.

**49.** The Comptroller-General may, with the approval of the Minister, make rules not inconsistent with this Act for the management, control, good government, supervision and inspection of prisons.

Regulations.

**50.** (1) The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect



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*Prisons.*

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effect to this Act, and in particular and without prejudice to the generality of the foregoing, may make regulations for and with respect to—

- (a) the visits and examinations of prisons by Visiting Justices;
- (b) the exercise and diet of prisoners;
- (c) the classification and separation of prisoners;
- (d) the manner in which prisoners may deal with property held in the custody of the governor of a prison;
- (e) the recording of the personal description of prisoners;
- (f) the payments to prisoners for work performed or for other reasons;
- (g) visits to or inspection of prisons by persons other than officers engaged in the administration of this Act and admission generally to prisons;
- (h) the religious ministrations to prisoners and Divine service within prisons;
- (i) visits to and correspondence by and with prisoners;
- (j) the education and vocational training of prisoners;
- (k) all matters necessary or expedient for the good order, discipline and health of prisoners.

(2) The regulations may impose a penalty not exceeding twenty pounds for any breach thereof.

(3) All regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting



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sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Amendment  
of Act  
No. 15,  
1905.  
Subst.  
sec. 12.

**51.** (1) The Habitual Criminals Act, 1905, as amended by subsequent Acts, is amended by omitting section twelve and by inserting in lieu thereof the following section:—

Regulations.

12. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(3) Where any regulation under this Act is in its application to an habitual criminal inconsistent with any regulation under the Prisons Act, 1952, the regulation under this Act shall prevail.

(2) The Habitual Criminals Act, 1905, as amended by subsequent Acts and by this Act, may be cited as the Habitual Criminals Act, 1905-1952.



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**52.** (1) (a) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by omitting from subsection two of section eleven the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1901.  
Sec. 11.  
(Disobedi-  
ence of  
order.)

(b) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1952.

(2) (a) The Child Welfare Act, 1939, as amended by subsequent Acts, is amended by omitting from subsection one of section one hundred and fifteen the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1939.  
Sec. 115.  
(Effect of  
imprison-  
ment on  
non-  
payment.)

(b) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1952.

## SCHEDULES.

## FIRST SCHEDULE.

Sec. 3 (1).

Number of Act.	Title or short title.	Extent of repeal.
No. 27, 1899 ...	Prisons Act 1899 ...	The whole Act.
No. 11, 1908 ...	Prisoners Detention Act, 1908 ...	The whole Act.
No. 12, 1908 ...	Police Offences (Amendment) Act, 1908.	Section 16.
No. 9, 1913 ...	Deserted Wives and Children Amending Act, 1913.	Section 2.
No. 20, 1918 ...	Prisons (Amendment) Act, 1918	The whole Act.
No. 34, 1918 ...	Prisoners Detention (Amendment) Act, 1918.	The whole Act.
No. 33, 1931 ...	Deserted Wives and Children (Amendment) Act, 1931.	Section 10 (2).
No. 19, 1944 ...	Public Service (Amendment) Act, 1944.	Section 2.

## SECOND



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Sec. 3 (4).

## SECOND SCHEDULE.

The State Penitentiary at Malabar  
The State Reformatory for Women at Malabar.  
Parramatta Gaol.  
Bathurst Gaol.  
Maitland Gaol.  
Goulburn Training Centre.  
Dubbo Gaol.  
Grafton Gaol.  
Broken Hill Gaol.  
Narrabri Gaol.  
Emu Plains Training Centre.  
Berrima Training Centre.  
Brookfield Afforestation Camp, Mannus.  
Glen Innes Afforestation Camp.  
Oberon Afforestation Camp.

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By Authority:

A. H. PETTIFER, Government Printer, Sydney, 1952.

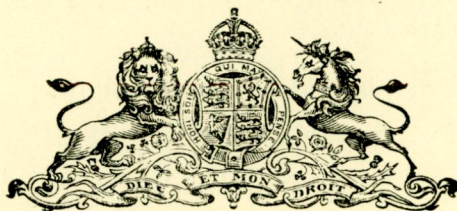
[1s.]



*I certify that this PUBLIC BILL, which originated in the LEGISLATIVE ASSEMBLY, has finally passed the LEGISLATIVE COUNCIL and the LEGISLATIVE ASSEMBLY of NEW SOUTH WALES.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 26 March, 1952.*

## New South Wales.



ANNO PRIMO

## ELIZABETHÆ II REGINÆ

\*\*\*\*\*

### Act No. 9, 1952.

An Act to make provision for the establishment regulation and control of prisons and for the custody of prisoners; to repeal the Prisons Act 1899, the Prisoners Detention Act, 1908, and certain other Acts; to amend the Habitual Criminals Act, 1905, and certain other Acts; and for purposes connected therewith. [Assented to, 17th April, 1952.]

BE

*I have examined this Bill, and find it to correspond in all respects with the Bill as finally passed by both Houses.*

G. BOOTH,  
*Chairman of Committees of the Legislative Assembly.*



*Prisons.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

## PART I.

## PRELIMINARY.

Short title  
and com-  
mencement.

**1.** (1) This Act may be cited as the "Prisons Act, 1952."

(2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

Division  
into Parts.

**2.** This Act is divided into Parts as follows:—

PART I.—PRELIMINARY.

PART II.—ESTABLISHMENT AND CONTROL OF PRISONS.

PART III.—TREATMENT OF PRISONERS.

PART IV.—PRISON DISCIPLINE.

PART V.—TRANSFER OF PRISONERS.

PART VI.—PRISON OFFICERS.

PART VII.—OFFENCES.

PART VIII.—GENERAL.

SCHEDULES.

Repeals  
and savings.

**3.** (1) The enactments mentioned in the First Schedule to this Act are to the extent therein expressed hereby repealed.

cf. Act No.  
27, 1899,  
s. 2.

Act No. 19,  
1944, s. 2  
(3).

(2) (a) All persons appointed or continued in office under or by virtue of the provisions of any enactment hereby repealed and holding office immediately before the commencement of this Act shall remain in office as if this Act had been in force at the date of their appointment and they had been appointed or employed hereunder, and this Act shall apply to them accordingly.

(b)



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(b) The period before the commencement of this Act during which any such person held office shall be counted as service for the purposes of the Public Service Act, 1902, and of section thirteen of the Public Service (Amendment) Act, 1919, or of any Act amending the said Acts. But this paragraph shall not be construed to entitle any such person to claim, in respect of the same period of service, benefits under the Public Service Act, 1902, or the Public Service (Amendment) Act, 1919, or of any Act amending the said Acts, and also benefits under any other Act.

(c) Nothing in this section shall affect any rights which at the commencement of this Act have accrued or are accruing under the Superannuation Acts, 1916-1951, to any such person.

(3) All regulations and rules, in so far as they are not inconsistent with nor repugnant to the provisions of this Act, made or deemed to have been made under the authority of any enactment hereby repealed and being in force immediately before the commencement of this Act shall be deemed to have been made under the authority of this Act, and references in any such regulations and rules to the provisions of any enactment hereby repealed shall be construed as references to the corresponding provisions of this Act.

(4) All gaols, prisons and places of detention enumerated in the Second Schedule to this Act and used and occupied as such immediately before the commencement of this Act shall be deemed to be prisons under this Act.

4. In this Act, unless the context or subject matter otherwise indicates or requires—

“Comptroller-General” means the Comptroller-General of Prisons;

“convicted prisoner” means—

(a) a person under sentence of penal servitude or imprisonment imposed by any court, judge or justice or ordered to



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*Prisons.*


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to be kept in strict custody pursuant to subsection three of section sixty-five of the Lunacy Act, 1898-1949;

- (b) a person under sentence of death;
- (c) a person undergoing imprisonment in default of payment of any fine, penalty, costs or sum of money imposed on him or ordered to be paid by him by any court, judge or justice, or in default of entering into a recognizance to be of good behaviour upon the order of any court, judge or justice;
- (d) a person committed to prison under Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII, Part XIV or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts;
- (e) a person detained in a place of confinement pursuant to the Habitual Criminals Act, 1905, as amended by subsequent Acts ;

“governor of a prison” means the superintendent, governor, gaoler, or other officer for the time being in charge of the prison;

“medical officer” means, in relation to any prison, the person who pursuant to section nine of this Act has been appointed or is acting as such;

“prescribed” means prescribed by this Act or by the regulations made thereunder;

“prison” includes any gaol or place of detention, irrespective of the title by which the same is known, and includes the whole area, whether or not walled or fenced, declared or deemed to be a prison;

“prisoner” means—

- (a) any convicted prisoner;

(b)



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*Prisons.*

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- (b) any person ordered to be imprisoned in or committed to a prison, otherwise than as referred to in paragraphs (a) to (e) inclusive of the definition of "convicted prisoner", by any court, judge or justice or other competent authority.
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PART II.

ESTABLISHMENT AND CONTROL OF PRISONS.

5. (1) The Governor may by proclamation published in the Gazette declare any building, premises or place to be a prison.

Proclamation of prisons.  
cf. Act No. 27, 1899,  
s. 4.

(2) The Governor may by proclamation published in the Gazette declare that any prison shall, as from a date to be specified therein, cease to be a prison and thereupon the prison to which such proclamation relates shall as from the said date cease to be a prison.

(3) Every prison shall contain a lock hospital.

6. (1) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Comptroller-General of Prisons.

Comptroller-General of Prisons.  
cf. *Ibid.*  
s. 5.

(2) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Deputy Comptroller of Prisons, who shall when the office of the Comptroller-General is vacant or during the absence from duty of the Comptroller-General have the same powers, authorities, duties and functions as the Comptroller-General.

7. The Comptroller-General shall, subject to this Act and subject to the direction of the Minister, have the care, direction, control and management of all prisons.

Duties of the Comptroller-General  
cf. *Ibid.*  
s. 6.



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*Prisons.*

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Savings as  
to powers  
of Sheriff.  
cf. Act No.  
27, 1899,  
ss. 6, 7.

Medical  
officers.

8. Nothing in this Act shall abridge or otherwise affect the powers, authorities, duties and functions vested in or imposed upon the Sheriff by or under any statute or at common law in relation to prisoners.

9. (1) The Governor may appoint a medical officer for each prison.

(2) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of medical officers to whom the right of private practice is reserved and any such medical officer shall not in his capacity as a medical officer be subject to the provisions of any such Act during his tenure of office.

(3) Where a medical officer is for any reason unable to act as such any person who is a legally qualified medical practitioner and is a partner with such medical officer in the practice of medicine or who is carrying on the medical practice of such medical officer as locum tenens may exercise and discharge the powers, authorities, duties and functions of the medical officer who is unable to act as such. Such person shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer.

(4) Where no medical officer has been appointed to a prison pursuant to subsection one of this section the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison is situated, shall be the medical officer for that prison.

(5) Where the medical officer appointed under subsection one of this section is for any reason unable to act as such and there is no person in partnership with such medical officer or acting as locum tenens as referred to in subsection three of this section, or where the person who may exercise and discharge the powers, authorities, duties and functions of the medical officer under subsection three of this section fails or is unable to act as medical officer, the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison in respect of which the medical officer has been appointed is situated, shall exercise and discharge the  

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powers,



*Prisons.*

powers, authorities, duties and functions of such medical officer and shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer for that prison.

**10.** (1) For each prison there shall be a Visiting Justice.

Visiting  
Justices.  
cf. Act  
No. 27,  
1899, s. 12.

The Visiting Justice for a prison shall be such stipendiary magistrate as the Minister may from time to time designate as the Visiting Justice for such prison.

(2) A Visiting Justice may visit and examine the prison in respect of which he is the Visiting Justice at any time he may think fit, and, unless prevented by illness or other sufficient cause, shall visit and examine such prison at such intervals as may be prescribed.

(3) A Visiting Justice may and shall, when requested so to do by the Minister or the Comptroller-General, inquire into and report to the Minister or the Comptroller-General, as the case may be, upon any matter relating to the security, good order, control or management of the prison in respect of which he is the Visiting Justice.

**11.** Any Judge of the Supreme Court or Chairman of Quarter Sessions may visit and examine any prison at any time he may think fit.

Judge to  
examine.  
cf. *Ibid.*  
s. 12 (4).

PART III.

TREATMENT OF PRISONERS.

**12.** Every prisoner shall be allowed so much exercise in the open air as is prescribed or where the medical officer in any particular case orders otherwise so much exercise as is so ordered.

Exercise.

**13.** Every convicted prisoner shall be clothed at the public expense with sufficient clothing to maintain health and decency.

Clothing.

Every



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*Prisons.*

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Every prisoner other than a convicted prisoner who is not permitted to wear his own clothing by the governor of the prison in which such prisoner is detained shall be clothed in like manner.

Diet.

**14.** Every prisoner for whom provision is not otherwise made for his maintenance shall be supplied at the public expense with sufficient food to maintain health and the scale of diet shall be as prescribed.

Separation  
of  
prisoners.

**15.** To the fullest extent reasonably practicable, convicted prisoners shall be separated from other prisoners, and different classes of convicted prisoners and different classes of other prisoners shall be separated as prescribed.

Medical  
attention.

**16.** (1) Every prisoner shall be supplied at the public expense with such medical attendance, treatment and medicine as in the opinion of the medical officer is necessary for the preservation of the health of the prisoner and of other prisoners and of prison officers.

(2) Where in the opinion of the medical officer the life or health of a prisoner is likely to be endangered or seriously prejudiced by the failure of such prisoner to undergo medical treatment or the life or health of any other prisoner or prison officer is likely to be endangered or seriously prejudiced by such failure, the prisoner may be compelled to submit to such medical treatment as is ordered by the medical officer.

Venereal  
disease.  
Act No. 11,  
1908, ss.  
4, 5.

**17.** (1) Where the medical officer certifies in writing to the Comptroller-General that a convicted prisoner is suffering from a venereal disease, such prisoner may be brought before a stipendiary magistrate within a prison or at any other place and, on proof being made in private on oath that such prisoner is so suffering, the magistrate may order that he be detained in a lock hospital until discharged in pursuance of this Act.

(2) (a) Any prisoner against whom an order has been made under subsection one of this section may, on notice as prescribed, appeal therefrom to a Court of Quarter Sessions, and, subject to this section, the provisions of sections one hundred and twenty-two to one hundred and thirty-one, both inclusive, of the Justices Act, 1902-1947, shall apply, *mutatis mutandis*, to and in respect of such appeal.

(b)



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*Prisons.*

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(b) Any such appeal shall be heard in private unless the Chairman of Quarter Sessions otherwise determines.

(c) No notice of appeal against any such order shall suspend or stay the operation of the order.

(d) The Court of Quarter Sessions hearing the appeal may, by its order, confirm, set aside or vary the order appealed from.

(3) The period of detention under any such order of detention as aforesaid shall run concurrently with but may exceed any term of imprisonment or detention to which the prisoner is subject.

(4) The medical officer shall, as soon as in his opinion any person detained in a lock hospital in accordance with the provisions of this section is free from venereal disease, so report to the Comptroller-General, and thereupon such person shall be discharged from such lock hospital and be remitted to custody to serve the remainder of the term of imprisonment or detention to which he had been sentenced or ordered if such term has not expired, but if such term has expired, he shall be discharged from custody.

**18.** (1) Every prisoner upon his reception into prison shall surrender to the governor of the prison all property in his possession. Such property shall be retained by the governor of the prison and returned to the prisoner immediately prior to his release from prison.

Private  
property.

(2) A record shall be kept of all such property as aforesaid and the prisoner may deal with such property only in such manner as is prescribed.

**19.** Every prisoner shall be liable to be photographed, to have the impression of his fingers and palms taken, and to have such details of his personal description as may be prescribed recorded.

Record of  
personal  
description  
of  
prisoners.

**20.** (1) Subject to the direction of the Comptroller-General, the governor of a prison may order any convicted prisoner in any such prison to be set to some work considered suitable to his physical capacity.

Work to  
be per-  
formed by  
prisoners.

cf. Act No.  
27, 1899, ss.  
16, 16A, 36.

(2)



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*Prisons.*

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(2) Any convicted prisoner may, with the approval of the Comptroller-General, be set to work beyond the precincts of the prison in which he is imprisoned, and while so beyond the precincts shall be deemed to be within the prison.

(3) The Comptroller-General may, out of moneys provided by Parliament for the purpose and subject to the regulations, make payments to prisoners for any reasons (including for work done).

(4) The regulations shall provide that where a convicted prisoner has been committed to prison pursuant to the provisions of Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts, such portion of his prison earnings as may be prescribed shall be applied in or towards satisfaction of the liability in respect of which he was committed.

Release of  
maintenance  
confinees.  
cf. Act No.  
27, 1899, s.  
16A (4).

**21.** (1) The Governor may release from prison any person committed to prison pursuant to the provisions of Part II of the Deserted Wives and Children Act, 1901-1939, or of Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts, and such release may be subject to such conditions as to the Governor appear meet.

(2) Any justice may in a summary way, on proof made before him that any such condition has been broken, rescind such release, or the release may be revoked by the Governor.

(3) Where a release is rescinded or revoked as aforesaid, the person released may be taken by any member of the Police Force and returned to prison, and there detained for the residue of the term for which he was originally committed, and subject to the same conditions as if he had not been released from prison.

Separation  
of  
prisoners.  
*Ibid.* s. 17.

**22.** (1) Any prisoner may, where the Comptroller-General or Visiting Justice is of opinion that it is necessary so to do in order to prevent the contamination arising from the association of prisoners, be detained away from association with other prisoners during the whole or any part of his imprisonment.

(2)



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*Prisons.*

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(2) The detention referred to in subsection one of this section shall not be deemed solitary confinement within the meaning of any statute forbidding the continuance of solitary confinement for more than a limited time.

(3) No cell which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health shall be used for the purpose of such detention as aforesaid and every prisoner so confined shall have the means of taking exercise at such times and in such manner as in the opinion of the medical officer is necessary.

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PART IV.

PRISON DISCIPLINE.

**23.** For the purposes of this Part the following shall be offences by prisoners against prison discipline—

- (a) mutiny;
- (b) open incitement to mutiny;
- (c) assaulting any prison officer;
- (d) escaping or attempting to escape;
- (e) wilfully or maliciously breaking, damaging or destroying any prison property;
- (f) preferring a complaint against a prison officer knowing the same to be false;
- (g) assaulting a prisoner;
- (h) making or attempting to make any wound or sore upon himself;
- (i) pretending illness;
- (j) being idle or negligent in work;
- (k) mismanaging work;
- (l) committing a nuisance;
- (m) preferring a frivolous complaint;
- (n) cursing or swearing profanely;
- (o) behaving indecently;
- (p) behaving irreverently at or during Divine service or prayer

Offences  
against  
prison  
discipline.  
cf. Qld. Act  
54 Vic. No.  
17, ss. 28,  
29, 30.  
W.A. Act,  
No. 14, 1903,  
ss. 37, 38.

(q)



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*Prisons.*

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- (q) disobeying any regulation or any of the rules of the prison, or any lawful order of the Comptroller-General or of a prison officer.

For the purposes of paragraph (q) of this section "lawful order of the Comptroller-General or of a prison officer" includes any order given by the Comptroller-General or a prison officer for the purpose of securing the enforcement or observance of the provisions of this Act, which orders the Comptroller-General and prison officers are hereby authorised to give.

Offences  
against  
prison  
discipline—  
how dealt  
with.

**24.** (1) A complaint may be made to the Visiting Justice in any case where a prisoner has committed or is suspected to have committed an offence against prison discipline.

(2) Any such complaint shall, subject to section twenty-five of this Act, be heard and determined:—

- (a) by the Visiting Justice or the Visiting Justice and some other justice nominated in that behalf by the Visiting Justice;
- (b) summarily in the presence of the prisoner charged and in the prison where the offence is alleged to have been committed or either in the prison to which or the prison from which the prisoner was being transported or removed at the time when the offence is alleged to have been committed:

Provided that where a prisoner has been received into a prison by removal from another prison, a complaint in respect of an offence alleged to have been committed in the prison from which such prisoner has been removed may be heard and determined as if such offence had been committed within the prison into which he has been so received.

(3) A prisoner against whom a complaint of an offence against prison discipline is found proved pursuant to this section shall be liable—

- (a) if the complaint is heard and determined by the Visiting Justice alone—to confinement to cell,  
on



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on restricted diet as prescribed, for a term not exceeding fourteen days;

- (b) if the complaint is heard and determined by the Visiting Justice and some other justice nominated as aforesaid—to confinement to cell, on restricted diet as prescribed, for a term not exceeding twenty-eight days;

and in either such case to such forfeiture of payments under subsection three of section twenty of this Act accrued due to him as to the Visiting Justice, or to the Visiting Justice and other justice, as the case may be, may seem fit.

**25.** In any case where upon the hearing of a complaint against prison discipline the Visiting Justice is, or the Visiting Justice and another justice are, of the opinion that such complaint:—

Offences  
may be  
dealt  
with  
summarily  
or upon  
indictment.

- (a) could be prosecuted summarily before a stipendiary magistrate or justices sitting in petty sessions and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall order the prisoner charged to be conveyed to a court of petty sessions to be dealt with according to law; or
- (b) could be prosecuted by indictment and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall deal with the case by committal as in an ordinary case of an indictable offence charged before a stipendiary magistrate or justices sitting in petty sessions.

