



ANNO TRICESIMO PRIMO

ELIZABETHAE II REGINAE

A.D. 1982

No. 48 of 1982

An Act to provide for the establishment and management of prisons and other correctional institutions; to regulate the manner in which persons in correctional institutions are to be treated by those responsible for their detention and care; to repeal the Prisons Act, 1936-1981; and for other purposes.

[Assented to 29 April 1982]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

PART I

PART I

PRELIMINARY

1. This Act may be cited as the "Correctional Services Act, 1982".

Short title.

2. (1) This Act shall come into operation on a day to be fixed by proclamation.

Commencement.

(2) The Governor may, in a proclamation made for the purposes of subsection (1), suspend the operation of any specified provisions of this Act until a day fixed by the proclamation, or a day to be fixed by subsequent proclamation.

3. This Act is arranged as follows:

Arrangement.

PART I—PRELIMINARY

PART II—CORRECTIONAL SERVICES

Division I—ADMINISTRATION

DIVISION II—THE CORRECTIONAL SERVICES ADVISORY COUNCIL

DIVISION III—VISITING TRIBUNALS

PART III—CORRECTIONAL INSTITUTIONS

Division I—ESTABLISHMENT OF CORRECTIONAL INSTITUTIONS

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PART I

PART IV—IMPRISONMENT

DIVISION I—COMMENCEMENT OF SENTENCES

DIVISION II—ASSIGNMENT OF PRISONERS TO PARTICULAR
CORRECTIONAL INSTITUTIONS

DIVISION III—PRISONERS ASSESSMENT COMMITTEE

DIVISION IV—CUSTODY OF PRISONERS

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DIVISION VI—MANAGEMENT OF PRISONERS

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PART V—OFFENCES

DIVISION I—JURISDICTION AND POWERS OF VISITING TRIBUNALS

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DIVISION III—PROCEEDINGS AGAINST PRISONERS FOR OTHER OFFENCES

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PART VI—PAROLE

DIVISION I—THE PAROLE BOARD

DIVISION II—FIXING OF NON-PAROLE PERIODS

DIVISION III—RELEASE ON PAROLE

PART VII—CONDITIONAL RELEASE

PART VIII—MISCELLANEOUS

Interpretation.**4. In this Act, unless the contrary intention appears—**

“the Advisory Council” means the Correctional Services Advisory Council:

“the Assessment Committee” means the Prisoners’ Assessment Committee established under Part IV:

“the Board” means the Parole Board of South Australia:

“conditional release” means the release of a prisoner from prison under Part VII:

“contempt prisoner” means a person committed to prison, or sentenced to imprisonment, for failure to comply with an order for the payment of a pecuniary sum, or for contempt of court:

“correctional institution” means a prison or police prison:

“the Department” means the Department of Correctional Services:

“Magistrate” means a special magistrate appointed under the Justices Act, 1921-1981:

“non-parole period” means a period fixed by a court as a period during which a prisoner may not be released on parole:

“parole officer” means an officer of the Department holding, or acting in, the office of parole officer:

- “the Permanent Head” means the person holding or acting in the office of permanent head of the Department:
- “police prison” means premises declared to be a police prison under Part III:
- “prison” means premises declared to be a prison under Part III:
- “prisoner” means a person committed to a correctional institution pursuant to a warrant of commitment:
- “remand prisoner” means a person remanded in custody awaiting trial or sentence:
- “the repealed Act” means the Prisons Act, 1936-1981, repealed by this Act:
- “sentence of indeterminate duration” means detention during Her Majesty’s pleasure or the Governor’s pleasure:
- “superintendent”, in relation to a correctional institution, means the person for the time being in charge of the institution:
- “Visiting Tribunal”, in relation to a correctional institution, means a Visiting Tribunal established under this Act in respect of that institution.

5. The Prisons Act, 1936-1981, is repealed.

Repeal.

6. (1) Any public gaol, house of correction, prison, labour prison or penal establishment (not being a police prison) in existence under the repealed Act immediately prior to the commencement of this Act shall, upon the commencement of this Act, be deemed to be a prison established under this Act.

Transitional provision.

(2) Any police prison in existence under the repealed Act immediately prior to the commencement of this Act shall, upon the commencement of this Act, be deemed to be a police prison established under this Act.

(3) Any proceedings commenced under the repealed Act for an offence against that Act or the regulations under that Act and not finally disposed of at the commencement of this Act shall be disposed of under the repealed Act as if this Act had not been enacted.

(4) Any proceedings or other business before the Board or the Advisory Council under the repealed Act and not finally disposed of at the commencement of this Act shall be disposed of under this Act as if the proceedings or business had been commenced under this Act.

(5) An executive or judicial act in force under the repealed Act immediately prior to the commencement of this Act shall remain in force under, and subject to, this Act as if it had been made under this Act.

(6) In this section, “executive or judicial act” means an administrative order, direction, permit or decision, and includes an order of the Board, and an order or judgment of a court, a visiting justice or a superintendent.

PART II
CORRECTIONAL SERVICES
DIVISION I—ADMINISTRATION

Power of
Minister and
Permanent
Head to
delegate.

7. (1) The Minister may from time to time, by instrument in writing, delegate to the Permanent Head any of his powers, duties or functions under this Act.

(2) The Permanent Head may delegate to any officer of the Department, any of the powers, functions, duties or responsibilities vested in, imposed upon or delegated to, the Permanent Head under this Act.

(3) A delegation under this section is revocable at will, and shall not prevent the exercise or performance of any power, function, duty or responsibility by the Minister or the Permanent Head.

(4) Any power, function, duty or responsibility vested in, imposed upon or delegated to the Permanent Head under this Act may, if the Permanent Head is absent from or otherwise unable to perform the duties of his office, be exercised or performed by such other officer of the Department as the Minister may authorize.

Use of
volunteers
in the
administration
of this Act.

8. The Minister shall promote the use of volunteers in the administration of this Act to such extent as he thinks appropriate.

Annual report
of Permanent
Head.

9. (1) The Permanent Head shall, not later than the thirty-first day of October in each year, submit to the Minister a report on the work of the Department during the previous financial year and on such other matters as the Minister may direct.

(2) The Minister shall, as soon as practicable after his receipt of a report submitted to him under this section, cause a copy of the report to be laid before each House of Parliament.

DIVISION II

DIVISION II—THE CORRECTIONAL SERVICES ADVISORY COUNCIL

Continuance
of the
Advisory
Council.

10. (1) There shall be a council entitled the "Correctional Services Advisory Council".

(2) The Advisory Council shall consist of six members appointed by the Governor, of whom—

(a) one (the Chairman) shall be a person who has, in the opinion of the Governor, extensive knowledge of, and experience in, the science of criminology, penology or any other related science;

(b) one, the Deputy Chairman, shall be a person who has, in the opinion of the Governor, extensive knowledge of, and experience in, the field of business management, medicine, social welfare or education;

(c) one shall be a person nominated by the Attorney-General;
and

(d) three shall be persons nominated by the Minister.

(3) At least one of the members of the Advisory Council must be a woman.

11. (1) The Chairman of the Advisory Council shall be appointed for a term of five years.