Any such order as is referred to in paragraph (a) of this section shall have the like effect and be dealt with as an order made under subsection one of section thirty-five of the Justices Act, 1902-1947.

Any such committal as is referred to in paragraph (b) of this section shall have the like effect and be dealt with as a committal for trial pursuant to the Justices Act, 1902-1947.



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*Prisons.*


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Punishment  
of offences  
to be  
recorded.

cf. Qld. Act,  
54 Vic. No.  
17, s. 33.

**26.** Where the Visiting Justice, or the Visiting Justice and some other justice, imposes or impose punishment for any offence against prison discipline, he or they, as the case may be, shall enter and sign in a book kept at the prison for the purpose, a statement of the nature and date of the offence punished, the name of the offender, the date of sentence and the punishment awarded.

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**PART V.**
**TRANSFER OF PRISONERS.**

Orders for  
removal of  
prisoners  
from one  
prison to  
another.

cf. Act No.  
27, 1899,  
s. 25.

**27.** Any prisoner may be removed from one prison to another prison by order of the Comptroller-General—

- (a) where the prison in which such prisoner is detained is to be repaired, altered, enlarged or rebuilt;
- (b) in case of an outbreak or threatened outbreak of contagious or infectious disease in a prison;
- (c) when any prison has ceased to be a prison pursuant to section five of this Act;
- (d) when any prison is overcrowded;
- (e) for the purpose of carrying the provisions of section fifteen of this Act into effect; or
- (f) for any other cause specified in such order.

Removal of  
prisoners  
to hospital.

cf. Act No.  
27, 1899,  
s. 27.

Qld. Act,  
54 Vic. No.  
17, s. 52.

**28.** (1) Any prisoner may, by order of the Comptroller-General, or in cases of exigency by order of the governor of the prison in which he is detained, made on the recommendation of the medical officer, be removed from a prison to a hospital or other place specified in the order for medical attendance and treatment.

(2) Any prisoner so removed shall, while in hospital or at such other place, be deemed to be in the custody of the governor of the prison from which he was removed, and the governor of such prison may, if he thinks fit, direct any prison officer to take charge of the prisoner whilst so in hospital or at such other place.

(3)



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*Prisons.*

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(3) On the certificate of the medical superintendent or other person in charge of a hospital (which certificate such medical superintendent or person is hereby authorised and required to give when the circumstances justify it) that a prisoner removed to such hospital pursuant to subsection one of this section may be discharged therefrom, such prisoner shall forthwith be returned to prison.

**29.** (1) Any prisoner may be taken temporarily, by order of the Minister, from any prison to any place in the State for any purpose in aid of the administration of justice or in aid of the Public Service or for any other purpose which in the opinion of the Minister justifies such action.

Removal  
from  
prison on  
order of  
Minister.  
cf. Act No.  
27, 1899,  
s. 30.

(2) A prisoner taken from prison under an order issued pursuant to subsection one of this section shall for the purposes of this Act during the period of his absence from prison be deemed to be in the custody of the governor of the prison from which he was so taken.

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PART VI.

PRISON OFFICERS.

**30.** All prison officers shall be appointed or employed under and subject to the provisions of the Public Service Act, 1902, or of any Act amending the same.

Appointment  
of prison  
officers.  
cf. Act No.  
27, 1899,  
s. 10.

**31.** Subject to section thirty of this Act the duties of prison officers of the various classes shall be as determined from time to time by the Comptroller-General.

Duties of  
prison  
officers.

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PART



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*Prisons.*


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## PART VII.

## OFFENCES.

Rescuing  
person  
from lawful  
custody.

cf. W.A. Act  
No. 14, 1903,  
s. 57.

Aiding  
escape.

*Ibid.*  
s. 58.

**32.** Any person who, by force, rescues or attempts to rescue from lawful custody any prisoner shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding fourteen years.

**33.** Any person who—

(a) aids a prisoner in escaping or attempting to escape from lawful custody; or

(b) conveys anything or causes anything to be conveyed into a prison or to a prisoner with intent to facilitate the escape of any prisoner,

shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years.

Escaping.  
cf. *Ibid.*  
s. 59.

**34.** Any person who, being a prisoner in lawful custody, escapes or attempts to escape from such custody shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years, to be served after the expiration of any term of imprisonment, penal servitude or detention to which the prisoner was subject at the time of his escape or attempt to escape.

Permitting  
escape.  
W.A. Act  
No. 14,  
1903, s. 60.

**35.** Any person, who being an officer of a prison or member of the Police Force, and having, for the time being, the actual custody of a prisoner, wilfully or negligently permits him to escape from custody, shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding two years.

Harbouring  
escapee.  
*Ibid.* s. 61.

**36.** Any person who knowingly harbours, maintains or employs an escaped prisoner shall be guilty of an offence and shall be liable—

(a) if convicted on indictment—to penal servitude for a term not exceeding three years;

(b) if convicted summarily—to a penalty not exceeding five hundred pounds.



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*Prisons.*

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**37.** Any person who without lawful authority brings or attempts by any means whatever to introduce into any prison any spirituous or fermented liquor or any drug shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds or to both such imprisonment and penalty.

Trafficking.  
W.A.  
Act No. 14,  
1903, s. 62.

**38.** (1) Any person who without lawful authority—

- (a) enters or attempts to enter any prison;
- (b) communicates, or attempts to communicate with any prisoner;
- (c) conveys or delivers, or causes to be conveyed or delivered, or in any manner whatsoever attempts to convey or deliver, or to cause to be conveyed or delivered to any prisoner, or introduces or attempts to introduce into any prison, any money, letter or other document, clothing, or other article or thing;
- (d) conveys or receives for conveyance or causes to be conveyed or received for conveyance any letter or other document, clothing or any article or thing out of any prison;
- (e) loiters about or near any prison; or
- (f) secretes or leaves at any place any money, letter, document, clothing, article or thing, for the purpose of being found or received by any prisoner,

Miscellaneous  
offences.  
*Ibid.* s. 63.

shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds or to both such imprisonment and penalty.

(2) In respect of any such offence as is referred to in subsection one of this section, every prison officer shall have the same powers of arrest as a member of the Police Force.

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PART



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*Prisons.*

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## PART VIII.

## GENERAL.

Custody of  
prisoners.  
cf. Act  
No. 27,  
1899, s. 6.  
W.A. Act  
No. 14,  
1903, s. 45.

**39.** Every prisoner shall whilst detained in a prison be deemed to be in the custody of the governor of the prison to which he has been committed or removed and the liability of the Sheriff or other person delivering such prisoner shall cease on delivery of such prisoner to the governor of the prison.

Responsi-  
bility of  
governors  
of prisons.  
*Ibid.* s. 46.

**40.** Every governor of a prison shall have the charge and superintendence of the prison for which he is appointed and he shall be liable to answer for the escape of any prisoner from his custody whenever such escape shall happen by or through his neglect or default, but not otherwise.

Expiration  
of  
sentence.  
*Ibid.* s. 48.

**41.** (1) Any prisoner may be discharged from prison at any time during the twenty-four hours immediately preceding the time at which his imprisonment would otherwise have terminated.

(2) Any convicted prisoner whose term of imprisonment would terminate, either according to his sentence or to any law relating to the remission of sentences, on a Sunday, may be discharged on the Saturday immediately preceding such Sunday.

Address of  
warrant.  
W.A. Act  
No. 14,  
1903, s. 50.

**42.** Any writ, warrant or other instrument addressed to the governor of a prison describing the prison by its situation or other definite description shall be valid by whatever title such prison is usually known or whatever be the formal description of the prison.

Notice to  
coroner  
of death.  
cf. *Ibid.*  
s. 51.

**43.** Upon the death of a prisoner the governor of the prison in whose custody such prisoner was at the time of his death shall forthwith give notice to the coroner of the district where the prison is situated and an inquest shall be held by the said coroner on the body of such prisoner.

**44.**



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**44.** (1) Where any court of record or any judge or person constituting any such court or any coroner is satisfied that it is desirable that a prisoner should be in attendance before it or him for the purposes of any legal proceedings or inquest then pending, such court, judge, person or coroner, as the case may be, may make an order directing the governor of the prison in whose custody the prisoner is to produce such prisoner or to have such prisoner produced in court before it or him, as the case may be, and such order shall notwithstanding anything in this Act contained be a sufficient authority to the governor of the prison for producing or having produced such prisoner in accordance with the tenor thereof.

Attendance  
of prisoner  
before  
court, etc.

W.A.  
Act No. 14,  
1903, s. 52.

(2) Every prisoner shall, when produced under an order made under subsection one of this section in the actual custody of the governor of the prison, a prison officer or a member of the Police Force, be deemed to be in lawful custody and any such governor, prison officer or member of the Police Force shall in due course return the prisoner into the prison from which he was produced.

**45.** (1) Whenever a court of summary jurisdiction—

- (a) awards imprisonment, or
- (b) commits a person to prison in default of payment of any fine, penalty, costs or sum of money imposed on or ordered to be paid by such person by any court of summary jurisdiction, or in default of entering into a recognizance to be of good behaviour upon the order of any court of summary jurisdiction;

Sentences  
to be  
served in  
lock-up.

Act No. 27,  
1899, s. 37.

and in any such case the term of imprisonment is for a period not exceeding one month, it may order such imprisonment to be served in the lock-up or police station specified in the order.

(2) Whenever a court of summary jurisdiction orders a prisoner to be imprisoned as provided in subsection one of this section any justice may by direction under his hand order that the prisoner work within the precincts

Employ-  
ment  
outside  
lock-up.



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*Prisons.*

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precincts of such lock-up or police station in accordance with instructions given by any member of the Police Force on duty at such lock-up or police station.

(3) Any prisoner who refuses to obey any order given under subsection two of this section or who is guilty of idleness or negligence in his work under such order, shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a period not exceeding one month.

Actions and  
claims for  
damages.  
W.A. Act  
No. 14,  
1903, s. 75.

**46.** No action or claim for damages shall lie against any person for or on account of anything done or commanded to be done by him and purporting to be done for the purpose of carrying out the provisions of this Act, unless it is proved that such act was done or commanded to be done maliciously and without reasonable and probable cause.

Commence-  
ment  
of action.  
*Ibid.* s. 76.

**47.** (1) No action or claim as aforesaid shall be commenced until one month next after notice in writing has been delivered to the person against whom it is intended to be brought, or left at his usual place of abode.

(2) Such notice shall clearly state the proposed cause of action, the name and place of abode of the proposed plaintiff, and the name and place of business of his solicitor (if any) and shall be signed by the proposed plaintiff or his solicitor.

(3) Every such action shall be commenced within one year after its cause shall have arisen.

Penalties.

**48.** All penalties imposed by or under this Act shall be paid into the Consolidated Revenue Fund.

Rules.

**49.** The Comptroller-General may, with the approval of the Minister, make rules not inconsistent with this Act for the management, control, good government, supervision and inspection of prisons.

Regulations.

**50.** (1) The Governor may make regulations prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect



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*Prisons.*

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effect to this Act, and in particular and without prejudice to the generality of the foregoing, may make regulations for and with respect to—

- (a) the visits and examinations of prisons by Visiting Justices;
- (b) the exercise and diet of prisoners;
- (c) the classification and separation of prisoners;
- (d) the manner in which prisoners may deal with property held in the custody of the governor of a prison;
- (e) the recording of the personal description of prisoners;
- (f) the payments to prisoners for work performed or for other reasons;
- (g) visits to or inspection of prisons by persons other than officers engaged in the administration of this Act and admission generally to prisons;
- (h) the religious ministrations to prisoners and Divine service within prisons;
- (i) visits to and correspondence by and with prisoners;
- (j) the education and vocational training of prisoners;
- (k) all matters necessary or expedient for the good order, discipline and health of prisoners.

(2) The regulations may impose a penalty not exceeding twenty pounds for any breach thereof.

(3) All regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting



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sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

Amendment  
of Act  
No. 15,  
1905.  
Subst.  
sec. 12.

**51.** (1) The Habitual Criminals Act, 1905, as amended by subsequent Acts, is amended by omitting section twelve and by inserting in lieu thereof the following section:—

Regulations.

12. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) The regulations shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified in the regulations; and
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

(3) Where any regulation under this Act is in its application to an habitual criminal inconsistent with any regulation under the Prisons Act, 1952, the regulation under this Act shall prevail.

(2) The Habitual Criminals Act, 1905, as amended by subsequent Acts and by this Act, may be cited as the Habitual Criminals Act, 1905-1952.



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**52.** (1) (a) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by omitting from subsection two of section eleven the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1901.  
Sec. 11.  
(Disobedi-  
ence of  
order.)

(b) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1952.

(2) (a) The Child Welfare Act, 1939, as amended by subsequent Acts, is amended by omitting from subsection one of section one hundred and fifteen the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1939.  
Sec. 115.  
(Effect of  
imprison-  
ment on  
non-  
payment.)

(b) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1952.

## SCHEDULES.

## FIRST SCHEDULE.

Sec. 3 (1).

Number of Act.	Title or short title.	Extent of repeal.
No. 27, 1899 ...	Prisons Act 1899 ...	The whole Act.
No. 11, 1908 ...	Prisoners Detention Act, 1908 ...	The whole Act.
No. 12, 1908 ...	Police Offences (Amendment) Act, 1908.	Section 16.
No. 9, 1913 ...	Deserted Wives and Children Amending Act, 1913.	Section 2.
No. 20, 1918 ...	Prisons (Amendment) Act, 1918	The whole Act.
No. 34, 1918 ...	Prisoners Detention (Amendment) Act, 1918.	The whole Act.
No. 33, 1931 ...	Deserted Wives and Children (Amendment) Act, 1931.	Section 10 (2).
No. 19, 1944 ...	Public Service (Amendment) Act, 1944.	Section 2.

## SECOND



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Sec. 3 (4).

## SECOND SCHEDULE.

The State Penitentiary at Malabar  
The State Reformatory for Women at Malabar.  
Parramatta Gaol.  
Bathurst Gaol.  
Maitland Gaol.  
Goulburn Training Centre.  
Dubbo Gaol.  
Grafton Gaol.  
Broken Hill Gaol.  
Narrabri Gaol.  
Emu Plains Training Centre.  
Berrima Training Centre.  
Brookfield Afforestation Camp, Mannus.  
Glen Innes Afforestation Camp.  
Oberon Afforestation Camp.

*In the name and on behalf of Her Majesty I assent to  
this Act.*

J. NORTHCOTT,  
Governor.

*Government House,  
Sydney, 17th April, 1952.*



## PRISONS BILL.

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*Schedule of Amendments referred to in Legislative Council's Message of  
26th March, 1952.*

No. 1.—Page 17, clause 37, lines 1 and 2. *Omit* “(proof whereof shall lie on him)?”

No. 2.—Page 17, clause 38, line 9. *Omit* “(proof whereof shall lie on him)”



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— 1911 —



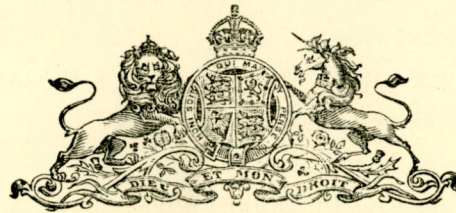
*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 19 March, 1952.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

W. K. CHARLTON,  
*Clerk of the Parliaments.*  
*Legislative Council Chamber,*  
*Sydney, 26th March, 1952.*

## New South Wales.



ANNO PRIMO

ELIZABETHÆ II REGINÆ

\*\*\*\*\*

Act No. , 1952.

An Act to make provision for the establishment regulation and control of prisons and for the custody of prisoners; to repeal the Prisons Act 1899, the Prisoners Detention Act, 1908, and certain other Acts; to amend the Habitual Criminals Act, 1905, and certain other Acts; and for purposes connected therewith.

91331

244—A

BE

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NOTE.—The words to be omitted are ruled through.



*Prisons.*

**B**E it enacted by the Queen's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
5 the same, as follows:—

**PART I.**

**PRELIMINARY.**

**1.** (1) This Act may be cited as the "Prisons Act, 1952." Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

**2.** This Act is divided into Parts as follows:— Division into Parts.

PART I.—PRELIMINARY.

15 PART II.—ESTABLISHMENT AND CONTROL OF PRISONS.

PART III.—TREATMENT OF PRISONERS.

PART IV.—PRISON DISCIPLINE.

PART V.—TRANSFER OF PRISONERS.

PART VI.—PRISON OFFICERS.

20 PART VII.—OFFENCES.

PART VIII.—GENERAL.

SCHEDULES.

**3.** (1) The enactments mentioned in the First Schedule to this Act are to the extent therein expressed hereby Repeals and savings.  
25 repealed.

(2) (a) All persons appointed or continued in office under or by virtue of the provisions of any enactment hereby repealed and holding office immediately before the commencement of this Act shall remain in  
30 office as if this Act had been in force at the date of their appointment and they had been appointed or employed hereunder, and this Act shall apply to them accordingly.

(b)

cf. Act No. 27, 1899, s. 2.  
Act No. 19, 1944, s. 2 (3).



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*Prisons.*

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(b) The period before the commencement of this Act during which any such person held office shall be counted as service for the purposes of the Public Service Act, 1902, and of section thirteen of the Public Service  
5 (Amendment) Act, 1919, or of any Act amending the said Acts. But this paragraph shall not be construed to entitle any such person to claim, in respect of the same period of service, benefits under the Public Service Act, 1902, or the Public Service (Amendment) Act, 1919, or of  
10 any Act amending the said Acts, and also benefits under any other Act.

(c) Nothing in this section shall affect any rights which at the commencement of this Act have accrued or are accruing under the Superannuation Acts,  
15 1916-1951, to any such person.

(3) All regulations and rules, in so far as they are not inconsistent with nor repugnant to the provisions of this Act, made or deemed to have been made under the authority of any enactment hereby repealed and being in  
20 force immediately before the commencement of this Act shall be deemed to have been made under the authority of this Act, and references in any such regulations and rules to the provisions of any enactment hereby repealed shall be construed as references to the corresponding  
25 provisions of this Act.

(4) All gaols, prisons and places of detention enumerated in the Second Schedule to this Act and used and occupied as such immediately before the commencement of this Act shall be deemed to be prisons under this  
30 Act.

4. In this Act, unless the context or subject matter Definitions, otherwise indicates or requires—

“Comptroller-General” means the Comptroller-General of Prisons;

35 “convicted prisoner” means—

(a) a person under sentence of penal servitude or imprisonment imposed by any court, judge or justice or ordered  
to



*Prisons.*

to be kept in strict custody pursuant to subsection three of section sixty-five of the Lunacy Act, 1898-1949;

(b) a person under sentence of death;

5 (c) a person undergoing imprisonment in default of payment of any fine, penalty, costs or sum of money imposed on him or ordered to be paid by him by any court, judge or justice, or in default of  
10 entering into a recognizance to be of good behaviour upon the order of any court, judge or justice;

(d) a person committed to prison under Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII, Part XIV or Part XVI of the Child Welfare Act, 1939, as amended by  
15 subsequent Acts;

(e) a person detained in a place of confinement pursuant to the Habitual Criminals Act, 1905, as amended by  
20 subsequent Acts ;

“governor of a prison” means the superintendent, governor, gaoler, or other officer for the time  
25 being in charge of the prison;

“medical officer” means, in relation to any prison, the person who pursuant to section nine of this Act has been appointed or is acting as such;

“prescribed” means prescribed by this Act or by the regulations made thereunder;  
30

“prison” includes any gaol or place of detention, irrespective of the title by which the same is known, and includes the whole area, whether or not walled or fenced, declared or deemed to be a  
35 prison;

“prisoner” means—

(a) any convicted prisoner;

(b)



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- 5 (b) any person ordered to be imprisoned in or committed to a prison, otherwise than as referred to in paragraphs (a) to (e) inclusive of the definition of "convicted prisoner", by any court, judge or justice or other competent authority.

PART II.

ESTABLISHMENT AND CONTROL OF PRISONS.

- 10 5. (1) The Governor may by proclamation published in the Gazette declare any building, premises or place to be a prison. Proclama-  
tion of  
prisons.  
cf. Act No.  
27, 1899,  
s. 4.
- (2) The Governor may by proclamation published in the Gazette declare that any prison shall, as from a  
15 date to be specified therein, cease to be a prison and thereupon the prison to which such proclamation relates shall as from the said date cease to be a prison.
- (3) Every prison shall contain a lock hospital.
- 20 6. (1) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Comptroller-General of Prisons. Comptroller-  
General of  
Prisons.  
cf. *Ibid.*  
s. 5.
- (2) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by  
25 subsequent Acts, appoint an officer to be the Deputy Comptroller of Prisons, who shall when the office of the Comptroller-General is vacant or during the absence from duty of the Comptroller-General have the same powers, authorities, duties and functions as the Comptroller-  
30 General.
7. The Comptroller-General shall, subject to this Act and subject to the direction of the Minister, have the care, direction, control and management of all prisons. Duties of  
the Com-  
ptroller-  
General,  
cf. *Ibid.*  
s. 6.



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8. Nothing in this Act shall abridge or otherwise affect the powers, authorities, duties and functions vested in or imposed upon the Sheriff by or under any statute or at common law in relation to prisoners.

Savings as to powers of Sheriff. cf. Act No. 27, 1899, ss. 6, 7.

5 9. (1) The Governor may appoint a medical officer for each prison.

Medical officers.

(2) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of medical officers to whom  
10 the right of private practice is reserved and any such medical officer shall not in his capacity as a medical officer be subject to the provisions of any such Act during his tenure of office.

(3) Where a medical officer is for any reason unable  
15 to act as such any person who is a legally qualified medical practitioner and is a partner with such medical officer in the practice of medicine or who is carrying on the medical practice of such medical officer as locum tenens may exercise and discharge the powers,  
20 authorities, duties and functions of the medical officer who is unable to act as such. Such person shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer.

(4) Where no medical officer has been appointed to  
25 a prison pursuant to subsection one of this section the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison is situated, shall be the medical officer for that prison.

(5) Where the medical officer appointed under sub-  
30 section one of this section is for any reason unable to act as such and there is no person in partnership with such medical officer or acting as locum tenens as referred to in subsection three of this section, or where the person who may exercise and discharge the powers, authorities, duties  
35 and functions of the medical officer under subsection three of this section fails or is unable to act as medical officer, the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison in respect of which the medical officer has been  
40 appointed is situated, shall exercise and discharge the powers,



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powers, authorities, duties and functions of such medical officer and shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer for that prison.

- 5 **10.** (1) For each prison there shall be a Visiting Justice.

Visiting  
Justices.  
cf. Act  
No. 27,  
1899, s. 12.

The Visiting Justice for a prison shall be such stipendiary magistrate as the Minister may from time to time designate as the Visiting Justice for such prison.

- 10 (2) A Visiting Justice may visit and examine the prison in respect of which he is the Visiting Justice at any time he may think fit, and, unless prevented by illness or other sufficient cause, shall visit and examine such prison at such intervals as may be prescribed.

- 15 (3) A Visiting Justice may and shall, when requested so to do by the Minister or the Comptroller-General, inquire into and report to the Minister or the Comptroller-General, as the case may be, upon any matter relating to the security, good order, control or manage-  
20 ment of the prison in respect of which he is the Visiting Justice.

**11.** Any Judge of the Supreme Court or Chairman of Quarter Sessions may visit and examine any prison at any time he may think fit.

Judge to  
examine.  
cf. *Ibid.*  
s. 12 (4).

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**PART III.**

25

**TREATMENT OF PRISONERS.**

- 12.** Every prisoner shall be allowed so much exercise in the open air as is prescribed or where the medical officer in any particular case orders otherwise so much  
30 exercise as is so ordered.

Exercise.

**13.** Every convicted prisoner shall be clothed at the public expense with sufficient clothing to maintain health and decency.

Clothing.

**Every**



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*Prisons.*

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Every prisoner other than a convicted prisoner who is not permitted to wear his own clothing by the governor of the prison in which such prisoner is detained shall be clothed in like manner.

- 5   **14.** Every prisoner for whom provision is not otherwise made for his maintenance shall be supplied at the public expense with sufficient food to maintain health and the scale of diet shall be as prescribed. Diet.

- 10   **15.** To the fullest extent reasonably practicable, convicted prisoners shall be separated from other prisoners, and different classes of convicted prisoners and different classes of other prisoners shall be separated as prescribed. Separation  
of  
prisoners.

- 15   **16.** (1) Every prisoner shall be supplied at the public expense with such medical attendance, treatment and medicine as in the opinion of the medical officer is necessary for the preservation of the health of the prisoner and of other prisoners and of prison officers. Medical  
attention.

- 20   (2) Where in the opinion of the medical officer the life or health of a prisoner is likely to be endangered or seriously prejudiced by the failure of such prisoner to undergo medical treatment or the life or health of any other prisoner or prison officer is likely to be endangered or seriously prejudiced by such failure, the prisoner may be compelled to submit to such medical treatment as is  
25   ordered by the medical officer.

- 30   **17.** (1) Where the medical officer certifies in writing to the Comptroller-General that a convicted prisoner is suffering from a venereal disease, such prisoner may be brought before a stipendiary magistrate within a prison or at any other place and, on proof being made in private on oath that such prisoner is so suffering, the magistrate may order that he be detained in a lock hospital until discharged in pursuance of this Act. Venereal  
disease.  
Act No. 11,  
1908, ss.  
4, 5.

- 35   (2) (a) Any prisoner against whom an order has been made under subsection one of this section may, on notice as prescribed, appeal therefrom to a Court of Quarter Sessions, and, subject to this section, the provisions of sections one hundred and twenty-two to one hundred and thirty-one, both inclusive, of the Justices  
40   Act, 1902-1947, shall apply, mutatis mutandis, to and in respect of such appeal. (b)



*Prisons.*

(b) Any such appeal shall be heard in private unless the Chairman of Quarter Sessions otherwise determines.

(c) No notice of appeal against any such order shall suspend or stay the operation of the order.

(d) The Court of Quarter Sessions hearing the appeal may, by its order, confirm, set aside or vary the order appealed from.

(3) The period of detention under any such order of detention as aforesaid shall run concurrently with but may exceed any term of imprisonment or detention to which the prisoner is subject.

(4) The medical officer shall, as soon as in his opinion any person detained in a lock hospital in accordance with the provisions of this section is free from venereal disease, so report to the Comptroller-General, and thereupon such person shall be discharged from such lock hospital and be remitted to custody to serve the remainder of the term of imprisonment or detention to which he had been sentenced or ordered if such term has not expired, but if such term has expired, he shall be discharged from custody.

**18.** (1) Every prisoner upon his reception into prison shall surrender to the governor of the prison all property in his possession. Such property shall be retained by the governor of the prison and returned to the prisoner immediately prior to his release from prison.

Private property.

(2) A record shall be kept of all such property as aforesaid and the prisoner may deal with such property only in such manner as is prescribed.

**19.** Every prisoner shall be liable to be photographed, to have the impression of his fingers and palms taken, and to have such details of his personal description as may be prescribed recorded.

Record of personal description of prisoners.

**20.** (1) Subject to the direction of the Comptroller-General, the governor of a prison may order any convicted prisoner in any such prison to be set to some work considered suitable to his physical capacity.

Work to be performed by prisoners.

cf. Act No. 27, 1899, ss. 16, 16A, 36.



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*Prisons.*

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(2) Any convicted prisoner may, with the approval of the Comptroller-General, be set to work beyond the precincts of the prison in which he is imprisoned, and while so beyond the precincts shall be  
5 deemed to be within the prison.

(3) The Comptroller-General may, out of moneys provided by Parliament for the purpose and subject to the regulations, make payments to prisoners for any reasons (including for work done).

10 (4) The regulations shall provide that where a convicted prisoner has been committed to prison pursuant to the provisions of Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent  
15 Acts, such portion of his prison earnings as may be prescribed shall be applied in or towards satisfaction of the liability in respect of which he was committed.

21. (1) The Governor may release from prison any person committed to prison pursuant to the provisions of  
20 Part II of the Deserted Wives and Children Act, 1901-1939, or of Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts, and such release may be subject to such conditions as to the Governor appear meet.

Release of  
maintenance  
confinées.  
cf. Act No.  
27, 1899, s.  
16A (4).

25 (2) Any justice may in a summary way, on proof made before him that any such condition has been broken, rescind such release, or the release may be revoked by the Governor.

(3) Where a release is rescinded or revoked as  
30 aforesaid, the person released may be taken by any member of the Police Force and returned to prison, and there detained for the residue of the term for which he was originally committed, and subject to the same conditions as if he had not been released from prison.

35 22. (1) Any prisoner may, where the Comptroller-General or Visiting Justice is of opinion that it is necessary so to do in order to prevent the contamination arising from the association of prisoners, be detained away from association with other prisoners during the  
40 whole or any part of his imprisonment.

Separation  
of  
prisoners.  
*Ibid.* s. 17.



*Prisons.*

(2) The detention referred to in subsection one of this section shall not be deemed solitary confinement within the meaning of any statute forbidding the continuance of solitary confinement for more than a limited time.

(3) No cell which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health shall be used for the purpose of such detention as aforesaid and every prisoner so confined shall have the means of taking exercise at such times and in such manner as in the opinion of the medical officer is necessary.

## PART IV.

## PRISON DISCIPLINE.

15 **23.** For the purposes of this Part the following shall be offences by prisoners against prison discipline—

- (a) mutiny;
- (b) open incitement to mutiny;
- (c) assaulting any prison officer;
- 20 (d) escaping or attempting to escape;
- (e) wilfully or maliciously breaking, damaging or destroying any prison property;
- (f) preferring a complaint against a prison officer knowing the same to be false;
- 25 (g) assaulting a prisoner;
- (h) making or attempting to make any wound or sore upon himself;
- (i) pretending illness;
- (j) being idle or negligent in work;
- 30 (k) mismanaging work;
- (l) committing a nuisance;
- (m) preferring a frivolous complaint;
- (n) cursing or swearing profanely;
- (o) behaving indecently;
- 35 (p) behaving irreverently at or during Divine service or prayer

Offences  
against  
prison  
discipline.  
cf. Qld. Act  
54 Vic. No.  
17, ss. 28,  
29, 30.  
W.A. Act,  
No. 14, 1903,  
ss. 37, 38.

(q)



*Prisons.*

(q) disobeying any regulation or any of the rules of the prison, or any lawful order of the Comptroller-General or of a prison officer.

For the purposes of paragraph (q) of this section  
5 "lawful order of the Comptroller-General or of a prison officer" includes any order given by the Comptroller-General or a prison officer for the purpose of securing the enforcement or observance of the provisions of this Act, which orders the Comptroller-General and prison  
10 officers are hereby authorised to give.

**24.** (1) A complaint may be made to the Visiting Justice in any case where a prisoner has committed or is suspected to have committed an offence against prison discipline. Offences  
against  
prison  
discipline—  
how dealt  
with.

15 (2) Any such complaint shall, subject to section twenty-five of this Act, be heard and determined:—

(a) by the Visiting Justice or the Visiting Justice and some other justice nominated in that behalf by the Visiting Justice;

20 (b) summarily in the presence of the prisoner charged and in the prison where the offence is alleged to have been committed or either in the prison to which or the prison from which the prisoner was being transported or removed at  
25 the time when the offence is alleged to have been committed:

Provided that where a prisoner has been received into a prison by removal from another prison, a complaint in respect of an offence alleged to have been committed  
30 in the prison from which such prisoner has been removed may be heard and determined as if such offence had been committed within the prison into which he has been so received.

(3) A prisoner against whom a complaint of an  
35 offence against prison discipline is found proved pursuant to this section shall be liable—

(a) if the complaint is heard and determined by the Visiting Justice alone—to confinement to cell,  
on



*Prisons.*

on restricted diet as prescribed, for a term not exceeding fourteen days;

- 5 (b) if the complaint is heard and determined by the Visiting Justice and some other justice nominated as aforesaid—to confinement to cell, on restricted diet as prescribed, for a term not exceeding twenty-eight days;

and in either such case to such forfeiture of payments under subsection three of section twenty of this Act  
10 accrued due to him as to the Visiting Justice, or to the Visiting Justice and other justice, as the case may be, may seem fit.

25 **25.** In any case where upon the hearing of a complaint against prison discipline the Visiting Justice is, or the Visiting Justice and another justice are, of the opinion that such complaint:—

Offences  
may be  
dealt  
with  
summarily  
or upon  
indictment.

- 20 (a) could be prosecuted summarily before a stipendiary magistrate or justices sitting in petty sessions and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall order the prisoner charged to be conveyed to a court of petty sessions to be dealt with according to law; or
- 25 (b) could be prosecuted by indictment and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall deal with the case by committal as in an ordinary case of an indictable offence charged before a stipendiary magistrate or justices sitting in
- 30 petty sessions.

Any such order as is referred to in paragraph (a) of this section shall have the like effect and be dealt with as an order made under subsection one of section thirty-  
35 five of the Justices Act, 1902-1947.

Any such committal as is referred to in paragraph (b) of this section shall have the like effect and be dealt with as a committal for trial pursuant to the Justices Act, 1902-1947.

**26.**



*Prisons.*

- 26.** Where the Visiting Justice, or the Visiting Justice and some other justice, imposes or impose punishment for any offence against prison discipline, he or they, as the case may be, shall enter and sign in a book kept at the prison for the purpose, a statement of the nature and date of the offence punished, the name of the offender, the date of sentence and the punishment awarded.

Punishment  
of offences  
to be  
recorded.

cf. Qld. Act,  
54 Vic. No.  
17, s. 33.

## PART V.

## TRANSFER OF PRISONERS.

- 27.** Any prisoner may be removed from one prison to another prison by order of the Comptroller-General—
- (a) where the prison in which such prisoner is detained is to be repaired, altered, enlarged or rebuilt;
  - (b) in case of an outbreak or threatened outbreak of contagious or infectious disease in a prison;
  - (c) when any prison has ceased to be a prison pursuant to section five of this Act;
  - (d) when any prison is overcrowded;
  - (e) for the purpose of carrying the provisions of section fifteen of this Act into effect; or
  - (f) for any other cause specified in such order.

Orders for  
removal of  
prisoners  
from one  
prison to  
another.

cf. Act No.  
27, 1899,  
s. 25.

- 28.** (1) Any prisoner may, by order of the Comptroller-General, or in cases of exigency by order of the governor of the prison in which he is detained, made on the recommendation of the medical officer, be removed from a prison to a hospital or other place specified in the order for medical attendance and treatment.

Removal of  
prisoners  
to hospital.

cf. Act No.  
27, 1899,  
s. 27.

Qld. Act,  
54 Vic. No.  
17, s. 52.

- (2) Any prisoner so removed shall, while in hospital or at such other place, be deemed to be in the custody of the governor of the prison from which he was removed, and the governor of such prison may, if he thinks fit, direct any prison officer to take charge of the prisoner whilst so in hospital or at such other place.

(3)



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*Prisons.*

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(3) On the certificate of the medical superintendent or other person in charge of a hospital (which certificate such medical superintendent or person is hereby authorised and required to give when the circumstances justify it) that a prisoner removed to such hospital pursuant to subsection one of this section may be discharged therefrom, such prisoner shall forthwith be returned to prison.

29. (1) Any prisoner may be taken temporarily, by order of the Minister, from any prison to any place in the State for any purpose in aid of the administration of justice or in aid of the Public Service or for any other purpose which in the opinion of the Minister justifies such action.

Removal  
from  
prison on  
order of  
Minister.  
cf. Act No.  
27, 1899,  
s. 30.

15 (2) A prisoner taken from prison under an order issued pursuant to subsection one of this section shall for the purposes of this Act during the period of his absence from prison be deemed to be in the custody of the governor of the prison from which he was so taken.

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**PART VI.****PRISON OFFICERS.**

30. All prison officers shall be appointed or employed under and subject to the provisions of the Public Service Act, 1902, or of any Act amending the same.

Appointment  
of prison  
officers.  
cf. Act No.  
27, 1899,  
s. 10.

25 31. Subject to section thirty of this Act the duties of prison officers of the various classes shall be as determined from time to time by the Comptroller-General.

Duties of  
prison  
officers.

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**PART**



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*Prisons.*


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## PART VII.

## OFFENCES.

- 32.** Any person who, by force, rescues or attempts to rescue from lawful custody any prisoner shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding fourteen years.
- 33.** Any person who—
- (a) aids a prisoner in escaping or attempting to escape from lawful custody; or
  - (b) conveys anything or causes anything to be conveyed into a prison or to a prisoner with intent to facilitate the escape of any prisoner,
- shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years.
- 34.** Any person who, being a prisoner in lawful custody, escapes or attempts to escape from such custody shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years, to be served after the expiration of any term of imprisonment, penal servitude or detention to which the prisoner was subject at the time of his escape or attempt to escape.
- 35.** Any person, who being an officer of a prison or member of the Police Force, and having, for the time being, the actual custody of a prisoner, wilfully or negligently permits him to escape from custody, shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding two years.
- 36.** Any person who knowingly harbours, maintains or employs an escaped prisoner shall be guilty of an offence and shall be liable—
- (a) if convicted on indictment—to penal servitude for a term not exceeding three years;
  - (b) if convicted summarily—to a penalty not exceeding five hundred pounds.

Rescuing person from lawful custody.

cf. W.A. Act No. 14, 1903, s. 57.

Aiding escape.

*Ibid.* s. 58.

Escaping.  
cf. *Ibid.* s. 59.

Permitting escape.  
W.A. Act No. 14, 1903, s. 60.

Harbouring escapee.  
*Ibid.* s. 61.

**37.**



*Prisons.*

37. Any person who without lawful authority (~~proof~~ <sup>Trafficking.</sup>  
~~whereof shall lie on him~~) brings or attempts by any <sup>W.A.</sup>  
means whatever to introduce into any prison any <sup>Act No. 14,</sup>  
spirituous or fermented liquor or any drug shall be liable <sup>1903, s. 62.</sup>  
5 to imprisonment for a term not exceeding six months  
or to a penalty not exceeding one hundred pounds or to  
both such imprisonment and penalty.

38. (1) Any person who without lawful authority— <sup>Miscel-</sup>  
(~~proof whereof shall lie on him~~)— <sup>laneous</sup>  
10 (a) enters or attempts to enter any prison; <sup>offences.</sup>  
(b) communicates, or attempts to communicate with <sup>*Ibid.* s. 63.</sup>  
any prisoner;  
(c) conveys or delivers, or causes to be conveyed or  
15 delivered, or in any manner whatsoever attempts  
to convey or deliver, or to cause to be conveyed  
or delivered to any prisoner, or introduces or  
attempts to introduce into any prison, any  
money, letter or other document, clothing, or  
other article or thing;  
20 (d) conveys or receives for conveyance or causes to  
be conveyed or received for conveyance any  
letter or other document, clothing or any article  
or thing out of any prison;  
(e) loiters about or near any prison; or  
25 (f) secretes or leaves at any place any money, letter,  
document, clothing, article or thing, for the  
purpose of being found or received by any  
prisoner,

shall be liable to imprisonment for a term not exceeding  
30 six months or to a penalty not exceeding one hundred  
pounds or to both such imprisonment and penalty.

(2) In respect of any such offence as is  
referred to in subsection one of this section, every prison  
officer shall have the same powers of arrest as a member  
35 of the Police Force.



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*Prisons.*


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## PART VIII.

## GENERAL.

39. Every prisoner shall whilst detained in a prison be deemed to be in the custody of the governor of the prison to which he has been committed or removed and the liability of the Sheriff or other person delivering such prisoner shall cease on delivery of such prisoner to the governor of the prison.
- Custody of prisoners.  
cf. Act No. 27, 1899, s. 6.  
W.A. Act No. 14, 1903, s. 45.
40. Every governor of a prison shall have the charge and superintendence of the prison for which he is appointed and he shall be liable to answer for the escape of any prisoner from his custody whenever such escape shall happen by or through his neglect or default, but not otherwise.
- Responsibility of governors of prisons.  
*Ibid.* s. 46.
41. (1) Any prisoner may be discharged from prison at any time during the twenty-four hours immediately preceding the time at which his imprisonment would otherwise have terminated.
- Expiration of sentence.  
*Ibid.* s. 48.
- (2) Any convicted prisoner whose term of imprisonment would terminate, either according to his sentence or to any law relating to the remission of sentences, on a Sunday, may be discharged on the Saturday immediately preceding such Sunday.
42. Any writ, warrant or other instrument addressed to the governor of a prison describing the prison by its situation or other definite description shall be valid by whatever title such prison is usually known or whatever be the formal description of the prison.
- Address of warrant.  
W.A. Act No. 14, 1903, s. 50.
43. Upon the death of a prisoner the governor of the prison in whose custody such prisoner was at the time of his death shall forthwith give notice to the coroner of the district where the prison is situated and an inquest shall be held by the said coroner on the body of such prisoner.
- Notice to coroner of death.  
cf. *Ibid.* s. 51.



*Prisons.*

44. (1) Where any court of record or any judge or person constituting any such court or any coroner is satisfied that it is desirable that a prisoner should be in attendance before it or him for the purposes of any legal proceedings or inquest then pending, such court, judge, person or coroner, as the case may be, may make an order directing the governor of the prison in whose custody the prisoner is to produce such prisoner or to have such prisoner produced in court before it or him, as the case may be, and such order shall notwithstanding anything in this Act contained be a sufficient authority to the governor of the prison for producing or having produced such prisoner in accordance with the tenor thereof.

Attendance  
of prisoner  
before  
court, etc.  
W.A.  
Act No. 14,  
1903, s. 52.

(2) Every prisoner shall, when produced under an order made under subsection one of this section in the actual custody of the governor of the prison, a prison officer or a member of the Police Force, be deemed to be in lawful custody and any such governor, prison officer or member of the Police Force shall in due course return the prisoner into the prison from which he was produced.

45. (1) Whenever a court of summary jurisdiction—  
(a) awards imprisonment, or  
(b) commits a person to prison in default of payment of any fine, penalty, costs or sum of money imposed on or ordered to be paid by such person by any court of summary jurisdiction, or in default of entering into a recognizance to be of good behaviour upon the order of any court of summary jurisdiction;  
and in any such case the term of imprisonment is for a period not exceeding one month, it may order such imprisonment to be served in the lock-up or police station specified in the order.

Sentences  
to be  
served in  
lock-up.  
Act No. 27,  
1899, s. 37.

(2) Whenever a court of summary jurisdiction orders a prisoner to be imprisoned as provided in subsection one of this section any justice may by direction under his hand order that the prisoner work within the precincts

Employ-  
ment  
outside  
lock-up.