(2) A member of the Advisory Council other than the Chairman shall be appointed for such term, not exceeding three years, as the Governor determines and specifies in the instrument of his appointment.

(3) Upon the expiration of the term of office of a member of the Advisory Council, he shall be eligible for re-appointment.

12. A member of the Advisory Council shall be entitled to receive such allowances and expenses as the Governor may from time to time determine.

Allowances
and expenses.

13. (1) The Governor may remove a member of the Advisory Council from office on the ground of—

Removal from
and vacancies
of office.

(a) mental or physical incapacity to carry out satisfactorily the duties of his office;

(b) dishonourable conduct;

or

(c) neglect of duty.

(2) The office of a member of the Advisory Council shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by giving notice in writing to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (1).

(3) Upon the office of a member of the Advisory Council becoming vacant, a person shall be appointed to that office in accordance with this Act.

14. (1) The Chairman or, in his absence, the Deputy Chairman shall preside at any meeting of the Advisory Council.

Manner in
which business
of the Advisory
Council must
be conducted.

(2) Four members, one of whom must be the Chairman or the Deputy Chairman, shall constitute a quorum of the Advisory Council, and no business shall be transacted at any meeting of the Advisory Council unless a quorum is present.

(3) Subject to this Division, the business of the Advisory Council shall be conducted in such manner as the Advisory Council may determine.

15. (1) The functions of the Advisory Council are as follows:

Functions of
the Advisory
Council.

(a) to monitor and evaluate the administration and operation of this Act;

(b) to report to the Minister on any matter referred to the Advisory Council by the Minister;

(c) to report of its own motion to the Minister on any matter pertaining to the administration or operation of this Act;

and

PART II
DIVISION II

(d) to perform such other functions as may be prescribed by or under this Act, or any other Act.

(2) A member of the Advisory Council is entitled at any reasonable time to enter and inspect any correctional institution and ask questions of any person within the institution.

Annual report.

16. (1) The Advisory Council shall, not later than the thirty-first day of October in each year, report to the Minister on the administration and operation of this Act during the previous financial year.

(2) The Minister shall, as soon as practicable after his receipt of a report submitted to him under subsection (1), cause a copy of the report to be laid before each House of Parliament.

DIVISION III

DIVISION III—VISITING TRIBUNALS

**Establishment
of Visiting
Tribunals.**

17. (1) There shall be established for each correctional institution such number of Visiting Tribunals as the Minister thinks necessary or desirable.

(2) Subject to subsection (3), a Magistrate appointed by the Governor, by proclamation, shall constitute a Visiting Tribunal for the correctional institution specified in the proclamation.

(3) Where more than one Visiting Tribunal is to be established for a correctional institution, the Governor may, by proclamation, appoint two Justices of the Peace to be a Visiting Tribunal for that institution.

(4) The Governor may, by further proclamation, vary or revoke a proclamation under this section.

PART III

PART III

CORRECTIONAL INSTITUTIONS

DIVISION I—ESTABLISHMENT OF CORRECTIONAL INSTITUTIONS

DIVISION I

18. (1) The Governor may, by proclamation—

(a) declare any premises to be a prison;

or

(b) declare any premises under the control of the Commissioner of Police to be a police prison,

for the purposes of this Act.

(2) The Governor may, by further proclamation, revoke or vary any proclamation under subsection (1).

19. All correctional institutions established under this Act shall be under the control of the Minister.

Governor may
proclaim
premises to be
a prison or
police prison.

Correctional
institutions
to be under
the control
of the
Minister.

DIVISION II—INSPECTION OF CORRECTIONAL INSTITUTIONS

DIVISION II

20. (1) A Visiting Tribunal for a prison may at any time, and shall, if requested to do so by the Minister, enter and inspect the prison for the purposes of ascertaining whether the provisions of this Act relating to the treatment of prisoners are being complied with.

Duty of
Visiting
Tribunals
to enter
and inspect
correctional
institutions.

(2) The Minister shall cause each prison to be so inspected by a Visiting Tribunal at least once in each week.

(3) A Visiting Tribunal for a police prison shall upon the request of the Minister, and may at any other time, enter and inspect the police prison.

(4) For the purposes of any inspection, a Visiting Tribunal may—

(a) enter into and inspect any part of the correctional institution;

(b) question any person within the institution;

(c) inquire into the treatment of the prisoners, or of any particular prisoner;

(d) inquire into the conduct of any prisoner;

(e) receive and investigate any complaint of a prisoner or of any person employed in the institution;

and

(f) inquire into any other matter upon the request of the Minister.

(5) A Visiting Tribunal may, in investigating a complaint, be assisted by any other person authorized by the Attorney-General for the purpose.

(6) An authorized person assisting a Visiting Tribunal pursuant to subsection (5) shall have, and may exercise, for that purpose, the powers vested in the Visiting Tribunal under this section.

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DIVISION II

(7) A Visiting Tribunal shall furnish the Minister and the Attorney-General with a written report of its findings upon completing an investigation of a complaint.

(8) A Visiting Tribunal shall, at the end of each month, furnish the Minister with a written report on all matters inquired into by the Tribunal during that month other than a matter in respect of which it has furnished a report under subsection (7), and on any other matter that it thinks relevant.

(9) A Visiting Tribunal may, in a report furnished under this section, make such recommendations in relation to any matter arising out of the report as it thinks fit.

PART IV

PART IV

IMPRISONMENT

DIVISION I—COMMENCEMENT OF SENTENCES

DIVISION I

21. (1) A sentence of imprisonment imposed upon a person convicted of an offence by the Supreme Court or a District Court shall be deemed to have commenced on the first day of the criminal sittings in which he was so convicted, unless the Court imposing the sentence directs that the sentence shall be deemed to have commenced, or shall commence, on a day that is earlier or later than that day.

Day on which sentences of imprisonment shall commence.

(2) A sentence of imprisonment imposed upon a person, not being a sentence referred to in subsection (1)—

(a) shall, where the person is at large at the time that the warrant of commitment in respect of the sentence is signed, commence on the day upon which he is arrested for the purposes of committing him to a correctional institution pursuant to the warrant;

or

(b) shall, in any other case, commence on the day upon which the warrant of commitment in respect of the sentence is signed,

unless the court imposing the sentence directs that the sentence shall be deemed to have commenced, or shall commence, on a day that is earlier or later than the day referred to in paragraph (a) or (b).

(3) A person shall not be admitted to a correctional institution for detention in that institution, except upon presentation of a warrant of commitment that contains particulars of the order of the court under which he is to be imprisoned.

DIVISION II—ASSIGNMENT OF PRISONERS TO PARTICULAR CORRECTIONAL INSTITUTIONS

DIVISION II

22. (1) A person who is remanded in custody awaiting trial or sentence shall be detained in such correctional institution as the Permanent Head may determine.

Power of Permanent Head to assign prisoner to a specified correctional institution.

(2) Subject to this section, a person who is sentenced to imprisonment or committed to prison shall be imprisoned in such correctional institution as the Permanent Head may determine.

(3) Subject to this Act, a person who is sentenced to a term of imprisonment exceeding fifteen days shall not be imprisoned in a police prison.

DIVISION III—PRISONERS ASSESSMENT COMMITTEE

DIVISION III

23. (1) The Minister shall establish a committee entitled the "Prisoners Assessment Committee".

The Prisoners Assessment Committee.

(2) The Assessment Committee shall consist of three persons who shall be appointed by the Minister upon such terms and conditions as he thinks fit.

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DIVISION III

(3) On any matter arising at a meeting of the Assessment Committee, a decision carried by any two members of the Committee shall be a decision of the Committee.

(4) The functions of the Assessment Committee are as follows:

(a) as soon as practicable after the detention of any person who has been sentenced to a term of imprisonment exceeding six months or to life imprisonment or any other sentence of indeterminate duration, to recommend to the Permanent Head the prison in which the person should be imprisoned;

and

(b) at regular intervals, and at any time upon the application of the Permanent Head or the superintendent of a prison, to review the circumstances of any prisoner who is serving a sentence of imprisonment exceeding six months, a sentence of life imprisonment or any other indeterminate sentence and, if the Assessment Committee thinks fit, to recommend to the Permanent Head the transfer of the prisoner to another prison.

(5) The Permanent Head shall carry out any recommendation of the Assessment Committee unless he is of the opinion that special reasons exist for not doing so.

(6) Where, pursuant to subsection (5), the Permanent Head does not carry out a recommendation of the Assessment Committee, he shall advise the Committee in writing of the reasons for the decision.

(7) The prisoner under assessment or review is not entitled to appear before the Assessment Committee except upon a request of the Committee.

(8) In carrying out its functions under this section the Assessment Committee shall have regard to the best interests of the prisoner under assessment or review and shall consider—

(a) any submissions made by the Commissioner of Police in respect of the prisoner;

(b) the information contained in any file held by a court in respect of the prisoner;

(c) any pre-sentence reports on the prisoner;

(d) the security of, and availability of accommodation at, any prison in question;

(e) the suitability to the prisoner of the facilities at any prison in question;

(f) the question of maintaining the prisoner's family ties;

and

(g) such other matters as the Committee thinks relevant.

DIVISION IV

DIVISION IV—CUSTODY OF PRISONERS

Permanent
Head has
legal custody
of all
prisoners.

24. The Permanent Head has the custody of every prisoner, whether the prisoner is within, or outside, the precincts of the place in which he is being detained, or is to be detained.

DIVISION V—TRANSFER AND LEAVE OF ABSENCE OF PRISONERS

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DIVISION V

25. (1) The Permanent Head may, by written order, direct that a prisoner be transferred from the place in which he is being detained to any other correctional institution.

Permanent Head may transfer prisoners.

(2) An order given by the Permanent Head under subsection (1) shall be sufficient authority for the transfer of the prisoner in accordance with the order and the detention of the prisoner in the correctional institution to which he is transferred.

26. While a prisoner is being taken to any place in which he is to be detained, or is being taken for any purpose contemplated by this Act from any place in which he is being detained, he may, without any authority other than this section, be detained in any other place for as long as may reasonably be required in the course of effecting the transfer of the prisoner.

Prisoner may be temporarily detained in any other prison, etc., while in transit.

27. (1) The Permanent Head may, by written order, grant to a prisoner leave to be absent from the place in which he is being detained—

Leave of absence from prison.

- (a) for the medical or psychiatric examination, assessment or treatment of the prisoner;
 - (b) for the attendance of the prisoner at any educational or training course;
 - (c) for the participation of the prisoner in any form of recreation, entertainment or community service;
 - (d) for such compassionate purpose as the Permanent Head thinks fit;
 - (e) for any purpose related to criminal investigation;
- or
- (f) for such other purpose as the Permanent Head thinks fit.

(2) Leave of absence granted under this section may be subject to such conditions as the Permanent Head thinks fit, including, where the Permanent Head thinks it is appropriate, a condition that the prisoner will be in the custody of, and supervised by, one or more officers of the Department authorized by the Minister for the purpose.

(3) The Permanent Head may, by further written order, revoke any leave of absence granted under this section, or vary any of the conditions to which it is subject.

(4) Where a prisoner is still at large after the revocation or expiry of his leave of absence, he may be apprehended without warrant by any member of the police force or any officer of the Department authorized by the Minister for the purpose.

(5) A prisoner who is still at large after the expiry of his leave of absence shall be deemed to be unlawfully at large.

28. (1) A prisoner is entitled to attend before a justice or a court for the purpose of his preliminary examination, trial or sentence for the offence in respect of which he is being detained or for any other offence with which he has been charged.

Removal of prisoner for attendance at court, etc.

(2) Where a prisoner is required to attend before any justice, court or coroner, whether as a party to any proceedings or as a witness, the justice, court

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DIVISION V

or coroner hearing the proceedings may, by order, direct the superintendent of the correctional institution in which the prisoner is being detained to cause the prisoner to be brought before the justice, court, or coroner, in accordance with the order.

(3) Upon the determination or an adjournment of proceedings at which a prisoner attends under this section, he may be returned to the correctional institution without any further process or authority.

DIVISION VI

DIVISION VI—MANAGEMENT OF PRISONERS

Prison work.

29. (1) A prisoner (other than a remand prisoner) is required to perform such work, whether inside or outside the precincts of the correctional institution, as the superintendent directs.

(2) A remand prisoner may, at his own request, and subject to any directions of the superintendent, perform any work that has been arranged by the superintendent.

(3) Tasks selected for prison work must, as far as reasonably practicable, be selected on the basis that they are likely to provide prisoners with experience in a recognized profession, trade or other field of employment.

(4) A superintendent shall, in directing a prisoner to perform any particular work, have regard to the age and the physical and mental health of the prisoner, and any skills or work experience of the prisoner.

Prison education.

30. The Permanent Head shall arrange for such courses of instruction or training as he thinks fit to be made available to prisoners.

Allowances paid to prisoners.

31. (1) Every prisoner is entitled to an allowance from time to time fixed by the Minister with the approval of the Treasurer.

(2) A prisoner who performs work pursuant to this Division shall be entitled to a further allowance at a rate from time to time fixed by the Minister with the approval of the Treasurer.

(3) The Minister may, for the purposes of subsection (2), fix varying rates of allowance in respect of different classes of work.

(4) All allowances to which a prisoner is entitled under this section shall be credited to the prisoner.

(5) The Minister shall review regularly the rates of the allowances to which a prisoner is entitled under this section.

Purchase of items of personal use by prisoners.

32. The superintendent of a place of imprisonment shall make available for purchase by prisoners such items of personal use or consumption as may be prescribed, and may make available for purchase any other items that the superintendent thinks fit.

Prisoners' mail.

33. (1) Subject to this section, a prisoner shall be entitled to receive or send any letter or parcel.

(2) Except where the superintendent exercises his powers under this section—

(a) a prisoner to whom any letter or parcel is sent shall be handed that letter or parcel as soon as reasonably practicable after it is delivered to the correctional institution;

and

(b) any letter or parcel sent by a prisoner shall be forwarded as soon as reasonably practicable.