*Prisons.*

precincts of such lock-up or police station in accordance with instructions given by any member of the Police Force on duty at such lock-up or police station.

(3) Any prisoner who refuses to obey any order given under subsection two of this section or who is guilty of idleness or negligence in his work under such order, shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a period not exceeding one month.

10 **46.** No action or claim for damages shall lie against any person for or on account of anything done or commanded to be done by him and purporting to be done for the purpose of carrying out the provisions of this Act, unless it is proved that such act was done or  
15 commanded to be done maliciously and without reasonable and probable cause.

Actions and claims for damages.  
W.A. Act No. 14, 1903, s. 75.

**47.** (1) No action or claim as aforesaid shall be commenced until one month next after notice in writing has been delivered to the person against whom it is  
20 intended to be brought, or left at his usual place of abode.

Commencement of action.  
*Ibid.* s. 76.

(2) Such notice shall clearly state the proposed cause of action, the name and place of abode of the proposed plaintiff, and the name and place of business of his solicitor (if any) and shall be signed by the  
25 proposed plaintiff or his solicitor.

(3) Every such action shall be commenced within one year after its cause shall have arisen.

**48.** All penalties imposed by or under this Act shall be paid into the Consolidated Revenue Fund.

Penalties.

30 **49.** The Comptroller-General may, with the approval of the Minister, make rules not inconsistent with this Act for the management, control, good government, supervision and inspection of prisons.

Rules.

**50.** (1) The Governor may make regulations prescribing all matters which by this Act are required or  
35 permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect

Regulations.



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*Prisons.*

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effect to this Act, and in particular and without prejudice to the generality of the foregoing, may make regulations for and with respect to—

- 5 (a) the visits and examinations of prisons by Visiting Justices;
- (b) the exercise and diet of prisoners;
- (c) the classification and separation of prisoners;
- (d) the manner in which prisoners may deal with property held in the custody of the governor of a prison;
- 10 (e) the recording of the personal description of prisoners;
- (f) the payments to prisoners for work performed or for other reasons;
- 15 (g) visits to or inspection of prisons by persons other than officers engaged in the administration of this Act and admission generally to prisons;
- (h) the religious ministrations to prisoners and Divine service within prisons;
- 20 (i) visits to and correspondence by and with prisoners;
- (j) the education and vocational training of prisoners;
- 25 (k) all matters necessary or expedient for the good order, discipline and health of prisoners.

(2) The regulations may impose a penalty not exceeding twenty pounds for any breach thereof.

(3) All regulations made under this Act shall—

- (a) be published in the Gazette;
- 30 (b) take effect from the date of publication or from a later date to be specified therein;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not,
- 35 then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting



*Prisons.*

sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

5 **51.** (1) The Habitual Criminals Act, 1905, as amended by subsequent Acts, is amended by omitting section twelve and by inserting in lieu thereof the following section:—

Amendment  
of Act  
No. 15,  
1905.  
Subst.  
sec. 12.

10 12. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

15 (2) The regulations shall—  
(a) be published in the Gazette;  
(b) take effect from the date of publication or from a later date to be specified in the regulations; and  
20 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

25 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall there-  
30 upon cease to have effect.

(3) Where any regulation under this Act is in its application to an habitual criminal inconsistent with any regulation under the Prisons Act, 1952, the regulation under this Act shall prevail.

35 (2) The Habitual Criminals Act, 1905, as amended by subsequent Acts and by this Act, may be cited as the Habitual Criminals Act, 1905-1952.



*Prisons.*

**52.** (1) (a) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by omitting from subsection two of section eleven the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1901.  
Sec. 11.  
(Disobedi-  
ence of  
order.)

(b) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1952.

(2) (a) The Child Welfare Act, 1939, as amended by subsequent Acts, is amended by omitting from subsection one of section one hundred and fifteen the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1939.  
Sec. 115.  
(Effect of  
imprison-  
ment on  
non-  
payment.)

(b) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1952.

20

## SCHEDULES.

## FIRST SCHEDULE.

Sec. 3 (1).

Number of Act.	Title or short title.	Extent of repeal.
No. 27, 1899 ...	Prisons Act 1899 ...	The whole Act.
No. 11, 1908 ...	Prisoners Detention Act, 1908 ...	The whole Act.
25 No. 12, 1908 ...	Police Offences (Amendment) Act, 1908.	Section 16.
No. 9, 1913 ...	Deserted Wives and Children Amending Act, 1913.	Section 2.
No. 20, 1918 ...	Prisons (Amendment) Act, 1918	The whole Act.
30 No. 34, 1918 ...	Prisoners Detention (Amendment) Act, 1918.	The whole Act.
No. 33, 1931 ...	Deserted Wives and Children (Amendment) Act, 1931.	Section 10 (2).
No. 19, 1944 ...	Public Service (Amendment) Act, 1944.	Section 2.
35		

## SECOND



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*Prisons.*

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SECOND SCHEDULE.

Sec. 3 (4).

- The State Penitentiary at Malabar
- The State Reformatory for Women at Malabar.
- Parramatta Gaol.
- 5 Bathurst Gaol.
- Maitland Gaol.
- Goulburn Training Centre.
- Dubbo Gaol.
- Grafton Gaol.
- 10 Broken Hill Gaol.
- Narrabri Gaol.
- Emu Plains Training Centre.
- Berrima Training Centre.
- Brookfield Afforestation Camp, Mannus.
- 15 Glen Innes Afforestation Camp.
- Oberon Afforestation Camp.



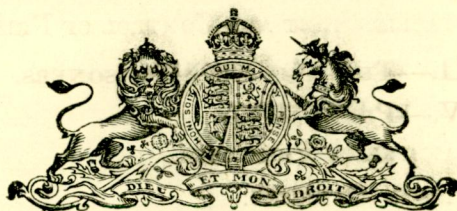
*This PUBLIC BILL originated in the LEGISLATIVE ASSEMBLY, and, having this day passed, is now ready for presentation to the LEGISLATIVE COUNCIL for its concurrence.*

H. ROBBINS,  
*Clerk of the Legislative Assembly.*  
*Legislative Assembly Chamber,*  
*Sydney, 19 March, 1952.*

*The LEGISLATIVE COUNCIL has this day agreed to this Bill with Amendments.*

*Clerk of the Parliaments.*  
*Legislative Council Chamber,*  
*Sydney, March, 1952.*

## **New South Wales.**



ANNO PRIMO

**ELIZABETHÆ II REGINÆ**

\*\*\*\*\*

**Act No. , 1952.**

An Act to make provision for the establishment regulation and control of prisons and for the custody of prisoners; to repeal the Prisons Act 1899, the Prisoners Detention Act, 1908, and certain other Acts; to amend the Habitual Criminals Act, 1905, and certain other Acts; and for purposes connected therewith.

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NOTE.—The words to be omitted are ruled through.



*Prisons.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

**PART I.**

**PRELIMINARY.**

**1.** (1) This Act may be cited as the "Prisons Act, 1952." Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

**2.** This Act is divided into Parts as follows:—

Division into Parts.

PART I.—PRELIMINARY.

15 PART II.—ESTABLISHMENT AND CONTROL OF PRISONS.

PART III.—TREATMENT OF PRISONERS.

PART IV.—PRISON DISCIPLINE.

PART V.—TRANSFER OF PRISONERS.

PART VI.—PRISON OFFICERS.

20 PART VII.—OFFENCES.

PART VIII.—GENERAL.

SCHEDULES.

**3.** (1) The enactments mentioned in the First Schedule to this Act are to the extent therein expressed hereby Repeals and savings.  
25 repealed.

(2) (a) All persons appointed or continued in office under or by virtue of the provisions of any enactment hereby repealed and holding office immediately before the commencement of this Act shall remain in office as if this Act had been in force at the date of their appointment and they had been appointed or employed hereunder, and this Act shall apply to them accordingly.

cf. Act No. 27, 1899, s. 2.  
Act No. 19, 1944, s. 2 (3).

(b)



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(b) The period before the commencement of this Act during which any such person held office shall be counted as service for the purposes of the Public Service Act, 1902, and of section thirteen of the Public Service  
5 (Amendment) Act, 1919, or of any Act amending the said Acts. But this paragraph shall not be construed to entitle any such person to claim, in respect of the same period of service, benefits under the Public Service Act, 1902, or the Public Service (Amendment) Act, 1919, or of  
10 any Act amending the said Acts, and also benefits under any other Act.

(c) Nothing in this section shall affect any rights which at the commencement of this Act have accrued or are accruing under the Superannuation Acts,  
15 1916-1951, to any such person.

(3) All regulations and rules, in so far as they are not inconsistent with nor repugnant to the provisions of this Act, made or deemed to have been made under the authority of any enactment hereby repealed and being in  
20 force immediately before the commencement of this Act shall be deemed to have been made under the authority of this Act, and references in any such regulations and rules to the provisions of any enactment hereby repealed shall be construed as references to the corresponding  
25 provisions of this Act.

(4) All gaols, prisons and places of detention enumerated in the Second Schedule to this Act and used and occupied as such immediately before the commencement of this Act shall be deemed to be prisons under this  
30 Act.

4. In this Act, unless the context or subject matter Definitions. otherwise indicates or requires—

“Comptroller-General” means the Comptroller-General of Prisons;

35 “convicted prisoner” means—

(a) a person under sentence of penal servitude or imprisonment imposed by any court, judge or justice or ordered  
to



*Prisons.*

to be kept in strict custody pursuant to subsection three of section sixty-five of the Lunacy Act, 1898-1949;

(b) a person under sentence of death;

5 (c) a person undergoing imprisonment in default of payment of any fine, penalty, costs or sum of money imposed on him or ordered to be paid by him by any court, judge or justice, or in default of  
10 entering into a recognizance to be of good behaviour upon the order of any court, judge or justice;

(d) a person committed to prison under Part II of the Deserted Wives and  
15 Children Act, 1901-1939, or Part XII, Part XIV or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts;

(e) a person detained in a place of confinement pursuant to the Habitual  
20 Criminals Act, 1905, as amended by subsequent Acts ;

“governor of a prison” means the superintendent, governor, gaoler, or other officer for the time  
25 being in charge of the prison;

“medical officer” means, in relation to any prison, the person who pursuant to section nine of this Act has been appointed or is acting as such;

“prescribed” means prescribed by this Act or by the regulations made thereunder;

30 “prison” includes any gaol or place of detention, irrespective of the title by which the same is known, and includes the whole area, whether or not walled or fenced, declared or deemed to be a  
35 prison;

“prisoner” means—

(a) any convicted prisoner;

(b)



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- 5 (b) any person ordered to be imprisoned in or committed to a prison, otherwise than as referred to in paragraphs (a) to (e) inclusive of the definition of "convicted prisoner", by any court, judge or justice or other competent authority.

PART II.

ESTABLISHMENT AND CONTROL OF PRISONS.

- 10 5. (1) The Governor may by proclamation published in the Gazette declare any building, premises or place to be a prison. Proclamation of prisons.  
cf. Act No. 27, 1899,  
s. 4.

- 15 (2) The Governor may by proclamation published in the Gazette declare that any prison shall, as from a date to be specified therein, cease to be a prison and thereupon the prison to which such proclamation relates shall as from the said date cease to be a prison.

- (3) Every prison shall contain a lock hospital.

- 20 6. (1) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Comptroller-General of Prisons. Comptroller-General of Prisons.  
cf. *Ibid.* s. 5.

- 25 (2) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Deputy Comptroller of Prisons, who shall when the office of the Comptroller-General is vacant or during the absence from duty of the Comptroller-General have the same powers, authorities, duties and functions as the Comptroller-  
30 General.

7. The Comptroller-General shall, subject to this Act and subject to the direction of the Minister, have the care, direction, control and management of all prisons. Duties of the Comptroller-General.  
cf. *Ibid.* s. 6.



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8. Nothing in this Act shall abridge or otherwise affect the powers, authorities, duties and functions vested in or imposed upon the Sheriff by or under any statute or at common law in relation to prisoners.

Savings as to powers of Sheriff. cf. Act No. 27, 1899, ss. 6, 7.

5 9. (1) The Governor may appoint a medical officer for each prison.

Medical officers.

(2) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of medical officers to whom  
10 the right of private practice is reserved and any such medical officer shall not in his capacity as a medical officer be subject to the provisions of any such Act during his tenure of office.

(3) Where a medical officer is for any reason unable  
15 to act as such any person who is a legally qualified medical practitioner and is a partner with such medical officer in the practice of medicine or who is carrying on the medical practice of such medical officer as locum tenens may exercise and discharge the powers,  
20 authorities, duties and functions of the medical officer who is unable to act as such. Such person shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer.

(4) Where no medical officer has been appointed to  
25 a prison pursuant to subsection one of this section the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison is situated, shall be the medical officer for that prison.

(5) Where the medical officer appointed under sub-  
30 section one of this section is for any reason unable to act as such and there is no person in partnership with such medical officer or acting as locum tenens as referred to in subsection three of this section, or where the person who may exercise and discharge the powers, authorities, duties  
35 and functions of the medical officer under subsection three of this section fails or is unable to act as medical officer, the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison in respect of which the medical officer has been  
40 appointed is situated, shall exercise and discharge the powers,



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powers, authorities, duties and functions of such medical officer and shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer for that prison.

5 **10.** (1) For each prison there shall be a Visiting Justice.

Visiting  
Justices.  
cf. Act  
No. 27,  
1899, s. 12.

The Visiting Justice for a prison shall be such stipendiary magistrate as the Minister may from time to time designate as the Visiting Justice for such prison.

10 (2) A Visiting Justice may visit and examine the prison in respect of which he is the Visiting Justice at any time he may think fit, and, unless prevented by illness or other sufficient cause, shall visit and examine such prison at such intervals as may be prescribed.

15 (3) A Visiting Justice may and shall, when requested so to do by the Minister or the Comptroller-General, inquire into and report to the Minister or the Comptroller-General, as the case may be, upon any matter relating to the security, good order, control or manage-  
20 ment of the prison in respect of which he is the Visiting Justice.

**11.** Any Judge of the Supreme Court or Chairman of Quarter Sessions may visit and examine any prison at any time he may think fit.

Judge to  
examine.  
cf. *Ibid.*  
s. 12 (4).

PART III.

25

TREATMENT OF PRISONERS.

**12.** Every prisoner shall be allowed so much exercise in the open air as is prescribed or where the medical officer in any particular case orders otherwise so much  
30 exercise as is so ordered.

Exercise.

**13.** Every convicted prisoner shall be clothed at the public expense with sufficient clothing to maintain health and decency.

Clothing.

Every



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*Prisons.*

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Every prisoner other than a convicted prisoner who is not permitted to wear his own clothing by the governor of the prison in which such prisoner is detained shall be clothed in like manner.

- 5 **14.** Every prisoner for whom provision is not otherwise made for his maintenance shall be supplied at the public expense with sufficient food to maintain health and the scale of diet shall be as prescribed. Diet.

- 15.** To the fullest extent reasonably practicable, convicted prisoners shall be separated from other prisoners, and different classes of convicted prisoners and different classes of other prisoners shall be separated as prescribed. Separation  
of  
prisoners.

- 16.** (1) Every prisoner shall be supplied at the public expense with such medical attendance, treatment and medicine as in the opinion of the medical officer is necessary for the preservation of the health of the prisoner and of other prisoners and of prison officers. Medical  
attention.

- (2) Where in the opinion of the medical officer the life or health of a prisoner is likely to be endangered or seriously prejudiced by the failure of such prisoner to undergo medical treatment or the life or health of any other prisoner or prison officer is likely to be endangered or seriously prejudiced by such failure, the prisoner may be compelled to submit to such medical treatment as is ordered by the medical officer.

- 17.** (1) Where the medical officer certifies in writing to the Comptroller-General that a convicted prisoner is suffering from a venereal disease, such prisoner may be brought before a stipendiary magistrate within a prison or at any other place and, on proof being made in private on oath that such prisoner is so suffering, the magistrate may order that he be detained in a lock hospital until discharged in pursuance of this Act. Venereal  
disease.  
Act No. 11,  
1908, ss.  
4, 5.

- (2) (a) Any prisoner against whom an order has been made under subsection one of this section may, on notice as prescribed, appeal therefrom to a Court of Quarter Sessions, and, subject to this section, the provisions of sections one hundred and twenty-two to one hundred and thirty-one, both inclusive, of the Justices Act, 1902-1947, shall apply, mutatis mutandis, to and in respect of such appeal. (b)



*Prisons.*

(b) Any such appeal shall be heard in private unless the Chairman of Quarter Sessions otherwise determines.

(c) No notice of appeal against any such order shall suspend or stay the operation of the order.

(d) The Court of Quarter Sessions hearing the appeal may, by its order, confirm, set aside or vary the order appealed from.

(3) The period of detention under any such order of detention as aforesaid shall run concurrently with but may exceed any term of imprisonment or detention to which the prisoner is subject.

(4) The medical officer shall, as soon as in his opinion any person detained in a lock hospital in accordance with the provisions of this section is free from venereal disease, so report to the Comptroller-General, and thereupon such person shall be discharged from such lock hospital and be remitted to custody to serve the remainder of the term of imprisonment or detention to which he had been sentenced or ordered if such term has not expired, but if such term has expired, he shall be discharged from custody.

**18.** (1) Every prisoner upon his reception into prison shall surrender to the governor of the prison all property in his possession. Such property shall be retained by the governor of the prison and returned to the prisoner immediately prior to his release from prison.

Private property.

(2) A record shall be kept of all such property as aforesaid and the prisoner may deal with such property only in such manner as is prescribed.

**19.** Every prisoner shall be liable to be photographed, to have the impression of his fingers and palms taken, and to have such details of his personal description as may be prescribed recorded.

Record of personal description of prisoners.

**20.** (1) Subject to the direction of the Comptroller-General, the governor of a prison may order any convicted prisoner in any such prison to be set to some work considered suitable to his physical capacity.

Work to be performed by prisoners.

cf. Act No. 27, 1899, ss. 16, 16A, 36



*Prisons.*

(2) Any convicted prisoner may, with the approval of the Comptroller-General, be set to work beyond the precincts of the prison in which he is imprisoned, and while so beyond the precincts shall be  
5 deemed to be within the prison.

(3) The Comptroller-General may, out of moneys provided by Parliament for the purpose and subject to the regulations, make payments to prisoners for any reasons (including for work done).

10 (4) The regulations shall provide that where a convicted prisoner has been committed to prison pursuant to the provisions of Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII or Part XVI of the  
15 Child Welfare Act, 1939, as amended by subsequent Acts, such portion of his prison earnings as may be prescribed shall be applied in or towards satisfaction of the liability in respect of which he was committed.

21. (1) The Governor may release from prison any person committed to prison pursuant to the provisions of  
20 Part II of the Deserted Wives and Children Act, 1901-1939, or of Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts, and such release may be subject to such conditions as to the Governor appear meet.

Release of maintenance  
confinees.  
cf. Act No.  
27, 1899, s.  
16A (4).

25 (2) Any justice may in a summary way, on proof made before him that any such condition has been broken, rescind such release, or the release may be revoked by the Governor.

(3) Where a release is rescinded or revoked as  
30 aforesaid, the person released may be taken by any member of the Police Force and returned to prison, and there detained for the residue of the term for which he was originally committed, and subject to the same conditions as if he had not been released from prison.

35 **22.** (1) Any prisoner may, where the Comptroller-General or Visiting Justice is of opinion that it is necessary so to do in order to prevent the contamination arising from the association of prisoners, be detained away from association with other prisoners during the  
40 whole or any part of his imprisonment.

Separation  
of  
prisoners.  
*Ibid.* s. 17.

(2)



*Prisons.*

(2) The detention referred to in subsection one of this section shall not be deemed solitary confinement within the meaning of any statute forbidding the continuance of solitary confinement for more than a limited time.

(3) No cell which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health shall be used for the purpose of such detention as aforesaid and every prisoner so confined shall have the means of taking exercise at such times and in such manner as in the opinion of the medical officer is necessary.

## PART IV.

## PRISON DISCIPLINE.

23. For the purposes of this Part the following shall be offences by prisoners against prison discipline—

- (a) mutiny;
- (b) open incitement to mutiny;
- (c) assaulting any prison officer;
- 20 (d) escaping or attempting to escape;
- (e) wilfully or maliciously breaking, damaging or destroying any prison property;
- (f) preferring a complaint against a prison officer knowing the same to be false;
- 25 (g) assaulting a prisoner;
- (h) making or attempting to make any wound or sore upon himself;
- (i) pretending illness;
- (j) being idle or negligent in work;
- 30 (k) mismanaging work;
- (l) committing a nuisance;
- (m) preferring a frivolous complaint;
- (n) cursing or swearing profanely;
- (o) behaving indecently;
- 35 (p) behaving irreverently at or during Divine service or prayer

Offences  
against  
prison  
discipline.

cf. Qld. Act  
54 Vic. No.  
17, ss. 28,  
29, 30.

W.A. Act,  
No. 14, 1903,  
ss. 37, 38.

(q)



*Prisons.*

(q) disobeying any regulation or any of the rules of the prison, or any lawful order of the Comptroller-General or of a prison officer.

For the purposes of paragraph (q) of this section  
5 "lawful order of the Comptroller-General or of a prison officer" includes any order given by the Comptroller-General or a prison officer for the purpose of securing the enforcement or observance of the provisions of this Act, which orders the Comptroller-General and prison  
15 officers are hereby authorised to give.

**24.** (1) A complaint may be made to the Visiting Justice in any case where a prisoner has committed or is suspected to have committed an offence against prison discipline.

Offences  
against  
prison  
discipline—  
how dealt  
with.

20 (2) Any such complaint shall, subject to section twenty-five of this Act, be heard and determined:—

- (a) by the Visiting Justice or the Visiting Justice and some other justice nominated in that behalf by the Visiting Justice;
- 25 (b) summarily in the presence of the prisoner charged and in the prison where the offence is alleged to have been committed or either in the prison to which or the prison from which the prisoner was being transported or removed at  
30 the time when the offence is alleged to have been committed:

Provided that where a prisoner has been received into a prison by removal from another prison, a complaint in respect of an offence alleged to have been committed  
35 in the prison from which such prisoner has been removed may be heard and determined as if such offence had been committed within the prison into which he has been so received.

(3) A prisoner against whom a complaint of an  
40 offence against prison discipline is found proved pursuant to this section shall be liable—

(a)



*Prisons.*

- (a) if the complaint is heard and determined by the Visiting Justice alone—to confinement to cell, on restricted diet as prescribed, for a term not exceeding fourteen days;
- 5 (b) if the complaint is heard and determined by the Visiting Justice and some other justice nominated as aforesaid—to confinement to cell, on restricted diet as prescribed, for a term not exceeding twenty-eight days;
- 10 and in either such case to such forfeiture of payments under subsection three of section twenty of this Act accrued due to him as to the Visiting Justice, or to the Visiting Justice and other justice, as the case may be, may seem fit.
- 20 **25.** In any case where upon the hearing of a complaint against prison discipline the Visiting Justice is, or the Visiting Justice and another justice are, of the opinion that such complaint:—
- 25 (a) could be prosecuted summarily before a stipendiary magistrate or justices sitting in petty sessions and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall order the prisoner charged to be conveyed to a court of
- 30 petty sessions to be dealt with according to law; or
- (b) could be prosecuted by indictment and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall deal
- 35 with the case by committal as in an ordinary case of an indictable offence charged before a stipendiary magistrate or justices sitting in petty sessions.
- 40 Any such order as is referred to in paragraph (a) of this section shall have the like effect and be dealt with as an order made under subsection one of section thirty-five of the Justices Act, 1902-1947.
- Any such committal as is referred to in paragraph (b) of this section shall have the like effect and be dealt
- 45 with as a committal for trial pursuant to the Justices Act, 1902-1947.

Offences  
may be  
dealt  
with  
summarily  
or upon  
indictment.



*Prisons.*

- 26.** Where the Visiting Justice, or the Visiting Justice and some other justice, imposes or impose punishment for any offence against prison discipline, he or they, as the case may be, shall enter and sign in a book kept at the prison for the purpose, a statement of the nature and date of the offence punished, the name of the offender, the date of sentence and the punishment awarded.

Punishment  
of offences  
to be  
recorded.

cf. Qld. Act,  
54 Vic. No.  
17, s. 33.

## PART V.

## TRANSFER OF PRISONERS.

- 27.** Any prisoner may be removed from one prison to another prison by order of the Comptroller-General—
- (a) where the prison in which such prisoner is detained is to be repaired, altered, enlarged or rebuilt;
  - (b) in case of an outbreak or threatened outbreak of contagious or infectious disease in a prison;
  - (c) when any prison has ceased to be a prison pursuant to section five of this Act;
  - (d) when any prison is overcrowded;
  - (e) for the purpose of carrying the provisions of section fifteen of this Act into effect; or
  - (f) for any other cause specified in such order.

Orders for  
removal of  
prisoners  
from one  
prison to  
another.

cf. Act No.  
27, 1899,  
s. 25.

- 28.** (1) Any prisoner may, by order of the Comptroller-General, or in cases of exigency by order of the governor of the prison in which he is detained, made on the recommendation of the medical officer, be removed from a prison to a hospital or other place specified in the order for medical attendance and treatment.

Removal of  
prisoners  
to hospital.

cf. Act No.  
27, 1899,  
s. 27.

Qld. Act,  
54 Vic. No.  
17, s. 52.

- (2) Any prisoner so removed shall, while in hospital or at such other place, be deemed to be in the custody of the governor of the prison from which he was removed, and the governor of such prison may, if he thinks fit, direct any prison officer to take charge of the prisoner whilst so in hospital or at such other place.

(3)



*Prisons.*

(3) On the certificate of the medical superintendent or other person in charge of a hospital (which certificate such medical superintendent or person is hereby authorised and required to give when the circumstances justify it) that a prisoner removed to such hospital pursuant to subsection one of this section may be discharged therefrom, such prisoner shall forthwith be returned to prison.

29. (1) Any prisoner may be taken temporarily, by order of the Minister, from any prison to any place in the State for any purpose in aid of the administration of justice or in aid of the Public Service or for any other purpose which in the opinion of the Minister justifies such action.

Removal  
from  
prison on  
order of  
Minister.  
cf. Act No.  
27, 1899,  
s. 30.

(2) A prisoner taken from prison under an order issued pursuant to subsection one of this section shall for the purposes of this Act during the period of his absence from prison be deemed to be in the custody of the governor of the prison from which he was so taken.

## PART VI.

## PRISON OFFICERS.

30. All prison officers shall be appointed or employed under and subject to the provisions of the Public Service Act, 1902, or of any Act amending the same.

Appointment  
of prison  
officers.  
cf. Act No.  
27, 1899,  
s. 10.

31. Subject to section thirty of this Act the duties of prison officers of the various classes shall be as determined from time to time by the Comptroller-General.

Duties of  
prison  
officers.

## PART



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*Prisons.*


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## PART VII.

## OFFENCES.

- 32.** Any person who, by force, rescues or attempts to rescue from lawful custody any prisoner shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding fourteen years. Rescuing person from lawful custody.  
cf. W.A. Act No. 14, 1903, s. 57.
- 33.** Any person who—  
     (a) aids a prisoner in escaping or attempting to escape from lawful custody; or Aiding escape.  
*Ibid.* s. 58.  
     (b) conveys anything or causes anything to be conveyed into a prison or to a prisoner with intent to facilitate the escape of any prisoner,  
 shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years.
- 34.** Any person who, being a prisoner in lawful custody, escapes or attempts to escape from such custody shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years, to be served after the expiration of any term of imprisonment, penal servitude or detention to which the prisoner was subject at the time of his escape or attempt to escape. Escaping.  
cf. *Ibid.* s. 59.
- 35.** Any person, who being an officer of a prison or member of the Police Force, and having, for the time being, the actual custody of a prisoner, wilfully or negligently permits him to escape from custody, shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding two years. Permitting escape.  
W.A. Act No. 14, 1903, s. 60.
- 36.** Any person who knowingly harbours, maintains or employs an escaped prisoner shall be guilty of an offence and shall be liable—  
     (a) if convicted on indictment—to penal servitude for a term not exceeding three years;  
     (b) if convicted summarily—to a penalty not exceeding five hundred pounds. Harbouring escapee.  
*Ibid.* s. 61.



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*Prisons.*

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**37.** Any person who without lawful authority (~~proof~~ <sup>Trafficking.</sup>  
~~whereof shall lie on him~~) brings or attempts by any <sup>W.A.</sup>  
means whatever to introduce into any prison any <sup>Act No. 14,</sup>  
spirituous or fermented liquor or any drug shall be liable <sup>1903, s. 62.</sup>  
5 to imprisonment for a term not exceeding six months  
or to a penalty not exceeding one hundred pounds or to  
both such imprisonment and penalty.

**38.** (1) Any person who without lawful authority <sup>Miscel-</sup>  
(~~proof whereof shall lie on him~~)— <sup>laneous</sup>  
<sup>offences.</sup>  
<sup>Ibid. s. 63.</sup>

10 (a) enters or attempts to enter any prison;  
(b) communicates, or attempts to communicate with  
any prisoner;  
(c) conveys or delivers, or causes to be conveyed or  
15 delivered, or in any manner whatsoever attempts  
to convey or deliver, or to cause to be conveyed  
or delivered to any prisoner, or introduces or  
attempts to introduce into any prison, any  
money, letter or other document, clothing, or  
other article or thing;  
20 (d) conveys or receives for conveyance or causes to  
be conveyed or received for conveyance any  
letter or other document, clothing or any article  
or thing out of any prison;  
(e) loiters about or near any prison; or  
25 (f) secretes or leaves at any place any money, letter,  
document, clothing, article or thing, for the  
purpose of being found or received by any  
prisoner,  
shall be liable to imprisonment for a term not exceeding  
30 six months or to a penalty not exceeding one hundred  
pounds or to both such imprisonment and penalty.

(2) In respect of any such offence as is  
referred to in subsection one of this section, every prison  
officer shall have the same powers of arrest as a member  
35 of the Police Force.



*Prisons.*

## PART VIII.

## GENERAL.

39. Every prisoner shall whilst detained in a prison be deemed to be in the custody of the governor of the prison to which he has been committed or removed and the liability of the Sheriff or other person delivering such prisoner shall cease on delivery of such prisoner to the governor of the prison. Custody of prisoners.  
cf. Act  
No. 27,  
1899, s. 6.  
W.A. Act  
No. 14,  
1903, s. 45.
40. Every governor of a prison shall have the charge and superintendence of the prison for which he is appointed and he shall be liable to answer for the escape of any prisoner from his custody whenever such escape shall happen by or through his neglect or default, but not otherwise. Responsi-  
bility of  
governors  
of prisons.  
*Ibid.* s. 46.
41. (1) Any prisoner may be discharged from prison at any time during the twenty-four hours immediately preceding the time at which his imprisonment would otherwise have terminated. Expiration  
of  
sentence.  
*Ibid.* s. 48.
- (2) Any convicted prisoner whose term of imprisonment would terminate, either according to his sentence or to any law relating to the remission of sentences, on a Sunday, may be discharged on the Saturday immediately preceding such Sunday.
42. Any writ, warrant or other instrument addressed to the governor of a prison describing the prison by its situation or other definite description shall be valid by whatever title such prison is usually known or whatever be the formal description of the prison. Address of  
warrant.  
W.A. Act  
No. 14,  
1903, s. 50.
43. Upon the death of a prisoner the governor of the prison in whose custody such prisoner was at the time of his death shall forthwith give notice to the coroner of the district where the prison is situated and an inquest shall be held by the said coroner on the body of such prisoner. Notice to  
coroner  
of death.  
cf. *Ibid.*  
s. 51.



*Prisons.*

44. (1) Where any court of record or any judge or person constituting any such court or any coroner is satisfied that it is desirable that a prisoner should be in attendance before it or him for the purposes of any legal proceedings or inquest then pending, such court, judge, person or coroner, as the case may be, may make an order directing the governor of the prison in whose custody the prisoner is to produce such prisoner or to have such prisoner produced in court before it or him, as the case may be, and such order shall notwithstanding anything in this Act contained be a sufficient authority to the governor of the prison for producing or having produced such prisoner in accordance with the tenor thereof.

Attendance of prisoner before court, etc. W.A. Act No. 14, 1903, s. 52.

(2) Every prisoner shall, when produced under an order made under subsection one of this section in the actual custody of the governor of the prison, a prison officer or a member of the Police Force, be deemed to be in lawful custody and any such governor, prison officer or member of the Police Force shall in due course return the prisoner into the prison from which he was produced.

45. (1) Whenever a court of summary jurisdiction—

(a) awards imprisonment, or

(b) commits a person to prison in default of payment of any fine, penalty, costs or sum of money imposed on or ordered to be paid by such person by any court of summary jurisdiction, or in default of entering into a recognizance to be of good behaviour upon the order of any court of summary jurisdiction;

and in any such case the term of imprisonment is for a period not exceeding one month, it may order such imprisonment to be served in the lock-up or police station specified in the order.

Sentences to be served in lock-up. Act No. 27, 1899, s. 37.

(2) Whenever a court of summary jurisdiction orders a prisoner to be imprisoned as provided in subsection one of this section any justice may by direction under his hand order that the prisoner work within the precincts

Employment outside lock-up.



*Prisons.*

precincts of such lock-up or police station in accordance with instructions given by any member of the Police Force on duty at such lock-up or police station.

(3) Any prisoner who refuses to obey any order given under subsection two of this section or who is guilty of idleness or negligence in his work under such order, shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a period not exceeding one month.

10 **46.** No action or claim for damages shall lie against any person for or on account of anything done or commanded to be done by him and purporting to be done for the purpose of carrying out the provisions of this Act, unless it is proved that such act was done or  
15 commanded to be done maliciously and without reasonable and probable cause.

Actions and claims for damages.  
W.A. Act No. 14, 1903, s. 75.

**47.** (1) No action or claim as aforesaid shall be commenced until one month next after notice in writing has been delivered to the person against whom it is  
20 intended to be brought, or left at his usual place of abode.

Commencement of action.  
*Ibid.* s. 76.

(2) Such notice shall clearly state the proposed cause of action, the name and place of abode of the proposed plaintiff, and the name and place of business of his solicitor (if any) and shall be signed by the  
25 proposed plaintiff or his solicitor.

(3) Every such action shall be commenced within one year after its cause shall have arisen.

**48.** All penalties imposed by or under this Act shall be paid into the Consolidated Revenue Fund.

Penalties.

30 **49.** The Comptroller-General may, with the approval of the Minister, make rules not inconsistent with this Act for the management, control, good government, supervision and inspection of prisons.

Rules.

**50.** (1) The Governor may make regulations prescribing all matters which by this Act are required or  
35 permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect

Regulations.



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*Prisons.*

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effect to this Act, and in particular and without prejudice to the generality of the foregoing, may make regulations for and with respect to—

- 5 (a) the visits and examinations of prisons by Visiting Justices;
- (b) the exercise and diet of prisoners;
- (c) the classification and separation of prisoners;
- (d) the manner in which prisoners may deal with property held in the custody of the governor of
- 10 a prison;
- (e) the recording of the personal description of prisoners;
- (f) the payments to prisoners for work performed or for other reasons;
- 15 (g) visits to or inspection of prisons by persons other than officers engaged in the administration of this Act and admission generally to prisons;
- (h) the religious ministrations to prisoners and Divine service within prisons;
- 20 (i) visits to and correspondence by and with prisoners;
- (j) the education and vocational training of prisoners;
- (k) all matters necessary or expedient for the good
- 25 order, discipline and health of prisoners.

(2) The regulations may impose a penalty not exceeding twenty pounds for any breach thereof.

(3) All regulations made under this Act shall—

- (a) be published in the Gazette;
- 30 (b) take effect from the date of publication or from a later date to be specified therein;
- (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not,
- 35 then within fourteen sitting days after the commencement of the next session.

If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting



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*Prisons.*

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sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

- 5 **51.** (1) The Habitual Criminals Act, 1905, as amended  
by subsequent Acts, is amended by omitting section  
twelve and by inserting in lieu thereof the following  
section:—

Amendment  
of Act  
No. 15,  
1905.  
Subst.  
sec. 12.

- 10 12. (1) The Governor may make regulations not  
inconsistent with this Act prescribing all matters  
which by this Act are required or permitted to be  
prescribed or which are necessary or convenient to  
be prescribed for carrying out or giving effect to  
this Act.

Regulations.

- 15 (2) The regulations shall—  
(a) be published in the Gazette;  
(b) take effect from the date of publication or  
from a later date to be specified in the  
regulations; and  
20 (c) be laid before both Houses of Parliament  
within fourteen sitting days after the pub-  
lication thereof if Parliament is in session,  
and if not, then within fourteen sitting days  
after the commencement of the next session.

- 25 If either House of Parliament passes a resolution  
of which notice has been given at any time within  
fifteen sitting days after such regulations have been  
laid before such House disallowing any regulation  
or part thereof, such regulation or part shall there-  
30 upon cease to have effect.

(3) Where any regulation under this Act is  
in its application to an habitual criminal inconsistent  
with any regulation under the Prisons Act, 1952, the  
regulation under this Act shall prevail.

- 35 (2) The Habitual Criminals Act, 1905, as amended  
by subsequent Acts and by this Act, may be cited as the  
Habitual Criminals Act, 1905-1952.



*Prisons.*

**52.** (1) (a) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by omitting from subsection two of section eleven the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1901.  
Sec. 11.  
(Disobedi-  
ence of  
order.)

(b) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1952.

(2) (a) The Child Welfare Act, 1939, as amended by subsequent Acts, is amended by omitting from subsection one of section one hundred and fifteen the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1939.  
Sec. 115.  
(Effect of  
imprison-  
ment on  
non-  
payment.)

(b) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1952.

20

## SCHEDULES.

## FIRST SCHEDULE.

Sec. 3 (1).

Number of Act.	Title or short title.	Extent of repeal.
No. 27, 1899 ...	Prisons Act 1899 ...	The whole Act.
No. 11, 1908 ...	Prisoners Detention Act, 1908 ...	The whole Act.
25 No. 12, 1908 ...	Police Offences (Amendment) Act, 1908.	Section 16.
No. 9, 1913 ...	Deserted Wives and Children Amending Act, 1913.	Section 2.
No. 20, 1918 ...	Prisons (Amendment) Act, 1918	The whole Act.
30 No. 34, 1918 ...	Prisoners Detention (Amendment) Act, 1918.	The whole Act.
No. 33, 1931 ...	Deserted Wives and Children (Amendment) Act, 1931.	Section 10 (2).
No. 19, 1944 ...	Public Service (Amendment) Act, 1944.	Section 2.
35		

## SECOND



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*Prisons.*

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## SECOND SCHEDULE.

Sec. 3 (4).

- The State Penitentiary at Malabar  
The State Reformatory for Women at Malabar.  
Parramatta Gaol.  
5 Bathurst Gaol.  
Maitland Gaol.  
Goulburn Training Centre.  
Dubbo Gaol.  
Grafton Gaol.  
10 Broken Hill Gaol.  
Narrabri Gaol.  
Emu Plains Training Centre.  
Berrima Training Centre.  
Brookfield Afforestation Camp, Mannus.  
15 Glen Innes Afforestation Camp.  
Oberon Afforestation Camp.



## PRISONS BILL, 1952.

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### EXPLANATORY NOTE.

THIS Bill replaces the Prisons Act, 1899, and certain other enactments, and makes provisions, more in accord with present-day conditions, for and with respect to—

- (a) the establishment, care, control and management of prisons;
- (b) the appointment of prison officers, medical officers of prisons, Visiting Justices and the like;
- (c) the regulation and treatment of prisoners;
- (d) prohibiting persons aiding prisoners to escape or harbouring prisoners and other like offences.



1912

TESTIMONY

STATE OF NEW YORK  
IN SENATE  
JANUARY 10, 1912  
REPORT OF THE  
COMMISSIONERS OF THE  
LAND OFFICE  
IN RESPONSE TO  
RESOLUTION PASSED  
JANUARY 10, 1911  
RELATIVE TO THE  
LANDS BELONGING TO  
THE STATE

ALBANY:



No. , 1952.

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## A BILL

To make provision for the establishment regulation and control of prisons and for the custody of prisoners; to repeal the Prisons Act 1899, the Prisoners Detention Act, 1908, and certain other Acts; to amend the Habitual Criminals Act, 1905, and certain other Acts; and for purposes connected therewith.

[Mr. C. E. MARTIN;—6 MARCH, 1952.]



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*Prisons.*

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**B**E it enacted by the Queen's Most Excellent Majesty,  
by and with the advice and consent of the Legis-  
lative Council and Legislative Assembly of New South  
Wales in Parliament assembled, and by the authority of  
5 the same, as follows:—

## PART I.

## PRELIMINARY.

1. (1) This Act may be cited as the "Prisons Act, 1952." Short title  
and com-  
mencement.

10 (2) This Act shall commence upon a day to be  
appointed by the Governor and notified by proclamation  
published in the Gazette.

2. This Act is divided into Parts as follows:—

Division  
into Parts.

PART I.—PRELIMINARY.

15 PART II.—ESTABLISHMENT AND CONTROL OF PRISONS.

PART III.—TREATMENT OF PRISONERS.

PART IV.—PRISON DISCIPLINE.

PART V.—TRANSFER OF PRISONERS.

PART VI.—PRISON OFFICERS.

20 PART VII.—OFFENCES.

PART VIII.—GENERAL.

SCHEDULES.

3. (1) The enactments mentioned in the First Schedule  
to this Act are to the extent therein expressed hereby  
25 repealed. Repeals  
and savings.

(2) (a) All persons appointed or continued in  
office under or by virtue of the provisions of any enact-  
ment hereby repealed and holding office immediately  
before the commencement of this Act shall remain in  
30 office as if this Act had been in force at the date of their  
appointment and they had been appointed or employed  
hereunder, and this Act shall apply to them accordingly.

cf. Act No.  
27, 1899,  
s. 2.

Act No. 19,  
1944, s. 2  
(3).

(b)



*Prisons.*

(b) The period before the commencement of this Act during which any such person held office shall be counted as service for the purposes of the Public Service Act, 1902, and of section thirteen of the Public Service Act, 1902, and of section thirteen of the Public Service (Amendment) Act, 1919, or of any Act amending the said Acts. But this paragraph shall not be construed to entitle any such person to claim, in respect of the same period of service, benefits under the Public Service Act, 1902, or the Public Service (Amendment) Act, 1919, or of any Act amending the said Acts, and also benefits under any other Act.