(3) A letter or parcel sent to or by a prisoner contravenes this section if it contains—

- (a) a threat of a criminal act;
- (b) a proposal or plan to commit a criminal act, or to do anything towards the commission of a criminal act;
- (c) an unlawful threat or demand;
- (d) an incitement to violence, or material likely to inflame violence;
- (e) plans for any activity prohibited by the regulations;
- (f) any item prohibited by the regulations;
- (g) a sum of money, whether in cash or otherwise, or a request for any such sum, where the prior permission of the superintendent has not been obtained in respect of that sum or request;
- (h) a request for any goods, without the prior permission of the superintendent;

or

- (i) a statement that is in code.

(4) A superintendent may cause all parcels sent to or by a prisoner to be opened and examined, and all letters sent to a prisoner to be opened, by an authorized officer for the purpose of determining whether any parcel or letter contains a prohibited item or a sum of money.

(5) Subject to subsection (7), a superintendent may cause—

- (a) any letter sent to or by a prisoner who is, in the opinion of the superintendent, likely to attempt to escape from the prison;
- (b) any letter sent by a prisoner who has previously written, or threatened to write, a letter that would contravene this section;

or

(c) any other letter, selected on a random basis, sent to or by a prisoner, to be opened and perused by an authorized officer for the purpose of determining whether the letter contravenes this section.

(6) The authorized officer may, for the purposes of perusing any letter opened by him that is in a language other than English, cause the letter to be translated.

(7) A letter sent by a prisoner—

- (a) to the Ombudsman;
- (b) to a Member of Parliament;
- (c) to a Visiting Tribunal;

or

- (d) to a legal practitioner at his business address,

shall not be opened pursuant to this section.

(8) Where the authorized officer is satisfied on reasonable grounds that a letter sent to a prisoner is from the Ombudsman, a Member of Parliament, a Visiting Tribunal or a legal practitioner, he shall not open that letter.

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DIVISION VI

(9) Where a letter or parcel opened and perused or examined pursuant to this section is found not to contravene this section, the authorized officer shall indicate on the letter or parcel that it has been so opened and it shall be forwarded to the intended recipient, or handed to the prisoner, as the case may require, as soon as reasonably practicable.

(10) Where a letter or parcel sent to a prisoner is opened and perused or examined pursuant to this section and is found to contravene this section, the superintendent may—

(a) in the case of a letter—

- (i) hand it over to the prisoner;
- (ii) retain it and hand it over to the prisoner upon his discharge from prison;
- (iii) furnish a copy of it to the prisoner with any material that contravenes this section deleted from the copy, provided that the letter is handed over to the prisoner upon his discharge from prison;

or

- (iv) retain it as evidence of an offence, provided that a copy of it, or an expurgated copy of it, is handed over to the prisoner as soon as reasonably practicable, or upon his discharge from prison;

(b) in the case of a prohibited item found in a letter or parcel—

- (i) cause the item to be destroyed;
- (ii) retain it and hand it over to the prisoner upon his discharge from prison;
- (iii) retain it as evidence of an offence;
- (iv) return it to the sender;

or

- (v) dispose of it in such other manner as the superintendent thinks fit;

and

(c) in the case of a sum of money—

- (i) hold the money for as long as may be necessary for the purposes of ascertaining the identity of the sender and the circumstances of the payment;
- (ii) credit the whole, or part, of it to the prisoner;
- (iii) hold the whole, or part, of it on behalf of the prisoner and pay it over to the prisoner in accordance with this Act upon his discharge from prison;
- (iv) return the whole, or part of it to the sender;
- (v) if the prisoner is not lawfully entitled to the money, and the identity or whereabouts of the sender cannot be ascertained—pay the money to the Treasurer as unclaimed moneys for the purposes of the Unclaimed Moneys Act, 1891-1975;

or

(vi) retain it as evidence of an offence.

(11) Where a letter or parcel sent by a prisoner is opened and perused or examined pursuant to this section and is found to contravene this section, the superintendent may—

(a) in the case of a letter—

(i) return it to the prisoner;

or

(ii) retain it as evidence of an offence, provided that a copy is furnished to the prisoner at some time prior to any hearing in respect of the offence;

(b) in the case of any prohibited item contained in any letter or parcel—

(i) cause the item to be destroyed;

(ii) retain it and hand it over to the prisoner upon his discharge from prison;

(iii) retain it as evidence of an offence;

(iv) return it to the prisoner;

(v) forward it to the intended recipient;

or

(vi) dispose of it in such other manner as the superintendent thinks fit;

and

(c) in the case of a sum of money—

(i) hold it for as long as may be necessary for the purposes of ascertaining the circumstances of the payment;

(ii) retain it as evidence of an offence;

(iii) pay it into the General Revenue of the State;

or

(iv) disburse it in such other manner as the Minister may direct.

(12) The superintendent shall advise a prisoner in such manner as he thinks fit of any action taken under this section in respect of any letter or parcel, or anything contained in any letter or parcel, sent to or by the prisoner.

(13) An authorized officer shall not, otherwise than as required by law or in the performance of his duties, disclose to any other person the contents of any letter perused by him pursuant to this section.

(14) In this section “authorized officer” means an officer of the Department appointed by the Minister for the purposes of this section, not being an officer who is employed in a position involving him in substantial day-to-day contact with prisoners.

34. (1) A prisoner (other than a remand prisoner) shall be entitled to be visited by a person, or a number of persons not exceeding the prescribed number, on one occasion, or such greater number of occasions as may be prescribed, in each period of two weeks.

Prisoners' rights to have visitors.

(2) A remand prisoner shall be entitled to be visited by a person, or a number of persons not exceeding the prescribed number, on three occasions, or such greater number of occasions as may be prescribed, in each week.

(3) The superintendent of a correctional institution may, where he is of the opinion that special reasons exist for doing so—

(a) permit a prisoner to be visited on any further occasion than as provided by or under this Act;

or

(b) debar a particular person from visiting a prisoner for such period as the superintendent thinks fit, or until further order of the superintendent.

Prisoners' rights to access to legal aid and legal services.

35. (1) A prisoner is not by virtue of his imprisonment debarred from the benefit of any Act or law relating to legal aid.

(2) Where a prisoner is visited by a legal practitioner for the purpose of rendering any legal services, that visit shall not be held to be a visit for the purposes of section 34.

Separate confinement.

36. (1) Where the superintendent of a correctional institution is satisfied that the proper administration of justice requires that a prisoner who is alleged to have committed an offence be segregated from other prisoners while an investigation of the alleged offence is being conducted, the superintendent may direct that the prisoner be confined separately from the other prisoners for such period, not exceeding seven days, as the superintendent thinks fit.

(2) A direction under subsection (1) shall not be given more than once in respect of the one incident out of which the offence is alleged to have arisen.

(3) Where the superintendent of a correctional institution is satisfied that the welfare of a prisoner requires that he be segregated from the other prisoners, or that a prisoner is likely to injure another person or unduly harass another prisoner, the superintendent may direct that he be confined separately from the other prisoners for such period, not exceeding seven days, as the superintendent thinks fit.

(4) Where the Permanent Head is of the opinion that the separate confinement of a prisoner pursuant to subsection (3) should be extended, he may, from time to time, with the approval of the Visiting Tribunal, order that the prisoner be confined separately from the other prisoners for such further period, not exceeding one month, as the Visiting Tribunal may approve.

(5) The Visiting Tribunal shall, before giving an approval under subsection (4), afford the prisoner the opportunity to make such representations to the Visiting Tribunal as he may wish.

(6) A direction given by a superintendent under this section may be revoked at any time by the superintendent or the Permanent Head.

(7) The Permanent Head may at any time revoke an order made by him under subsection (4).

Search of prisoners.

37. (1) The superintendent of a correctional institution may—

(a) upon a prisoner entering the correctional institution;

or

- (b) if he has reasonable cause to suspect that a prisoner has in his possession an item that is prohibited by the regulations,

cause the person or belongings of the prisoner to be searched.

(2) No person other than a medical practitioner may examine or search an orifice of a prisoner's body.

(3) The person carrying out a search pursuant to this section may only use such force as is reasonably necessary for the purpose.

DIVISION VII—RELEASE OF PRISONERS FROM PRISON

DIVISION VII

38. Subject to this Act, a prisoner (other than a remand prisoner) shall be released from the correctional institution in which he is being detained on the day on which his sentence of imprisonment expires, unless released earlier under any other provision of this Act, or under any other Act or law.

Prisoner must be released on expiry of sentence if not earlier released.

39. (1) A prisoner shall be released from the correctional institution in which he is being detained as near as practicable to the hour of ten o'clock in the morning of the day of his release.

Day on which a prisoner is to be released from prison.

(2) Subject to subsection (3), where the day on which the prisoner is to be released in accordance with this Act (including this subsection) falls on a Sunday or other public holiday, the prisoner is entitled to be released on the preceding day.

(3) Where a prisoner who has been imprisoned for a period exceeding three months is to be released from prison on any day falling between Christmas Day and the day after New Year's Day, the prisoner is entitled to be released from prison on the day preceding Christmas Day or, if that day falls on a Sunday, on the preceding Saturday.

(4) Where a prisoner is released on parole subject to the supervision of a parole officer, the Permanent Head shall pay to the prisoner any money held to his credit pursuant to this Act in a lump sum or in such instalments as the parole officer may determine.

(5) Where—

- (a) a prisoner is released from prison upon conditional release;
- (b) a prisoner is released from the correctional institution in which he is being detained upon the expiration or extinguishment of his sentence of imprisonment;
- (c) a person on parole ceases to be subject to the supervision of a parole officer;

or

- (d) the unexpired balance of the sentence of a person on parole is discharged or extinguished by order of the Board, or by the exercise by the Governor of the prerogative of mercy,

the Permanent Head shall pay to that prisoner or person any money held to his credit or on his behalf pursuant to this Act.

PART V

PART V

OFFENCES

DIVISION I

DIVISION I—JURISDICTION AND POWERS OF VISITING TRIBUNALS

Provisions relating to jurisdiction of Visiting Tribunal.

40. (1) Where a Visiting Tribunal comprised of two Justices of the Peace has been established for a correctional institution, and an alleged breach of the regulations is, pursuant to Division II, to be heard and determined by a Visiting Tribunal, the following provisions apply:

- (a) if the prisoner does not plead guilty to the charge, the matter must be heard and determined by a Visiting Tribunal comprised of a Magistrate;
- (b) if the prisoner pleads guilty to the charge—
 - (i) the question of penalty shall, if the prisoner so requests, be heard and determined by a Visiting Tribunal comprised of Justices of the Peace;
 - or
 - (ii) in the absence of such a request, the question of penalty may be heard and determined by a Visiting Tribunal comprised either of a Magistrate or Justices of the Peace;
- (c) a Visiting Tribunal comprised of Justices of the Peace may, if it is of the opinion that a greater penalty than it is empowered to impose ought to be imposed upon the prisoner, refer the question of penalty for hearing and determination by a Visiting Tribunal comprised of a Magistrate.

Powers of a Visiting Tribunal.

41. (1) For the purposes of a hearing under this Division, a Visiting Tribunal may—

- (a) by summons signed by the person, or one of the persons, constituting the Tribunal require the attendance before the Visiting Tribunal of any person whom the Visiting Tribunal thinks fit to call before it;
- (b) by summons signed by the person, or one of the persons constituting the Tribunal, require the production of books, papers or documents;
- (c) inspect any books, papers or documents produced before it, retain them for such reasonable period as it thinks fit, and make copies of any of them, or of any of their contents;
- (d) require any person to make an oath or affirmation that he will answer truthfully all questions put to him by the Visiting Tribunal, or by any person appearing before the Visiting Tribunal, relevant to any matter being inquired into by the Visiting Tribunal (which oath or affirmation may be administered by the person, or one of the persons, constituting the Visiting Tribunal);
- or
- (e) require any person appearing before the Visiting Tribunal (whether he has been summoned to appear or not) to answer any relevant question put to him by the Visiting Tribunal, or one of the persons constituting the Visiting Tribunal, or by any other person appearing before the Visiting Tribunal.

(2) Subject to subsection (3), a person who—

- (a) having been duly served with a summons, fails, without reasonable excuse, to attend before the Visiting Tribunal, or to produce any books, papers or documents, as required by the summons;
 - (b) misbehaves himself before a Visiting Tribunal, wilfully insults a Visiting Tribunal or any person who constitutes a Visiting Tribunal, or interrupts the proceedings of a Visiting Tribunal;
- or
- (c) refuses to be sworn, to affirm or to answer a relevant question when required to do so by a Visiting Tribunal,

shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for a term not exceeding three months.

(3) A person is not required to answer a question put to him pursuant to this section if the answer would tend to incriminate him.

42. (1) No liability shall attach to a person who constitutes, or is a member of, a Visiting Tribunal for any act or omission by him, or by the Visiting Tribunal, in good faith and in the exercise or purported exercise of his or its powers, or the discharge or purported discharge of his or its duties, under this Act.

Immunity from liability for persons who constitute Visiting Tribunals.

(2) A liability that would, but for subsection (1), lie against a person who constitutes a Visiting Tribunal shall lie against the Crown.

DIVISION II—BREACHES OF REGULATIONS

DIVISION II

43. (1) Where it is alleged that a prisoner has committed a breach of the regulations, the superintendent may, within the prescribed time, charge the prisoner with the offence, and conduct an inquiry into the allegation, in the prescribed manner.

Superintendent may deal with breaches of prison regulations.

(2) If, after conducting an inquiry under subsection (1), the superintendent is satisfied beyond all reasonable doubt that the allegation has been proved, he may impose upon the prisoner any one or more of the following penalties:

- (a) forfeiture of a specified number of days of remission of sentence or conditional release credited to the prisoner, not exceeding ten in any case;
- (b) forfeiture of any specified amenities or privileges for a specified period not exceeding twenty-eight days;

or

- (c) exclusion from any work that is performed in association with other prisoners for a specified period not exceeding fourteen days,

or he may reprimand and caution the prisoner.

44. (1) The superintendent of a correctional institution may, at any time before imposing a penalty upon a prisoner in respect of an alleged breach of the regulations, refer the matter to a Visiting Tribunal for hearing and determination.

Superintendent may refer any matter to a Visiting Tribunal.