(c) Nothing in this section shall affect any rights which at the commencement of this Act have accrued or are accruing under the Superannuation Acts, 1916-1951, to any such person.

(3) All regulations and rules, in so far as they are not inconsistent with nor repugnant to the provisions of this Act, made or deemed to have been made under the authority of any enactment hereby repealed and being in force immediately before the commencement of this Act shall be deemed to have been made under the authority of this Act, and references in any such regulations and rules to the provisions of any enactment hereby repealed shall be construed as references to the corresponding provisions of this Act.

(4) All gaols, prisons and places of detention enumerated in the Second Schedule to this Act and used and occupied as such immediately before the commencement of this Act shall be deemed to be prisons under this Act.

4. In this Act, unless the context or subject matter otherwise indicates or requires—

“Comptroller-General” means the Comptroller-General of Prisons;

35 “convicted prisoner” means—

(a) a person under sentence of penal servitude or imprisonment imposed by any court, judge or justice or ordered to



*Prisons.*

- to be kept in strict custody pursuant to subsection three of section sixty-five of the Lunacy Act, 1898-1949;
- 5 (b) a person under sentence of death;
- (c) a person undergoing imprisonment in default of payment of any fine, penalty, costs or sum of money imposed on him or ordered to be paid by him by any court, judge or justice, or in default of entering into a recognizance to be of good behaviour upon the order of any court, judge or justice;
- 10
- (d) a person committed to prison under Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII, Part XIV or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts;
- 15
- (e) a person detained in a place of confinement pursuant to the Habitual Criminals Act, 1905, as amended by subsequent Acts ;
- 20
- 25 “governor of a prison” means the superintendent, governor, gaoler, or other officer for the time being in charge of the prison;
- “medical officer” means, in relation to any prison, the person who pursuant to section nine of this Act has been appointed or is acting as such;
- 30 “prescribed” means prescribed by this Act or by the regulations made thereunder;
- “prison” includes any gaol or place of detention, irrespective of the title by which the same is known, and includes the whole area, whether or not walled or fenced, declared or deemed to be a prison;
- 35 “prisoner” means—
- (a) any convicted prisoner;
- (b)



*Prisons.*

- 5 (b) any person ordered to be imprisoned in or committed to a prison, otherwise than as referred to in paragraphs (a) to (e) inclusive of the definition of "convicted prisoner", by any court, judge or justice or other competent authority.

PART II.

ESTABLISHMENT AND CONTROL OF PRISONS.

- 10 5. (1) The Governor may by proclamation published in the Gazette declare any building, premises or place to be a prison.

Proclamation of prisons.  
cf. Act No. 27, 1899, s. 4.

- (2) The Governor may by proclamation published in the Gazette declare that any prison shall, as from a date to be specified therein, cease to be a prison and thereupon the prison to which such proclamation relates shall as from the said date cease to be a prison.

- (3) Every prison shall contain a lock hospital.

- 20 6. (1) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Comptroller-General of Prisons.

Comptroller-General of Prisons.  
cf. *Ibid.* s. 5.

- 25 (2) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Deputy Comptroller of Prisons, who shall when the office of the Comptroller-General is vacant or during the absence from duty of the Comptroller-General have the same powers, authorities, duties and functions as the Comptroller-General.

- 30 7. The Comptroller-General shall, subject to this Act and subject to the direction of the Minister, have the care, direction, control and management of all prisons.

Duties of the Comptroller-General.  
cf. *Ibid.* s. 6.



*Prisons.*

8. Nothing in this Act shall abridge or otherwise affect the powers, authorities, duties and functions vested in or imposed upon the Sheriff by or under any statute or at common law in relation to prisoners.

Savings as to powers of Sheriff. cf. Act No. 27, 1899, ss. 6, 7.

5 9. (1) The Governor may appoint a medical officer for each prison. Medical officers.

(2) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of such medical officers and  
10 any such medical officer shall not in his capacity as a medical officer be subject to the provisions of any such Act during his tenure of office.

(3) Where a medical officer is for any reason unable to act as such any person who is a legally qualified  
15 medical practitioner and is a partner with such medical officer in the practice of medicine or who is carrying on the medical practice of such medical officer as locum tenens may exercise and discharge the powers, authorities, duties and functions of the medical officer  
20 who is unable to act as such. Such person shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer.

(4) Where no medical officer has been appointed to a prison pursuant to subsection one of this section the Government Medical Officer appointed under the Public  
25 Health Act, 1902-1944, for the district in which the prison is situated, shall be the medical officer for that prison.

(5) Where the medical officer appointed under subsection one of this section is for any reason unable to act as such and there is no person in partnership with such  
30 medical officer or acting as locum tenens as referred to in subsection three of this section, or where the person who may exercise and discharge the powers, authorities, duties and functions of the medical officer under subsection three of this section fails or is unable to act as medical officer,  
35 the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison in respect of which the medical officer has been appointed is situated, shall exercise and discharge the powers,



*Prisons.*

powers, authorities, duties and functions of such medical officer and shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer for that prison.

- 5 **10.** (1) For each prison there shall be a Visiting Justice. Visiting  
Justices.

The Visiting Justice for a prison shall be such stipendiary magistrate as the Minister may from time to time designate as the Visiting Justice for such prison. cf. Act  
No. 27,  
1899; s. 12.

- 10 (2) A Visiting Justice may visit and examine the prison in respect of which he is the Visiting Justice at any time he may think fit, and, unless prevented by illness or other sufficient cause, shall visit and examine such prison at such intervals as may be prescribed.

- 15 (3) A Visiting Justice may and shall, when requested so to do by the Minister or the Comptroller-General, inquire into and report to the Minister or the Comptroller-General, as the case may be, upon any matter relating to the security, good order, control or manage-  
20 ment of the prison in respect of which he is the Visiting Justice.

- 11.** Any Judge of the Supreme Court or Chairman of Quarter Sessions may visit and examine any prison at any time he may think fit. Judge to  
examine.  
cf. *Ibid.*  
s. 12 (4).

PART III.

25

TREATMENT OF PRISONERS.

- 12.** Every prisoner shall be allowed so much exercise in the open air as is prescribed or where the medical officer in any particular case orders otherwise so much  
30 exercise as is so ordered. Exercise.

- 13.** Every convicted prisoner shall be clothed at the public expense with sufficient clothing to maintain health and decency. Clothing.

Every



*Prisons.*

Every prisoner other than a convicted prisoner who is not permitted to wear his own clothing by the governor of the prison in which such prisoner is detained shall be clothed in like manner.

5 **14.** Every prisoner for whom provision is not otherwise made for his maintenance shall be supplied at the public expense with sufficient food to maintain health and the scale of diet shall be as prescribed. Diet.

**15.** To the fullest extent reasonably practicable, convicted prisoners shall be separated from other prisoners, and different classes of convicted prisoners and different classes of other prisoners shall be separated as prescribed. Separation of prisoners.

**16.** (1) Every prisoner shall be supplied at the public expense with such medical attendance, treatment and medicine as in the opinion of the medical officer is necessary for the preservation of the health of the prisoner and of other prisoners and of prison officers. Medical attention.

(2) Where in the opinion of the medical officer the life or health of a prisoner is likely to be endangered or seriously prejudiced by the failure of such prisoner to undergo medical treatment or the life or health of any other prisoner or prison officer is likely to be endangered or seriously prejudiced by such failure, the prisoner may be compelled to submit to such medical treatment as is ordered by the medical officer.

**17.** (1) Where the medical officer certifies in writing to the Comptroller-General that a convicted prisoner is suffering from a venereal disease, such prisoner may be brought before a stipendiary magistrate within a prison or at any other place and, on proof being made in private on oath that such prisoner is so suffering, the magistrate may order that he be detained in a lock hospital until discharged in pursuance of this Act. Venereal disease.  
Act No. 11,  
1908, ss.  
4, 5.

(2) (a) Any prisoner against whom an order has been made under subsection one of this section may, on notice as prescribed, appeal therefrom to a Court of Quarter Sessions, and, subject to this section, the provisions of sections one hundred and twenty-two to one hundred and thirty-one, both inclusive, of the Justices Act, 1902-1947, shall apply, mutatis mutandis, to and in respect of such appeal. (b)



*Prisons.*

(b) Any such appeal shall be heard in private unless the Chairman of Quarter Sessions otherwise determines.

(c) No notice of appeal against any such order shall suspend or stay the operation of the order.

(d) The Court of Quarter Sessions hearing the appeal may, by its order, confirm, set aside or vary the order appealed from.

(3) The period of detention under any such order of detention as aforesaid shall run concurrently with but may exceed any term of imprisonment or detention to which the prisoner is subject.

(4) The medical officer shall, as soon as in his opinion any person detained in a lock hospital in accordance with the provisions of this section is free from venereal disease, so report to the Comptroller-General, and thereupon such person shall be discharged from such lock hospital and be remitted to custody to serve the remainder of the term of imprisonment or detention to which he had been sentenced or ordered if such term has not expired, but if such term has expired, he shall be discharged from custody.

**18.** (1) Every prisoner upon his reception into prison shall surrender to the governor of the prison all property in his possession. Such property shall be retained by the governor of the prison and returned to the prisoner immediately prior to his release from prison.

Private property.

(2) A record shall be kept of all such property as aforesaid and the prisoner may deal with such property only in such manner as is prescribed.

**19.** Every prisoner shall be liable to be photographed, to have the impression of his fingers and palms taken, and to have such details of his personal description as may be prescribed recorded.

Record of personal description of prisoners.

**20.** (1) Subject to the direction of the Comptroller-General, the governor of a prison may order any convicted prisoner in any such prison to be set to some work considered suitable to his physical capacity.

Work to be performed by prisoners.

cf. Act No. 27, 1899, ss. 16, 16A, 36.



*Prisons.*

(2) Any convicted prisoner may, with the approval of the Comptroller-General, be set to work beyond the precincts of the prison in which he is imprisoned, and while so beyond the precincts shall be  
5 deemed to be within the prison.

(3) The Comptroller-General may, out of moneys provided by Parliament for the purpose and subject to the regulations, make payments to prisoners for any reasons (including for work done).

10 (4) The regulations shall provide that where a convicted prisoner has been committed to prison pursuant to the provisions of Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent  
15 Acts, such portion of his prison earnings as may be prescribed shall be applied in or towards satisfaction of the liability in respect of which he was committed.

21. (1) The Governor may release from prison any person committed to prison pursuant to the provisions of  
20 Part II of the Deserted Wives and Children Act, 1901-1939, or of Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts, and such release may be subject to such conditions as to the Governor appear meet.

Release of maintenance confined.  
cf. Act No. 27, 1899, s. 16A (4).

25 (2) Any justice may in a summary way, on proof made before him that any such condition has been broken, rescind such release, or the release may be revoked by the Governor.

(3) Where a release is rescinded or revoked as  
30 aforesaid, the person released may be taken by any member of the Police Force and returned to prison, and there detained for the residue of the term for which he was originally committed, and subject to the same conditions as if he had not been released from prison.

35 22. (1) Any prisoner may, where the Comptroller-General or Visiting Justice is of opinion that it is necessary so to do in order to prevent the contamination arising from the association of prisoners, be detained away from association with other prisoners during the  
40 whole or any part of his imprisonment.

Separation of prisoners.  
*Ibid.* s. 17.



*Prisons.*

(2) The detention referred to in subsection one of this section shall not be deemed solitary confinement within the meaning of any statute forbidding the continuance of solitary confinement for more than a 5 limited time.

(3) No cell which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health shall be used for the purpose of such detention as aforesaid and every prisoner 10 so confined shall have the means of taking exercise at such times and in such manner as in the opinion of the medical officer is necessary.

## PART IV.

## PRISON DISCIPLINE.

15 **23.** For the purposes of this Part the following shall be offences by prisoners against prison discipline—

- (a) mutiny;
- (b) open incitement to mutiny;
- (c) assaulting any prison officer;
- 20 (d) escaping or attempting to escape;
- (e) wilfully or maliciously breaking, damaging or destroying any prison property;
- (f) preferring a complaint against a prison officer knowing the same to be false;
- 25 (g) assaulting a prisoner;
- (h) making or attempting to make any wound or sore upon himself;
- (i) pretending illness;
- (j) being idle or negligent in work;
- 30 (k) mismanaging work;
- (l) committing a nuisance;
- (m) preferring a frivolous complaint;

Offences  
against  
prison  
discipline.  
cf. Qld. Act  
54 Vic. No.  
17, ss. 28,  
29, 30.  
W.A. Act,  
No. 14, 1903,  
ss. 37, 38.

(n)



*Prisons.*

- (n) cursing or swearing profanely;
- (o) behaving indecently;
- (p) behaving irreverently at or during Divine service or prayer;
- 5 (q) disobeying any regulation or any of the rules of the prison, or any lawful order of the Comptroller-General or of a prison officer.

For the purposes of paragraph (q) of this section  
 10 "lawful order of the Comptroller-General or of a prison officer" includes any order given by the Comptroller-General or a prison officer for the purpose of securing the enforcement or observance of the provisions of this Act, which orders the Comptroller-General and prison  
 15 officers are hereby authorised to give.

24. (1) A complaint may be made to the Visiting Justice in any case where a prisoner has committed or is suspected to have committed an offence against prison discipline.

Offences  
against  
prison  
discipline—  
how dealt  
with.

20 (2) Any such complaint shall, subject to section twenty-five of this Act, be heard and determined:—

- (a) by the Visiting Justice or the Visiting Justice and some other justice nominated in that behalf  
 25 by the Visiting Justice;
- (b) summarily in the presence of the prisoner charged and in the prison where the offence is alleged to have been committed:

30 Provided that where a prisoner has been received into a prison by removal from another prison, a complaint in respect of an offence alleged to have been committed in the prison from which such prisoner has been removed may be heard and determined as if such offence had been committed within the prison into which he has been so  
 35 received.

(3) A prisoner against whom a complaint of an offence against prison discipline is found proved pursuant to this section shall be liable—

(a)



*Prisons.*

- (a) if the complaint is heard and determined by the Visiting Justice alone—to confinement to cell, on restricted diet as prescribed, for a term not exceeding fourteen days;
- 5 (b) if the complaint is heard and determined by the Visiting Justice and some other justice nominated as aforesaid—to confinement to cell, on restricted diet as prescribed, for a term not exceeding twenty-eight days;
- 10 and in either such case to such forfeiture of payments under subsection three of section twenty of this Act accrued due to him as to the Visiting Justice, or to the Visiting Justice and other justice, as the case may be, may seem fit.
- 15 **25.** In any case where upon the hearing of a complaint against prison discipline the Visiting Justice is, or the Visiting Justice and another justice are, of the opinion that such complaint:—
- 20 (a) could be prosecuted summarily before a stipendiary magistrate or justices sitting in petty sessions and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall order the prisoner charged to be conveyed to a court of petty sessions to be dealt with according to law; or
- 25 (b) could be prosecuted by indictment and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall deal with the case by committal as in an ordinary case of an indictable offence charged before a stipendiary magistrate or justices sitting in petty sessions.
- 30 Any such order as is referred to in paragraph (a) of this section shall have the like effect and be dealt with as an order made under subsection one of section thirty-five of the Justices Act, 1902-1947.
- Any such committal as is referred to in paragraph (b) of this section shall have the like effect and be dealt with as a committal for trial pursuant to the Justices Act, 1902-1947.
- 26.

Offences may be dealt with summarily or upon indictment.



*Prisons.*

26. Where the Visiting Justice, or the Visiting Justice and some other justice, imposes or impose punishment for any offence against prison discipline, he or they, as the case may be, shall enter and sign in a book kept at the prison for the purpose, a statement of the nature and date of the offence punished, the name of the offender, the date of sentence and the punishment awarded.

Punishment of offences to be recorded.  
cf. Qld. Act, 54 Vic. No. 17, s. 33.

## PART V.

## TRANSFER OF PRISONERS.

- 10 27. Any prisoner may be removed from one prison to another prison by order of the Comptroller-General—
- (a) where the prison in which such prisoner is detained is to be repaired, altered, enlarged or rebuilt;
- 15 (b) in case of an outbreak or threatened outbreak of contagious or infectious disease in a prison;
- (c) when any prison has ceased to be a prison pursuant to section five of this Act;
- (d) when any prison is overcrowded;
- 20 (e) for the purpose of carrying the provisions of section fifteen of this Act into effect; or
- (f) for any other cause specified in such order.

Orders for removal of prisoners from one prison to another.

cf. Act No. 27, 1899, s. 25.

28. (1) Any prisoner may, by order of the Comptroller-General, or in cases of exigency by order of the governor of the prison in which he is detained, made on the recommendation of the medical officer, be removed from a prison to a hospital or other place specified in the order for medical attendance and treatment.

Removal of prisoners to hospital.

cf. Act No. 27, 1899, s. 27.

Qld. Act, 54 Vic. No. 17, s. 52.

- (2) Any prisoner so removed shall, while in hospital or at such other place, be deemed to be in the custody of the governor of the prison from which he was removed, and the governor of such prison may, if he thinks fit, direct any prison officer to take charge of the prisoner whilst so in hospital or at such other place.

(3)



*Prisons.*

(3) On the certificate of the medical superintendent or other person in charge of a hospital (which certificate such medical superintendent or person is hereby authorised and required to give when the circumstances justify it) that a prisoner removed to such hospital pursuant to subsection one of this section may be discharged therefrom, such prisoner shall forthwith be returned to prison.

29. (1) Any prisoner may be taken temporarily, by order of the Minister, from any prison to any place in the State for any purpose in aid of the administration of justice or in aid of the Public Service or for any other purpose which in the opinion of the Minister justifies such action.

Removal from prison on order of Minister. cf. Act No. 27, 1899, s. 30.

(2) A prisoner taken from prison under an order issued pursuant to subsection one of this section shall for the purposes of this Act during the period of his absence from prison be deemed to be in the custody of the governor of the prison from which he was so taken.

PART VI.

PRISON OFFICERS.

30. All prison officers shall be appointed or employed under and subject to the provisions of the Public Service Act, 1902, or of any Act amending the same.

Appointment of prison officers. cf. Act No. 27, 1899, s. 10.

31. Subject to section thirty of this Act the duties of prison officers of the various classes shall be as determined from time to time by the Comptroller-General.

Duties of prison officers.

PART



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*Prisons.*


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## PART VII.

## OFFENCES.

- 32.** Any person who, by force, rescues or attempts to rescue from lawful custody any prisoner shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding fourteen years.
- Rescuing person from lawful custody.  
cf. W.A. Act No. 14, 1903, s. 57.
- 33.** Any person who—
- (a) aids a prisoner in escaping or attempting to escape from lawful custody; or
- (b) conveys anything or causes anything to be conveyed into a prison or to a prisoner with intent to facilitate the escape of any prisoner,
- shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years.
- Aiding escape.  
*Ibid.* s. 58.
- 34.** Any person who, being a prisoner in lawful custody, escapes or attempts to escape from such custody shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years, to be served after the expiration of any term of imprisonment, penal servitude or detention to which the prisoner was subject at the time of his escape or attempt to escape.
- Escaping.  
cf. *Ibid.* s. 59.
- 35.** Any person, who being an officer of a prison or member of the Police Force, and having, for the time being, the actual custody of a prisoner, wilfully or negligently permits him to escape from custody, shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding two years.
- Permitting escape.  
W.A. Act No. 14, 1903, s. 60.
- 36.** Any person who knowingly harbours, maintains or employs an escaped prisoner shall be guilty of an offence and shall be liable—
- Harbouring escapee.  
*Ibid.* s. 61.
- (a) if convicted on indictment—to penal servitude for a term not exceeding three years;
- (b) if convicted summarily—to a penalty not exceeding five hundred pounds.

37.



*Prisons.*

**37.** Any person who without lawful authority (proof whereof shall lie on him) brings or attempts by any means whatever to introduce into any prison any spirituous or fermented liquor or any drug shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds or to both such imprisonment and penalty.

Trafficking.  
W.A.  
Act No. 14,  
1903, s. 62.

**38.** (1) Any person who without lawful authority (proof whereof shall lie on him)—

Miscellaneous  
offences.  
*Ibid.* s. 63.

- 10 (a) enters or attempts to enter any prison;
- (b) communicates, or attempts to communicate with any prisoner;
- (c) conveys or delivers, or causes to be conveyed or delivered, or in any manner whatsoever attempts to convey or deliver, or to cause to be conveyed or delivered to any prisoner, or introduces or attempts to introduce into any prison, any money, letter or other document, clothing, or other article or thing;
- 15 (d) conveys or receives for conveyance or causes to be conveyed or received for conveyance any letter or other document, clothing or any article or thing out of any prison;
- 20 (e) loiters about or near any prison; or
- 25 (f) secretes or leaves at any place any money, letter, document, clothing, article or thing, for the purpose of being found or received by any prisoner,

shall be liable to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds or to both such imprisonment and penalty.

(2) In respect of any such offence as is referred to in subsection one of this section, every prison officer shall have the same powers of arrest as a member of the Police Force.



*Prisons.*

## PART VIII.

## GENERAL.

39. Every prisoner shall whilst detained in a prison be deemed to be in the custody of the governor of the prison to which he has been committed or removed and the liability of the Sheriff or other person delivering such prisoner shall cease on delivery of such prisoner to the governor of the prison.