PART V
DIVISION II

(2) The Visiting Tribunal may, upon hearing any matter referred to him under subsection (1) and upon being satisfied beyond all reasonable doubt that the allegation against the prisoner is proved, impose upon the prisoner any one or more of the following penalties:

(a)—

(i) where the Visiting Tribunal is comprised of a Magistrate—imprisonment for a period not exceeding ninety days;

or

(ii) where the Visiting Tribunal is comprised of two Justices of the Peace—imprisonment for a period not exceeding twenty-eight days;

(b) forfeiture of a specified number of days of remission of sentence or conditional release credited to the prisoner, not exceeding thirty in any case;

(c) forfeiture to the Crown of a sum, not exceeding fifty dollars, payable out of any moneys held by the superintendent on behalf of the prisoner, or any allowance to be paid to the prisoner under this Act;

(d) forfeiture of any specified amenities or privileges for a specified period not exceeding two months;

or

(e) exclusion from any work that is performed in association with other prisoners for a specified period not exceeding twenty-eight days,

or it may reprimand and caution the prisoner.

(3) Where a prisoner is sentenced by a Visiting Tribunal to a term of imprisonment—

(a) that term shall be served by the prisoner forthwith;

(b) the sentence he was serving immediately prior thereto shall be suspended until the expiration of that further term;

and

(c) the prisoner shall not be eligible for release on parole or conditional release during that further term.

(4) Where a prisoner causes any loss of or damage to property as a result of a breach of the regulations, the Visiting Tribunal may, whether or not it imposes any penalty in respect of the breach, direct that the prisoner pay to the owner of the property as compensation for the loss or damage such sum, not exceeding two hundred dollars, as the Visiting Tribunal thinks fit, payable out of any moneys held by the superintendent on behalf of the prisoner, or any allowance to be paid to the prisoner under this Act.

Procedure at
inquiries and
hearings under
this Division.

45. In any proceedings under this Division for an offence against the regulations, the following provisions apply:

(a) the superintendent or Visiting Tribunal—

(i) shall ensure that the prisoner hears or views all the evidence in support of the charge;

- (ii) shall afford the prisoner, and the superintendent or any officer of the Department authorized by the superintendent for the purpose, reasonable opportunities to make submissions in relation to the charge, and to call, examine or cross-examine witnesses;
 - (iii) shall permit the superintendent or authorized officer to make submissions as to the penalty to be imposed;
- and
- (iv) shall permit the prisoner to hear any submissions made, and to make submissions, as to the penalty to be imposed;
- (b) the prisoner shall be entitled to be represented by a legal practitioner before a Visiting Tribunal, but shall not be so entitled where the inquiry is conducted by a superintendent;
 - (c) the superintendent or Visiting Tribunal shall not, subject to this Act, be bound by legal forms or technicalities or the rules of evidence, but may inform himself, or itself, in such manner as he, or it, thinks fit;
 - (d) where more than one penalty (being a penalty of forfeiture of amenities or privileges, exclusion from work, or a term of imprisonment) is imposed for an offence, or for a number of offences arising out of the one incident, those penalties shall not be made consecutive one upon the other;
 - (e) no conviction shall be recorded against a prisoner who is found guilty of a breach of the regulations.

46. (1) A prisoner may appeal to a Visiting Tribunal against any penalty imposed upon him by a superintendent.

Appeals
against
penalties
imposed by
superintendents.

(2) An appeal under this section must be instituted in the prescribed manner.

(3) Upon the institution of an appeal under this section the penalty appealed against shall be suspended.

(4) Upon determining an appeal under this section the Visiting Tribunal may—

(a) affirm the penalty;

or

(b) increase, decrease or otherwise vary the penalty, or revoke it and substitute any other penalty that could have been imposed in the first instance by the superintendent.

(5) No appeal shall lie against any order of a Visiting Tribunal made upon an appeal under this section.

47. (1) A prisoner may appeal to a District Court against an order of a Visiting Tribunal made in any proceedings against the prisoner under this Division on the ground that the proceedings were not conducted in accordance with the provisions of this Act.

Appeals
against
orders of
Visiting
Tribunals.

PART V
DIVISION II

(2) An appeal under this section must be instituted in the prescribed manner.

(3) Upon the institution of an appeal under this section, the order appealed against shall be suspended.

(4) On any appeal under this section the District Court may—

(a) dismiss the appeal;

(b) quash the order of the Visiting Tribunal;

or

(c) remit the subject matter of the appeal to the Visiting Tribunal for re-hearing.

(5) No appeal shall lie against a decision of a District Court on an appeal under this section.

Justices Act
does not
apply to
proceedings
under this
Division.

48. The Justices Act, 1921-1981, does not apply to or in relation to any proceedings under this Division.

DIVISION III

DIVISION III—PROCEEDINGS AGAINST PRISONERS FOR OTHER OFFENCES

How
proceedings
for offences
are to be dealt
with.

49. Subject to this Act, proceedings upon a complaint or information against a prisoner for any offence other than a breach of the regulations (whether the offence was committed before or after being detained in custody) shall be dealt with in all respects as if he were not a prisoner.

DIVISION IV

DIVISION IV—OFFENCES AGAINST THIS ACT

Escape.

50. (1) A prisoner—

(a) who escapes from a correctional institution, or from any person who has the actual custody of the prisoner;

or

(b) who is otherwise unlawfully at large,

shall be guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.

(2) Where a prisoner is found guilty of an offence under this section and is sentenced to a term of imprisonment—

(a) that term shall be served by the prisoner forthwith;

(b) the sentence he was serving immediately prior thereto shall be suspended until the expiration of that further term;

and

- (c) the prisoner shall not be eligible for release on parole or conditional release during that further term,

unless the court imposing the further term orders otherwise.

(3) A prisoner is not, for any time that he is unlawfully at large, serving his sentence of imprisonment.

51. A person who—

- (a) communicates with a prisoner in a manner prohibited by the regulations;
- (b) delivers to any prisoner, or introduces into a correctional institution, any item prohibited by the regulations;

or

- (c) loiters outside any correctional institution for any unlawful purpose,

shall be guilty of an offence and liable to imprisonment for a term not exceeding six months.

Offence of unlawful communication or furnishing prisoner with forbidden item, etc.

52. (1) An officer of the Department who suspects on reasonable grounds that a person—

- (a) has committed, is committing or is about to commit an offence under section 50 or 51;

or

- (b) has rescued, is rescuing or is about to rescue a prisoner from custody,

may, without warrant, apprehend that person.

(2) An officer of the Department who has apprehended a person pursuant to subsection (1) shall—

- (a) in relation to a prisoner unlawfully at large, return him forthwith to a correctional institution;

and

- (b) in relation to any other person, take him forthwith to the nearest police station.

Power of arrest by officers of the Department.

53. A person who, knowing that another person is unlawfully at large from custody under this Act, harbours that other person, employs him, or assists him to remain at large, shall be guilty of an offence and liable to imprisonment for a term not exceeding two years.

Offence of harbouring or employing a person unlawfully at large.

54. Proceedings for an offence under this Part (not being an indictable offence) shall be disposed of summarily.

Offences to be dealt with summarily.

PART VI
DIVISION I

PART VI
PAROLE

DIVISION I—THE PAROLE BOARD

Continuation
of the Parole
Board.

55. (1) The Parole Board of South Australia established under the repealed Act shall continue in existence under this Act.