Custody of prisoners.  
cf. Act No. 27, 1899, s. 6.  
W.A. Act No. 14, 1903, s. 45.

40. Every governor of a prison shall have the charge and superintendence of the prison for which he is appointed and he shall be liable to answer for the escape of any prisoner from his custody whenever such escape shall happen by or through his neglect or default, but not otherwise.

Responsibility of governors of prisons.  
*Ibid.* s. 46.

41. (1) Any prisoner may be discharged from prison at any time during the twenty-four hours immediately preceding the time at which his imprisonment would otherwise have terminated.

Expiration of sentence.  
*Ibid.* s. 48.

(2) Any convicted prisoner whose term of imprisonment would terminate, either according to his sentence or to any law relating to the remission of sentences, on a Sunday, may be discharged on the Saturday immediately preceding such Sunday.

42. Any writ, warrant or other instrument addressed to the governor of a prison describing the prison by its situation or other definite description shall be valid by whatever title such prison is usually known or whatever be the formal description of the prison.

Address of warrant.  
W.A. Act No. 14, 1903, s. 50.

43. Upon the death of a prisoner the governor of the prison in whose custody such prisoner was at the time of his death shall forthwith give notice to the coroner of the district where the prison is situated and an inquest shall be held by the said coroner on the body of such prisoner.

Notice to coroner of death.  
cf. *Ibid.* s. 51.

44.



*Prisons.*

44. (1) Where any court of record or any judge or person constituting any such court or any coroner is satisfied that it is desirable that a prisoner should be in attendance before it or him for the purposes of any legal proceedings or inquest then pending, such court, judge, person or coroner, as the case may be, may make an order directing the governor of the prison in whose custody the prisoner is to produce such prisoner or to have such prisoner produced in court before it or him, as the case may be, and such order shall notwithstanding anything in this Act contained be a sufficient authority to the governor of the prison for producing or having produced such prisoner in accordance with the tenor thereof.

Attendance  
of prisoner  
before  
court, etc.  
W.A.  
Act No. 14,  
1903, s. 52.

(2) Every prisoner shall, when produced under an order made under subsection one of this section in the actual custody of the governor of the prison, a prison officer or a member of the Police Force, be deemed to be in lawful custody and any such governor, prison officer or member of the Police Force shall in due course return the prisoner into the prison from which he was produced.

45. (1) Whenever a court of summary jurisdiction—  
(a) awards imprisonment, or  
(b) commits a person to prison in default of payment of any fine, penalty, costs or sum of money imposed on or ordered to be paid by such person by any court of summary jurisdiction, or in default of entering into a recognizance to be of good behaviour upon the order of any court of summary jurisdiction;  
and in any such case the term of imprisonment is for a period not exceeding one month, it may order such imprisonment to be served in the lock-up or police station specified in the order.

Sentences  
to be  
served in  
lock-up.  
Act No. 27,  
1899, s. 37.

(2) Whenever a court of summary jurisdiction orders a prisoner to be imprisoned as provided in subsection one of this section any justice may by direction under his hand order that the prisoner work within the precincts

Employ-  
ment  
outside  
lock-up.



*Prisons.*

precincts of such lock-up or police station in accordance with instructions given by any member of the Police Force on duty at such lock-up or police station.

(3) Any prisoner who refuses to obey any order  
5 given under subsection two of this section or who is guilty of idleness or negligence in his work under such order, shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a period not exceeding one month.

10 **46.** No action or claim for damages shall lie against any person for or on account of anything done or  
commanded to be done by him and purporting to be  
done for the purpose of carrying out the provisions of  
this Act, unless it is proved that such act was done or  
15 commanded to be done maliciously and without reasonable  
and probable cause.

*Actions and  
claims for  
damages.  
W.A. Act  
No. 14,  
1903, s. 75.*

**47.** (1) No action or claim as aforesaid shall be  
commenced until one month next after notice in writing  
has been delivered to the person against whom it is  
20 intended to be brought, or left at his usual place of abode.

*Commence-  
ment  
of action.  
Ibid. s. 76.*

(2) Such notice shall clearly state the proposed  
cause of action, the name and place of abode of the  
proposed plaintiff, and the name and place of business  
of his solicitor (if any) and shall be signed by the  
25 proposed plaintiff or his solicitor.

(3) Every such action shall be commenced within  
one year after its cause shall have arisen.

**48.** All penalties imposed by or under this Act shall  
be paid into the Consolidated Revenue Fund.

*Penalties.*

30 **49.** The Comptroller-General may, with the approval  
of the Minister, make rules not inconsistent with this  
Act for the management, control, good government,  
supervision and inspection of prisons.

*Rules.*

**50.** (1) The Governor may make regulations prescrib-  
35 ing all matters which by this Act are required or  
permitted to be prescribed or which are necessary or  
convenient to be prescribed for carrying out or giving  
effect

*Regulations.*



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*Prisons:*

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effect to this Act, and in particular and without prejudice to the generality of the foregoing, may make regulations for and with respect to—

- 5 (a) the visits and examinations of prisons by Visiting Justices;
- (b) the exercise and diet of prisoners;
- (c) the classification and separation of prisoners;
- 10 (d) the manner in which prisoners may deal with property held in the custody of the governor of a prison;
- (e) the recording of the personal description of prisoners;
- (f) the payments to prisoners for work performed or for other reasons;
- 15 (g) visits to or inspection of prisons by persons other than officers engaged in the administration of this Act and admission generally to prisons;
- (h) the religious ministrations to prisoners and Divine service within prisons;
- 20 (i) visits to and correspondence by and with prisoners;
- (j) all matters necessary or expedient for the good order, discipline and health of prisoners.

(2) The regulations may impose a penalty not  
25 exceeding twenty pounds for any breach thereof.

(3) All regulations made under this Act shall—

- (a) be published in the Gazette;
- (b) take effect from the date of publication or from a later date to be specified therein;
- 30 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

35 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting



*Prisons.*

sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

5 **51.** (1) The Habitual Criminals Act, 1905, as amended by subsequent Acts, is amended by omitting section twelve and by inserting in lieu thereof the following section:—

Amendment  
of Act  
No. 15,  
1905.  
Subst.  
sec. 12.

10 12. (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

15 (2) The regulations shall—  
(a) be published in the Gazette;  
(b) take effect from the date of publication or from a later date to be specified in the regulations; and  
20 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

25 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting days after such regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

30 (3) Where any regulation under this Act is in its application to an habitual criminal inconsistent with any regulation under the Prisons Act, 1952, the regulation under this Act shall prevail.

35 (2) The Habitual Criminals Act, 1905, as amended by subsequent Acts and by this Act, may be cited as the Habitual Criminals Act, 1905-1952.



*Prisons.*

**52.** (1) (a) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by omitting from subsection two of section eleven the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1901.  
Sec. 11.  
(Disobedi-  
ence of  
order.)

(b) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1952.

(2) (a) The Child Welfare Act, 1939, as amended by subsequent Acts, is amended by omitting from subsection one of section one hundred and fifteen the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1939.  
Sec. 115.  
(Effect of  
imprison-  
ment on  
non-  
payment.)

(b) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1952.

20

## SCHEDULES.

## FIRST SCHEDULE.

Sec. 3 (1).

Number of Act.	Title or short title.	Extent of repeal.
No. 27, 1899 ...	Prisons Act 1899 ...	The whole Act.
No. 11, 1908 ...	Prisoners Detention Act, 1908 ...	The whole Act.
25 No. 12, 1908 ...	Police Offences (Amendment) Act, 1908.	Section 16.
No. 9, 1913 ...	Deserted Wives and Children Amending Act, 1913.	Section 2.
No. 20, 1918 ...	Prisons (Amendment) Act, 1918	The whole Act.
30 No. 34, 1918 ...	Prisoners Detention (Amendment) Act, 1918.	The whole Act.
No. 33, 1931 ...	Deserted Wives and Children (Amendment) Act, 1931.	Section 10 (2).
No. 19, 1944 ...	Public Service (Amendment) Act, 1944.	Section 2.
35		

## SECOND



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*Prisons.*

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SECOND SCHEDULE.

Sec. 3 (4).

- The State Penitentiary at Malabar  
The State Reformatory for Women at Malabar.  
Parramatta Gaol.
- 5 Bathurst Gaol.  
Maitland Gaol.  
Goulburn Training Centre.  
Dubbo Gaol.  
Grafton Gaol.
- 10 Broken Hill Gaol.  
Narrabri Gaol.  
Emu Plains Training Centre.  
Berrima Training Centre.  
Brookfield Afforestation Camp, Mannus.
- 15 Glen Innes Afforestation Camp.  
Oberon Afforestation Camp.



No. ., 1952.

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## A BILL

To make provision for the establishment regulation and control of prisons and for the custody of prisoners; to repeal the Prisons Act 1899, the Prisoners Detention Act, 1908, and certain other Acts; to amend the Habitual Criminals Act, 1905, and certain other Acts; and for purposes connected therewith.

[MR. C. E. MARTIN;—6 MARCH, 1952.]

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*Prisons.*

**B**E it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

PART I.

PRELIMINARY.

1. (1) This Act may be cited as the "Prisons Act, 1952." Short title and commencement.

10 (2) This Act shall commence upon a day to be appointed by the Governor and notified by proclamation published in the Gazette.

2. This Act is divided into Parts as follows:— Division into Parts.

PART I.—PRELIMINARY.

15 PART II.—ESTABLISHMENT AND CONTROL OF PRISONS.

PART III.—TREATMENT OF PRISONERS.

PART IV.—PRISON DISCIPLINE.

PART V.—TRANSFER OF PRISONERS.

PART VI.—PRISON OFFICERS.

20 PART VII.—OFFENCES.

PART VIII.—GENERAL.

SCHEDULES.

3. (1) The enactments mentioned in the First Schedule to this Act are to the extent therein expressed hereby Repeals and savings.  
25 repealed.

(2) (a) All persons appointed or continued in office under or by virtue of the provisions of any enactment hereby repealed and holding office immediately before the commencement of this Act shall remain in office as if this Act had been in force at the date of their appointment and they had been appointed or employed hereunder, and this Act shall apply to them accordingly.

(b)



*Prisons.*

(b) The period before the commencement of this Act during which any such person held office shall be counted as service for the purposes of the Public Service Act, 1902, and of section thirteen of the Public Service  
5 (Amendment) Act, 1919, or of any Act amending the said Acts. But this paragraph shall not be construed to entitle any such person to claim, in respect of the same period of service, benefits under the Public Service Act, 1902, or the Public Service (Amendment) Act, 1919, or of  
10 any Act amending the said Acts, and also benefits under any other Act.

(c) Nothing in this section shall affect any rights which at the commencement of this Act have accrued or are accruing under the Superannuation Acts,  
15 1916-1951, to any such person.

(3) All regulations and rules, in so far as they are not inconsistent with nor repugnant to the provisions of this Act, made or deemed to have been made under the authority of any enactment hereby repealed and being in  
20 force immediately before the commencement of this Act shall be deemed to have been made under the authority of this Act, and references in any such regulations and rules to the provisions of any enactment hereby repealed shall be construed as references to the corresponding  
25 provisions of this Act.

(4) All gaols, prisons and places of detention enumerated in the Second Schedule to this Act and used and occupied as such immediately before the commencement of this Act shall be deemed to be prisons under this  
30 Act.

4. In this Act, unless the context or subject matter Definitions. otherwise indicates or requires—

“Comptroller-General” means the Comptroller-General of Prisons;

35 “convicted prisoner” means—

(a) a person under sentence of penal servitude or imprisonment imposed by any court, judge or justice or ordered  
to



*Prisons.*

- to be kept in strict custody pursuant to subsection three of section sixty-five of the Lunacy Act, 1898-1949;
- 5 (b) a person under sentence of death;
- (c) a person undergoing imprisonment in default of payment of any fine, penalty, costs or sum of money imposed on him or ordered to be paid by him by any court, judge or justice, or in default of entering into a recognizance to be of good behaviour upon the order of any court, judge or justice;
- 10
- (d) a person committed to prison under Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII, Part XIV or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts;
- 15
- (e) a person detained in a place of confinement pursuant to the Habitual Criminals Act, 1905, as amended by subsequent Acts ;
- 20
- “governor of a prison” means the superintendent, governor, gaoler, or other officer for the time being in charge of the prison;
- 25
- “medical officer” means, in relation to any prison, the person who pursuant to section nine of this Act has been appointed or is acting as such;
- “prescribed” means prescribed by this Act or by the regulations made thereunder;
- 30
- “prison” includes any gaol or place of detention, irrespective of the title by which the same is known, and includes the whole area, whether or not walled or fenced, declared or deemed to be a prison;
- 35
- “prisoner” means—
- (a) any convicted prisoner;
- (b)



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*Prisons.*

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- 5 (b) any person ordered to be imprisoned in or committed to a prison, otherwise than as referred to in paragraphs (a) to (e) inclusive of the definition of "convicted prisoner", by any court, judge or justice or other competent authority.

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PART II.

ESTABLISHMENT AND CONTROL OF PRISONS.

- 10 5. (1) The Governor may by proclamation published in the Gazette declare any building, premises or place to be a prison.

Proclamation of prisons.  
cf. Act No. 27, 1899, s. 4.

- 15 (2) The Governor may by proclamation published in the Gazette declare that any prison shall, as from a date to be specified therein, cease to be a prison and thereupon the prison to which such proclamation relates shall as from the said date cease to be a prison.

- (3) Every prison shall contain a lock hospital.

- 20 6. (1) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Comptroller-General of Prisons.

Comptroller-General of Prisons.  
cf. *Ibid.* s. 5.

- 25 (2) The Governor may under and subject to the provisions of the Public Service Act, 1902, as amended by subsequent Acts, appoint an officer to be the Deputy Comptroller of Prisons, who shall when the office of the Comptroller-General is vacant or during the absence from duty of the Comptroller-General have the same powers, authorities, duties and functions as the Comptroller-  
30 General.

7. The Comptroller-General shall, subject to this Act and subject to the direction of the Minister, have the care, direction, control and management of all prisons.

Duties of the Comptroller-General.  
cf. *Ibid.* s. 6.



*Prisons.*

8. Nothing in this Act shall abridge or otherwise affect the powers, authorities, duties and functions vested in or imposed upon the Sheriff by or under any statute or at common law in relation to prisoners.

Savings as to powers of Sheriff. cf. Act No. 27, 1899, ss. 6, 7.

5 9. (1) The Governor may appoint a medical officer for each prison. Medical officers.

(2) The provisions of the Public Service Act, 1902, or of any Act amending that Act, shall not apply to or in respect of the appointment of such medical officers and  
15 any such medical officer shall not in his capacity as a medical officer be subject to the provisions of any such Act during his tenure of office.

(3) Where a medical officer is for any reason unable to act as such any person who is a legally qualified  
15 medical practitioner and is a partner with such medical officer in the practice of medicine or who is carrying on the medical practice of such medical officer as locum tenens may exercise and discharge the powers, authorities, duties and functions of the medical officer  
20 who is unable to act as such. Such person shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer.

(4) Where no medical officer has been appointed to a prison pursuant to subsection one of this section the Government Medical Officer appointed under the Public  
25 Health Act, 1902-1944, for the district in which the prison is situated, shall be the medical officer for that prison.

(5) Where the medical officer appointed under subsection one of this section is for any reason unable to act as such and there is no person in partnership with such  
30 medical officer or acting as locum tenens as referred to in subsection three of this section, or where the person who may exercise and discharge the powers, authorities, duties and functions of the medical officer under subsection three of this section fails or is unable to act as medical officer,  
35 the Government Medical Officer appointed under the Public Health Act, 1902-1944, for the district in which the prison in respect of which the medical officer has been appointed is situated, shall exercise and discharge the powers,



*Prisons.*

powers, authorities, duties and functions of such medical officer and shall whilst so exercising and discharging such powers, authorities, duties and functions be deemed to be the medical officer for that prison.

- 5 **10.** (1) For each prison there shall be a Visiting Justice. Visiting  
Justices.  
cf. Act  
No. 27,  
1899, s. 12.

The Visiting Justice for a prison shall be such stipendiary magistrate as the Minister may from time to time designate as the Visiting Justice for such prison.

- 10 (2) A Visiting Justice may visit and examine the prison in respect of which he is the Visiting Justice at any time he may think fit, and, unless prevented by illness or other sufficient cause, shall visit and examine such prison at such intervals as may be prescribed.

- 15 (3) A Visiting Justice may and shall, when requested so to do by the Minister or the Comptroller-General, inquire into and report to the Minister or the Comptroller-General, as the case may be, upon any matter relating to the security, good order, control or management of the prison in respect of which he is the Visiting Justice.

**11.** Any Judge of the Supreme Court or Chairman of Quarter Sessions may visit and examine any prison at any time he may think fit. Judge to  
examine.  
cf. *Ibid.*  
s. 12 (4).

PART III.

25

TREATMENT OF PRISONERS.

- 12.** Every prisoner shall be allowed so much exercise in the open air as is prescribed or where the medical officer in any particular case orders otherwise so much exercise as is so ordered. Exercise.

- 30 **13.** Every convicted prisoner shall be clothed at the public expense with sufficient clothing to maintain health and decency. Clothing.

Every



*Prisons.*

Every prisoner other than a convicted prisoner who is not permitted to wear his own clothing by the governor of the prison in which such prisoner is detained shall be clothed in like manner.

5 14. Every prisoner for whom provision is not otherwise made for his maintenance shall be supplied at the public expense with sufficient food to maintain health and the scale of diet shall be as prescribed. Diet.

15 15. To the fullest extent reasonably practicable, convicted prisoners shall be separated from other prisoners, and different classes of convicted prisoners and different classes of other prisoners shall be separated as prescribed. Separation of prisoners.

15 16. (1) Every prisoner shall be supplied at the public expense with such medical attendance, treatment and medicine as in the opinion of the medical officer is necessary for the preservation of the health of the prisoner and of other prisoners and of prison officers. Medical attention.

(2) Where in the opinion of the medical officer the life or health of a prisoner is likely to be endangered or seriously prejudiced by the failure of such prisoner to undergo medical treatment or the life or health of any other prisoner or prison officer is likely to be endangered or seriously prejudiced by such failure, the prisoner may be compelled to submit to such medical treatment as is ordered by the medical officer.

30 17. (1) Where the medical officer certifies in writing to the Comptroller-General that a convicted prisoner is suffering from a venereal disease, such prisoner may be brought before a stipendiary magistrate within a prison or at any other place and, on proof being made in private on oath that such prisoner is so suffering, the magistrate may order that he be detained in a lock hospital until discharged in pursuance of this Act. Venereal disease.  
Act No. 11,  
1908, ss.  
4, 5.

35 (2) (a) Any prisoner against whom an order has been made under subsection one of this section may, on notice as prescribed, appeal therefrom to a Court of Quarter Sessions, and, subject to this section, the provisions of sections one hundred and twenty-two to one hundred and thirty-one, both inclusive, of the Justices Act, 1902-1947, shall apply, mutatis mutandis, to and in respect of such appeal. (b)



*Prisons.*

(b) Any such appeal shall be heard in private unless the Chairman of Quarter Sessions otherwise determines.

(c) No notice of appeal against any such order shall suspend or stay the operation of the order.

(d) The Court of Quarter Sessions hearing the appeal may, by its order, confirm, set aside or vary the order appealed from.

(3) The period of detention under any such order of detention as aforesaid shall run concurrently with but may exceed any term of imprisonment or detention to which the prisoner is subject.

(4) The medical officer shall, as soon as in his opinion any person detained in a lock hospital in accordance with the provisions of this section is free from venereal disease, so report to the Comptroller-General, and thereupon such person shall be discharged from such lock hospital and be remitted to custody to serve the remainder of the term of imprisonment or detention to which he had been sentenced or ordered if such term has not expired, but if such term has expired, he shall be discharged from custody.

18. (1) Every prisoner upon his reception into prison shall surrender to the governor of the prison all property in his possession. Such property shall be retained by the governor of the prison and returned to the prisoner immediately prior to his release from prison.

Private property.

(2) A record shall be kept of all such property as aforesaid and the prisoner may deal with such property only in such manner as is prescribed.

19. Every prisoner shall be liable to be photographed, to have the impression of his fingers and palms taken, and to have such details of his personal description as may be prescribed recorded.

Record of personal description of prisoners.

20. (1) Subject to the direction of the Comptroller-General, the governor of a prison may order any convicted prisoner in any such prison to be set to some work considered suitable to his physical capacity.

Work to be performed by prisoners.

cf. Act No. 27, 1899, ss. 16, 16A, 36.



*Prisons.*

(2) Any convicted prisoner may, with the approval of the Comptroller-General, be set to work beyond the precincts of the prison in which he is imprisoned, and while so beyond the precincts shall be  
5 deemed to be within the prison.

(3) The Comptroller-General may, out of moneys provided by Parliament for the purpose and subject to the regulations, make payments to prisoners for any reasons (including for work done).

10 (4) The regulations shall provide that where a convicted prisoner has been committed to prison pursuant to the provisions of Part II of the Deserted Wives and Children Act, 1901-1939, or Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent  
15 Acts, such portion of his prison earnings as may be prescribed shall be applied in or towards satisfaction of the liability in respect of which he was committed.

**21.** (1) The Governor may release from prison any person committed to prison pursuant to the provisions of  
20 Part II of the Deserted Wives and Children Act, 1901-1939, or of Part XII or Part XVI of the Child Welfare Act, 1939, as amended by subsequent Acts, and such release may be subject to such conditions as to the Governor appear meet.

Release of  
maintenance  
confinees.  
cf. Act No.  
27, 1899, s.  
16A (4).

25 (2) Any justice may in a summary way, on proof made before him that any such condition has been broken, rescind such release, or the release may be revoked by the Governor.

(3) Where a release is rescinded or revoked as  
30 aforesaid, the person released may be taken by any member of the Police Force and returned to prison, and there detained for the residue of the term for which he was originally committed, and subject to the same conditions as if he had not been released from prison.

35 **22.** (1) Any prisoner may, where the Comptroller-General or Visiting Justice is of opinion that it is necessary so to do in order to prevent the contamination arising from the association of prisoners, be detained away from association with other prisoners during the  
40 whole or any part of his imprisonment.

Separation  
of  
prisoners.  
*Ibid.* s. 17:

(2)



*Prisons.*

(2) The detention referred to in subsection one of this section shall not be deemed solitary confinement within the meaning of any statute forbidding the continuance of solitary confinement for more than a 5 limited time.

(3) No cell which is not of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health shall be used for the purpose of such detention as aforesaid and every prisoner 10 so confined shall have the means of taking exercise at such times and in such manner as in the opinion of the medical officer is necessary.

PART IV.

PRISON DISCIPLINE.

15 **23.** For the purposes of this Part the following shall be offences by prisoners against prison discipline—

- (a) mutiny;
- (b) open incitement to mutiny;
- (c) assaulting any prison officer;
- 20 (d) escaping or attempting to escape;
- (e) wilfully or maliciously breaking, damaging or destroying any prison property;
- (f) preferring a complaint against a prison officer knowing the same to be false;
- 25 (g) assaulting a prisoner;
- (h) making or attempting to make any wound or sore upon himself;
- (i) pretending illness;
- (j) being idle or negligent in work;
- 30 (k) mismanaging work;
- (l) committing a nuisance;
- (m) preferring a frivolous complaint;

Offences  
against  
prison  
discipline.  
cf. Qld. Act  
54 Vic. No.  
17, ss. 28,  
29, 30.  
W.A. Act,  
No. 14, 1903;  
ss. 37, 38.

(n)



*Prisons.*

- (n) cursing or swearing profanely;
- (o) behaving indecently;
- (p) behaving irreverently at or during Divine service or prayer;

- 5 (q) disobeying any regulation or any of the rules of the prison, or any lawful order of the Comptroller-General or of a prison officer.

For the purposes of paragraph (q) of this section  
 10 "lawful order of the Comptroller-General or of a prison officer" includes any order given by the Comptroller-General or a prison officer for the purpose of securing the enforcement or observance of the provisions of this Act, which orders the Comptroller-General and prison  
 15 officers are hereby authorised to give.

24. (1) A complaint may be made to the Visiting Justice in any case where a prisoner has committed or is suspected to have committed an offence against prison discipline.

Offences  
against  
prison  
discipline—  
how dealt  
with.

20 (2) Any such complaint shall, subject to section twenty-five of this Act, be heard and determined:—

(a) by the Visiting Justice or the Visiting Justice and some other justice nominated in that behalf  
 25 by the Visiting Justice;

(b) summarily in the presence of the prisoner charged and in the prison where the offence is alleged to have been committed:

Provided that where a prisoner has been received into  
 30 a prison by removal from another prison, a complaint in respect of an offence alleged to have been committed in the prison from which such prisoner has been removed may be heard and determined as if such offence had been committed within the prison into which he has been so  
 35 received.

(3) A prisoner against whom a complaint of an offence against prison discipline is found proved pursuant to this section shall be liable—

(a)



*Prisons.*

- (a) if the complaint is heard and determined by the Visiting Justice alone—to confinement to cell, on restricted diet as prescribed, for a term not exceeding fourteen days;
- 5 (b) if the complaint is heard and determined by the Visiting Justice and some other justice nominated as aforesaid—to confinement to cell, on restricted diet as prescribed, for a term not exceeding twenty-eight days;
- 10 and in either such case to such forfeiture of payments under subsection three of section twenty of this Act accrued due to him as to the Visiting Justice, or to the Visiting Justice and other justice, as the case may be, may seem fit.
- 15 **25.** In any case where upon the hearing of a complaint against prison discipline the Visiting Justice is, or the Visiting Justice and another justice are, of the opinion that such complaint:—
- Offences  
may be  
dealt  
with  
summarily  
or upon  
indictment.
- (a) could be prosecuted summarily before a stipendiary magistrate or justices sitting in petty sessions and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall order the prisoner charged to be conveyed to a court of petty sessions to be dealt with according to law; or
- 20
- 25
- (b) could be prosecuted by indictment and should be so prosecuted, he or they shall abstain from any further adjudication thereupon, and shall deal with the case by committal as in an ordinary case of an indictable offence charged before a stipendiary magistrate or justices sitting in petty sessions.
- 30
- Any such order as is referred to in paragraph (a)
- 35 of this section shall have the like effect and be dealt with as an order made under subsection one of section thirty-five of the Justices Act, 1902-1947.
- Any such committal as is referred to in paragraph (b)
- of this section shall have the like effect and be dealt
- 40 with as a committal for trial pursuant to the Justices Act, 1902-1947.
- 26.**



*Prisons.*

- 26.** Where the Visiting Justice, or the Visiting Justice and some other justice, imposes or impose punishment for any offence against prison discipline, he or they, as the case may be, shall enter and sign in a book kept at the prison for the purpose, a statement of the nature and date of the offence punished, the name of the offender, the date of sentence and the punishment awarded.

Punishment of offences to be recorded.  
cf. Qld. Act, 54 Vic. No. 17, s. 33.

## PART V.

## TRANSFER OF PRISONERS.

- 27.** Any prisoner may be removed from one prison to another prison by order of the Comptroller-General—
- (a) where the prison in which such prisoner is detained is to be repaired, altered, enlarged or rebuilt;
  - (b) in case of an outbreak or threatened outbreak of contagious or infectious disease in a prison;
  - (c) when any prison has ceased to be a prison pursuant to section five of this Act;
  - (d) when any prison is overcrowded;
  - (e) for the purpose of carrying the provisions of section fifteen of this Act into effect; or
  - (f) for any other cause specified in such order.

Orders for removal of prisoners from one prison to another.  
cf. Act No. 27, 1899, s. 25.

- 28.** (1) Any prisoner may, by order of the Comptroller-General, or in cases of exigency by order of the governor of the prison in which he is detained, made on the recommendation of the medical officer, be removed from a prison to a hospital or other place specified in the order for medical attendance and treatment.

Removal of prisoners to hospital.  
cf. Act No. 27, 1899, s. 27.  
Qld. Act, 54 Vic. No. 17, s. 52.

- (2) Any prisoner so removed shall, while in hospital or at such other place, be deemed to be in the custody of the governor of the prison from which he was removed, and the governor of such prison may, if he thinks fit, direct any prison officer to take charge of the prisoner whilst so in hospital or at such other place.

(3)



*Prisons.*

(3) On the certificate of the medical superintendent or other person in charge of a hospital (which certificate such medical superintendent or person is hereby authorised and required to give when the circumstances justify it) that a prisoner removed to such hospital pursuant to subsection one of this section may be discharged therefrom, such prisoner shall forthwith be returned to prison.

29. (1) Any prisoner may be taken temporarily, by order of the Minister, from any prison to any place in the State for any purpose in aid of the administration of justice or in aid of the Public Service or for any other purpose which in the opinion of the Minister justifies such action.

Removal from prison on order of Minister.  
cf. Act No. 27, 1899, s. 30.

(2) A prisoner taken from prison under an order issued pursuant to subsection one of this section shall for the purposes of this Act during the period of his absence from prison be deemed to be in the custody of the governor of the prison from which he was so taken.

PART VI.

PRISON OFFICERS.

30. All prison officers shall be appointed or employed under and subject to the provisions of the Public Service Act, 1902, or of any Act amending the same.

Appointment of prison officers.  
cf. Act No. 27, 1899, s. 10.

31. Subject to section thirty of this Act the duties of prison officers of the various classes shall be as determined from time to time by the Comptroller-General.

Duties of prison officers.

PART



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*Prisons.*


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## PART VII.

## OFFENCES.

**32.** Any person who, by force, rescues or attempts to rescue from lawful custody any prisoner shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding fourteen years.

Rescuing person from lawful custody.

cf. W.A. Act No. 14, 1903, s. 57.

**33.** Any person who—

(a) aids a prisoner in escaping or attempting to escape from lawful custody; or

Aiding escape.

*Ibid.* s. 58.

10 (b) conveys anything or causes anything to be conveyed into a prison or to a prisoner with intent to facilitate the escape of any prisoner,

shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years.

15 **34.** Any person who, being a prisoner in lawful custody, escapes or attempts to escape from such custody shall be guilty of a felony and shall be liable to penal servitude for a term not exceeding seven years, to be served after the expiration of any term of imprisonment, 20 penal servitude or detention to which the prisoner was subject at the time of his escape or attempt to escape.

Escaping. cf. *Ibid.* s. 59.

**35.** Any person, who being an officer of a prison or member of the Police Force, and having, for the time being, the actual custody of a prisoner, wilfully or negligently permits him to escape from custody, shall be 25 guilty of a felony and shall be liable to penal servitude for a term not exceeding two years.

Permitting escape. W.A. Act No. 14, 1903, s. 60.

**36.** Any person who knowingly harbours, maintains or employs an escaped prisoner shall be guilty of an offence and shall be liable—

Harbouring escapee. *Ibid.* s. 61.

30 (a) if convicted on indictment—to penal servitude for a term not exceeding three years;

(b) if convicted summarily—to a penalty not exceeding five hundred pounds.

**37.**



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*Prisons.*


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**37.** Any person who without lawful authority (proof whereof shall lie on him) brings or attempts by any means whatever to introduce into any prison any spirituous or fermented liquor or any drug shall be liable  
 5 to imprisonment for a term not exceeding six months or to a penalty not exceeding one hundred pounds or to both such imprisonment and penalty.

Trafficking.  
 W.A.  
 Act No. 14,  
 1903, s. 62.

**38.** (1) Any person who without lawful authority (proof whereof shall lie on him)—

Miscel-  
 laneous  
 offences.  
*Ibid.* s. 63.

- 10 (a) enters or attempts to enter any prison;
- (b) communicates, or attempts to communicate with any prisoner;
- (c) conveys or delivers, or causes to be conveyed or delivered, or in any manner whatsoever attempts  
 15 to convey or deliver, or to cause to be conveyed or delivered to any prisoner, or introduces or attempts to introduce into any prison, any money, letter or other document, clothing, or other article or thing;
- 20 (d) conveys or receives for conveyance or causes to be conveyed or received for conveyance any letter or other document, clothing or any article or thing out of any prison;
- (e) loiters about or near any prison; or
- 25 (f) secretes or leaves at any place any money, letter, document, clothing, article or thing, for the purpose of being found or received by any prisoner,

shall be liable to imprisonment for a term not exceeding  
 30 six months or to a penalty not exceeding one hundred pounds or to both such imprisonment and penalty.

(2) In respect of any such offence as is referred to in subsection one of this section, every prison officer shall have the same powers of arrest as a member  
 35 of the Police Force.

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 PART



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*Prisons.*

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## PART VIII.

## GENERAL.

39. Every prisoner shall whilst detained in a prison be deemed to be in the custody of the governor of the prison to which he has been committed or removed and the liability of the Sheriff or other person delivering such prisoner shall cease on delivery of such prisoner to the governor of the prison.

Custody of prisoners.  
cf. Act No. 27, 1899, s. 6.  
W.A. Act No. 14, 1903, s. 45.

40. Every governor of a prison shall have the charge and superintendence of the prison for which he is appointed and he shall be liable to answer for the escape of any prisoner from his custody whenever such escape shall happen by or through his neglect or default, but not otherwise.

Responsibility of governors of prisons.  
*Ibid.* s. 46.

41. (1) Any prisoner may be discharged from prison at any time during the twenty-four hours immediately preceding the time at which his imprisonment would otherwise have terminated.

Expiration of sentence.  
*Ibid.* s. 48.

(2) Any convicted prisoner whose term of imprisonment would terminate, either according to his sentence or to any law relating to the remission of sentences, on a Sunday, may be discharged on the Saturday immediately preceding such Sunday.

42. Any writ, warrant or other instrument addressed to the governor of a prison describing the prison by its situation or other definite description shall be valid by whatever title such prison is usually known or whatever be the formal description of the prison.

Address of warrant.  
W.A. Act No. 14, 1903, s. 50.

43. Upon the death of a prisoner the governor of the prison in whose custody such prisoner was at the time of his death shall forthwith give notice to the coroner of the district where the prison is situated and an inquest shall be held by the said coroner on the body of such prisoner.

Notice to coroner of death.  
cf. *Ibid.* s. 51.



*Prisons.*

44. (1) Where any court of record or any judge or person constituting any such court or any coroner is satisfied that it is desirable that a prisoner should be in attendance before it or him for the purposes of any legal proceedings or inquest then pending, such court, judge, person or coroner, as the case may be, may make an order directing the governor of the prison in whose custody the prisoner is to produce such prisoner or to have such prisoner produced in court before it or him, as the case may be, and such order shall notwithstanding anything in this Act contained be a sufficient authority to the governor of the prison for producing or having produced such prisoner in accordance with the tenor thereof.

Attendance  
of prisoner  
before  
court, etc.  
W.A.  
Act No. 14,  
1903, s. 52.

(2) Every prisoner shall, when produced under an order made under subsection one of this section in the actual custody of the governor of the prison, a prison officer or a member of the Police Force, be deemed to be in lawful custody and any such governor, prison officer or member of the Police Force shall in due course return the prisoner into the prison from which he was produced.

45. (1) Whenever a court of summary jurisdiction—  
(a) awards imprisonment, or  
(b) commits a person to prison in default of payment of any fine, penalty, costs or sum of money imposed on or ordered to be paid by such person by any court of summary jurisdiction, or in default of entering into a recognizance to be of good behaviour upon the order of any court of summary jurisdiction;  
and in any such case the term of imprisonment is for a period not exceeding one month, it may order such imprisonment to be served in the lock-up or police station specified in the order.

Sentences  
to be  
served in  
lock-up.  
Act No. 27,  
1899, s. 37.

(2) Whenever a court of summary jurisdiction orders a prisoner to be imprisoned as provided in subsection one of this section any justice may by direction under his hand order that the prisoner work within the precincts

Employ-  
ment  
outside  
lock-up.



*Prisons.*

precincts of such lock-up or police station in accordance with instructions given by any member of the Police Force on duty at such lock-up or police station.

(3) Any prisoner who refuses to obey any order  
5 given under subsection two of this section or who is guilty of idleness or negligence in his work under such order, shall be guilty of an offence and on summary conviction shall be liable to imprisonment for a period not exceeding one month.

10 46. No action or claim for damages shall lie against any person for or on account of anything done or commanded to be done by him and purporting to be done for the purpose of carrying out the provisions of this Act, unless it is proved that such act was done or  
15 commanded to be done maliciously and without reasonable and probable cause.

Actions and claims for damages.  
W.A. Act No. 14, 1903, s. 75.

47. (1) No action or claim as aforesaid shall be commenced until one month next after notice in writing has been delivered to the person against whom it is  
20 intended to be brought, or left at his usual place of abode.

Commencement of action.  
*Ibid.* s. 76.

(2) Such notice shall clearly state the proposed cause of action, the name and place of abode of the proposed plaintiff, and the name and place of business of his solicitor (if any) and shall be signed by the  
25 proposed plaintiff or his solicitor.

(3) Every such action shall be commenced within one year after its cause shall have arisen.

48. All penalties imposed by or under this Act shall be paid into the Consolidated Revenue Fund.

Penalties.

30 49. The Comptroller-General may, with the approval of the Minister, make rules not inconsistent with this Act for the management, control, good government, supervision and inspection of prisons.

Rules.

50. (1) The Governor may make regulations prescribing all matters which by this Act are required or  
35 permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect

Regulations.



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*Prisons.*

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effect to this Act, and in particular and without prejudice to the generality of the foregoing, may make regulations for and with respect to—

- 5 (a) the visits and examinations of prisons by Visiting Justices;
- (b) the exercise and diet of prisoners;
- (c) the classification and separation of prisoners;
- (d) the manner in which prisoners may deal with property held in the custody of the governor of a prison;
- 10 (e) the recording of the personal description of prisoners;
- (f) the payments to prisoners for work performed or for other reasons;
- 15 (g) visits to or inspection of prisons by persons other than officers engaged in the administration of this Act and admission generally to prisons;
- (h) the religious ministrations to prisoners and Divine service within prisons;
- 20 (i) visits to and correspondence by and with prisoners;
- (j) all matters necessary or expedient for the good order, discipline and health of prisoners.

(2) The regulations may impose a penalty not  
25 exceeding twenty pounds for any breach thereof.

- (3) All regulations made under this Act shall—
- (a) be published in the Gazette;
  - (b) take effect from the date of publication or from a later date to be specified therein;
  - 30 (c) be laid before both Houses of Parliament within fourteen sitting days after the publication thereof if Parliament is in session, and if not, then within fourteen sitting days after the commencement of the next session.

35 If either House of Parliament passes a resolution of which notice has been given at any time within fifteen sitting



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*Prisons.*

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sitting days after the regulations have been laid before such House disallowing any regulation or part thereof, such regulation or part shall thereupon cease to have effect.

5   **51.** (1) The Habitual Criminals Act, 1905, as amended  
by subsequent Acts, is amended by omitting section  
twelve and by inserting in lieu thereof the following  
section:—

Amendment  
of Act  
No. 15,  
1905.  
Subst.  
sec. 12.

10       12. (1) The Governor may make regulations not  
inconsistent with this Act prescribing all matters  
which by this Act are required or permitted to be  
prescribed or which are necessary or convenient to  
be prescribed for carrying out or giving effect to  
this Act.

Regulations.

15       (2) The regulations shall—  
(a) be published in the Gazette;  
(b) take effect from the date of publication or  
from a later date to be specified in the  
regulations; and  
20       (c) be laid before both Houses of Parliament  
within fourteen sitting days after the pub-  
lication thereof if Parliament is in session,  
and if not, then within fourteen sitting days  
after the commencement of the next session.

25       If either House of Parliament passes a resolution  
of which notice has been given at any time within  
fifteen sitting days after such regulations have been  
laid before such House disallowing any regulation  
or part thereof, such regulation or part shall there-  
upon cease to have effect.

30       (3) Where any regulation under this Act is  
in its application to an habitual criminal inconsistent  
with any regulation under the Prisons Act, 1952, the  
regulation under this Act shall prevail.

35       (2) The Habitual Criminals Act, 1905, as amended  
by subsequent Acts and by this Act, may be cited as the  
Habitual Criminals Act, 1905-1952.



*Prisons.*

**52.** (1) (a) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts, is amended by omitting from subsection two of section eleven the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1901.  
Sec. 11.  
(Disobedi-  
ence of  
order.)

(b) The Deserted Wives and Children Act, 1901, as amended by subsequent Acts and by this Act, may be cited as the Deserted Wives and Children Act, 1901-1952.

(2) (a) The Child Welfare Act, 1939, as amended by subsequent Acts, is amended by omitting from subsection one of section one hundred and fifteen the words "section 16A of the Prisons Act, 1899" and by inserting in lieu thereof the words "section twenty-one of the Prisons Act, 1952."

Amendment  
of Act  
No. 17,  
1939.  
Sec. 115.  
(Effect of  
imprison-  
ment on  
non-  
payment.)

(b) The Child Welfare Act, 1939, as amended by subsequent Acts and by this Act, may be cited as the Child Welfare Act, 1939-1952.

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## SCHEDULES.

## FIRST SCHEDULE.

Sec. 3 (1).

Number of Act.	Title or short title.	Extent of repeal.
No. 27, 1899 ...	Prisons Act 1899 ...	The whole Act.
No. 11, 1908 ...	Prisoners Detention Act, 1908 ...	The whole Act.
<b>25</b> No. 12, 1908 ...	Police Offences (Amendment) Act, 1908.	Section 16.
No. 9, 1913 ...	Deserted Wives and Children Amending Act, 1913.	Section 2.
No. 20, 1918 ...	Prisons (Amendment) Act, 1918	The whole Act.
<b>30</b> No. 34, 1918 ...	Prisoners Detention (Amendment) Act, 1918.	The whole Act.
No. 33, 1931 ...	Deserted Wives and Children (Amendment) Act, 1931.	Section 10 (2).
No. 19, 1944 ...	Public Service (Amendment) Act, 1944.	Section 2.
<b>35</b>		

SECOND



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*Prisons.*

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SECOND SCHEDULE.

Sec. 3 (4).

- The State Penitentiary at Malabar  
The State Reformatory for Women at Malabar.  
Parramatta Gaol.
- 5 Bathurst Gaol.  
Maitland Gaol.  
Goulburn Training Centre.  
Dubbo Gaol.  
Grafton Gaol.
- 10 Broken Hill Gaol.  
Narrabri Gaol.  
Emu Plains Training Centre.  
Berrima Training Centre.  
Brookfield Afforestation Camp, Mannus.
- 15 Glen Innes Afforestation Camp.  
Oberon Afforestation Camp.