(2) The Board shall consist of six members appointed by the Governor, of whom—

(a) one, the Chairman, shall be a person who has, in the opinion of the Governor, extensive knowledge of, and experience in, criminology, penology, or any other related science;

(b) one shall be a legally qualified medical practitioner who has, in the opinion of the Governor, extensive knowledge of, and experience in, psychology or psychiatry;

(c) one shall be a person who has, in the opinion of the Governor, extensive knowledge of, or experience in, sociology, or any other related science;

and

(d) three shall be persons nominated by the Minister.

(3) At least one member of the Board must be a woman.

(4) An officer of the Department is not eligible to be appointed as a member of the Board.

Term of
office of
members.

56. (1) The Chairman of the Board shall be appointed for a term of five years.

(2) A member of the Board other than the Chairman shall be appointed for such term, not exceeding three years, as the Governor determines and specifies in the instrument of appointment.

(3) Upon the expiration of the term of office of a member of the Board, he shall be eligible for re-appointment.

Allowances
and expenses.

57. A member of the Board shall be entitled to receive such allowances and expenses as the Governor may from time to time determine.

Removal from
and vacancies
of office.

58. (1) The Governor may remove a member of the Board from office on the ground of—

(a) mental or physical incapacity to carry out satisfactorily the duties of his office;

(b) dishonourable conduct;

or

(c) neglect of duty.

(2) The office of a member of the Board shall become vacant if—

(a) he dies;

(b) his term of office expires;

(c) he resigns by giving notice in writing to the Minister;

or

(d) he is removed from office by the Governor pursuant to subsection (1).

(3) Upon the office of a member of the Board becoming vacant, a person shall be appointed to that office in accordance with this Act.

59. (1) The Governor may appoint a suitable person to be the deputy of a member of the Board. Deputies.

(2) Where a member is for any reason absent or unable to act in his capacity as a member of the Board, his deputy may act as a member of the Board.

60. (1) The Chairman shall preside at any meeting of the Board at which he is present and, in the absence of the Chairman from a meeting, the members present shall elect one of their number to preside at that meeting. Manner in which business of the Board is to be conducted.

(2) Four members of the Board shall constitute a quorum at any meeting of the Board, and no business shall be transacted at a meeting unless a quorum is present.

(3) On any matter arising at a meeting of the Board—

(a) a decision carried by a majority of the members present at the meeting shall be a decision of the Board;

and

(b) in the event of an equality of votes, the person presiding at the meeting shall have a casting, as well as a deliberative, vote.

(4) An act or proceeding of the Board shall not be invalid by reason of any vacancy in its membership or defect in the appointment of a person to the Board.

(5) A member of the Board shall not be liable for any act or omission by him or the Board in good faith and in the exercise, or purported exercise, or the discharge, or purported discharge, of his or its powers or duties under this Act.

(6) A liability that would, but for subsection (5), lie against a member of the Board shall lie against the Crown.

(7) Subject to this Part, the business of the Board shall be conducted in such manner as the Board may determine.

61. (1) Where a document purports to bear the signature of a member of the Board, it shall be presumed in any proceedings before a court, in the absence of proof to the contrary, that the document had been duly signed by that member. Judicial notice of Board documents.

(2) An apparently genuine document purporting to be a record of any determination, decision or finding of the Board and purporting to be signed by the secretary to the Board shall, in the absence of proof to the contrary, be proof that the determination, decision or finding was made by the Board.

62. (1) There shall be a secretary to the Board who shall be appointed in accordance with, and shall hold office subject to, the Public Service Act, 1967-1981. Appointment of secretary to the Board.

PART VI
DIVISION I

(2) The office of secretary to the Board may be held in conjunction with any other office in the public service of the State.

**Powers of
the Board.**

63. (1) For the purposes of this Part, the Board may—

- (a) by summons under the hand of a member of the Board, require any person to attend before the Board;
- (b) by summons under the hand of a member of the Board, require any person to produce any document relating to any matter before the Board;
- (c) require any person to furnish the Board with a written report or written information in relation to any aspect of a matter before the Board;
- (d) require any person before the Board to answer on oath or affirmation any questions put to him by the Board that are relevant to any matter before the Board;

or

- (e) require any written information or report to be verified by statutory declaration.

(2) A person who—

- (a) having been duly served with a summons, fails to attend before the Board, or fails to produce documents, as required by the summons;
- (b) wilfully insults the Board or any member of the Board;
- (c) misbehaves himself before the Board;
- (d) interrupts the proceedings of the Board;

or

- (e) refuses to be sworn or to affirm, or refuses to answer any question that he would be compellable to answer before a court,

shall be guilty of an offence and liable to a penalty not exceeding two thousand dollars or imprisonment for a term not exceeding three months.

**Reports by
the Board.**

64. (1) The Board shall in each year, not later than a day to be fixed by the Minister, report to the Minister on—

- (a) the number of prisoners released on parole during the previous financial year;
- (b) the number of applications for parole in the previous financial year that were refused by the Board;
- (c) the number of applications made in the previous financial year for parole before the expiration of non-parole periods, and the outcome of those applications;
- (d) the number of persons returned to prison in the previous financial year upon cancellation or revocation of parole, and the reasons for each such cancellation or revocation;
- (e) the work of the Board generally in the previous financial year;

and

(f) such other matters as the Board thinks fit, or as the Minister may direct.

(2) The Board shall at least once in each year review the progress and circumstances of, and report to the Minister on, every prisoner serving a sentence of life imprisonment or any sentence of indeterminate duration.

(3) The Board shall, at any time at the request of the Minister, report to the Minister—

(a) on any prisoner serving a sentence of life imprisonment or any sentence of indeterminate duration;

or

(b) on any other matter relating to the administration of this Part.

(4) The Board may, in a report furnished under subsection (2) or (3) in relation to a prisoner serving a sentence of life imprisonment or a sentence of indeterminate duration, include such recommendations as to the release of the prisoner as the Board is empowered to make pursuant to this Act or any other Act.

(5) The Board shall not recommend to the Governor the release of a person declared to be incapable of exercising proper control over his sexual instincts unless two medical practitioners have examined the prisoner and are of the opinion that he is fit to be released.

DIVISION II—FIXING OF NON-PAROLE PERIODS

DIVISION II

65. (1) Where a court sentences a person to life imprisonment, or a term of imprisonment exceeding three months, or imposes a number of sentences under which he is liable to imprisonment for more than three months, the court shall, by order, fix a period during which the person shall not be released on parole.

Court shall
fix or
extend
non-parole
periods.

(2) Where—

(a) a person who is in prison serving a sentence of imprisonment is further sentenced by a court to life imprisonment, or to a term, or terms, of imprisonment;

(b) the further sentence, or sentences, have the effect of extending the total period of imprisonment to which the person is liable;

and

(c) that total period of imprisonment to which he is liable exceeds three months,

the court shall, subject to subsection (4), fix a period during which the person shall not be released on parole, or extend any existing non-parole period, as the case may require, but the non-parole period so fixed, or the period by which an existing non-parole period is extended, shall not exceed the period of imprisonment imposed by the further sentence, or sentences.

(3) In fixing or extending a non-parole period, the court—

(a) shall have regard to all the sentences of imprisonment that the person is liable to serve;

and

PART VI
DIVISION II

(b) where the person is in prison serving a sentence of imprisonment, shall take into account the period he has already served.

(4) The court shall not fix a non-parole period in respect of a person in prison serving a sentence of imprisonment, if the person has already served a period of imprisonment that would be equal to, or exceed, a non-parole period determined in accordance with subsections (2) and (3).

(5) This section does not apply in relation to a person who is serving or, at the expiration of his sentence of imprisonment, is liable to serve, a sentence of indeterminate duration.

DIVISION III

DIVISION III—RELEASE ON PAROLE

Application
for parole.

66. (1) A prisoner who is serving—

(a) a sentence of life imprisonment;

(b) a sentence of imprisonment for a term exceeding three months;

or

(c) a number of sentences under which he is liable to imprisonment for a period of more than three months,

may apply in the prescribed manner to the board for his release on parole.

(2) Subject to subsection (3), an application under subsection (1) shall not be made for the release of a prisoner—

(a) before the expiration of any non-parole period fixed in respect of his sentence;

or

(b) where a non-parole period has not been fixed—before he has served three months of his sentence.

(3) An application under subsection (1) may be made by a prisoner for release from prison before the expiration of a non-parole period if he has applied for and obtained consent to do so from a magistrate or judge of a court of the same jurisdiction as the court that fixed the non-parole period, or the court that last extended the non-parole period, as the case may require.

(4) This section does not apply to a prisoner who is serving or, at the expiration of his sentence of imprisonment, is liable to serve, a sentence of indeterminate duration.

Matters to
be taken
into
consideration
by the board.

67. In determining an application for the release of a prisoner on parole, the Board shall have regard to the following matters:

(a) the likelihood of the prisoner complying with the conditions upon which he may be released;

(b) the circumstances of the offence for which the prisoner was sentenced to imprisonment, and any matter taken into account by the court in determining sentence;

(c) the gravity of the offence;

(d) any remarks made by the court in passing sentence;

- (e) the behaviour of the prisoner while in prison;
- (f) any social background, medical, psychological or psychiatric reports tendered to the Board;
- (g) the behaviour of the prisoner during any previous period of release on parole;
- and
- (h) any other matters that the Board thinks relevant.

68. (1) The Board may, upon consideration of the matters referred to in section 67, order that a prisoner (not being a prisoner who is serving a sentence of life imprisonment) be released from prison on parole on a day specified in the order. Release on parole.

(2) The Board may, upon consideration of the matters referred to in section 67, recommend to the Governor that a prisoner who is serving a sentence of life imprisonment be released from prison on parole.

(3) The Governor may, upon receiving a recommendation under subsection (2), order that the prisoner be released from prison on parole on a day specified in the order, for a period of not less than three years nor more than ten.

(4) The release of a prisoner from prison on parole—

(a) shall be subject to the conditions—

(i) that the prisoner shall not commit any offence;

and

(ii) that the prisoner shall be under the supervision of a parole officer, and shall obey the reasonable directions of the parole officer,

until the expiration of the period of his parole;

and

(b) may be subject to any other condition the Board thinks appropriate until the expiration of the period of his parole, or for such lesser period as the Board may specify.

(5) The Board may, at any time before a prisoner is released on parole pursuant to an order of the Board, revoke the order, or revoke or vary any of the conditions to which the parole is subject.

(6) The Board may, at any time before a prisoner is released on parole pursuant to an order of the Governor, recommend to the Governor that the order be revoked, or that any condition of the parole be revoked or varied, and the Governor, upon receiving such a recommendation, may order accordingly.

69. A prisoner (not being a prisoner serving a sentence of life imprisonment) who is released on parole shall, unless his release is cancelled, his parole order is discharged or his sentence is extinguished, remain on parole until the expiry of the term, or terms, of imprisonment to which he was sentenced. Duration of parole in relation to prisoners not serving sentences of life imprisonment.

70. (1) A prisoner serving a sentence of life imprisonment who is released on parole shall, unless his release is cancelled, or his sentence is extinguished, remain on parole for the period fixed by the Governor. Duration of parole and subsequent expiry of sentence in relation to prisoners serving sentences of life imprisonment.

PART IV

DIVISION III

(2) Upon the expiry of the parole of a person pursuant to subsection (1), his sentence of imprisonment shall, subject to section 75, be deemed to have been wholly satisfied.

Prisoner on parole may apply for variation or revocation of condition of his parole.

71. (1) A person who has been released on parole may apply to the Board for an order varying or revoking any condition of his parole.

(2) The Board may, upon an application made under subsection (1) by a person serving a sentence other than a sentence of life imprisonment, make an order varying or revoking a condition of his parole.

(3) The Board may, upon an application made under subsection (1) by a person serving a sentence of life imprisonment, recommend to the Governor that a condition of his parole be varied or revoked, and the Governor may, upon receiving such a recommendation, order accordingly.

(4) The Board shall not make an order or recommendation under this section in relation to a person who is under the supervision of a parole officer unless it has obtained and considered a report from that parole officer.

Prisoner on parole (other than life prisoner) may apply for discharge from parole.

72. (1) The Board may, upon the application of a person who has been released on parole (not being a person serving a sentence of life imprisonment), make an order discharging the person from parole.

(2) The Board shall not make an order under this section in relation to a person who is under the supervision of a parole officer unless it has obtained and considered a report from that parole officer.

(3) Where a person has been discharged from parole under this section, he shall, upon the day he is so discharged, be deemed to have been released under Part VII, and the provisions of that Part apply accordingly.

Board may cancel the parole of a person.

73. (1) The Board may cancel the release on parole of a person (not being a person serving a sentence of life imprisonment), or may recommend to the Governor that the release on parole of a person serving a sentence of life imprisonment be cancelled, if the Board is satisfied—

(a) that the person obtained his release on parole by unlawful means;

or

(b) that there is other good reason why the person should not have been released on parole.

(2) The Governor may, upon receiving a recommendation under subsection (1), cancel the release on parole of a person serving a sentence of life imprisonment.

(3) Where the release of a person is cancelled pursuant to this section, he is, subject to subsection (4), liable to serve in prison the balance of his sentence, or sentences, unexpired as at the day on which he was released from prison on parole.

(4) The Board, if it is satisfied that good reason exists for doing so, may direct, or may recommend to the Governor, as the case may require, that a person whose release is cancelled pursuant to this section be liable to serve the balance of his sentence, or sentences, unexpired as at the day on which his release is so cancelled.

PART IV

DIVISION III

Cancellation of parole release for breach of condition.

74. (1) Where the Board is satisfied that a person who is on parole has breached a condition of his parole, it may, by order, cancel his release.

(2) The Board shall not make an order under this section in relation to a person who is under the supervision of a parole officer unless it has obtained and considered a report from that parole officer.

(3) Where the release of a person is cancelled pursuant to this section, he is liable to serve in prison the balance of his sentence, or sentences, unexpired as at the day on which the breach was committed.

75. (1) Where a person released from prison on parole is sentenced to imprisonment for an offence committed during the period of his release on parole he is liable to serve in prison the balance of his sentence, or sentences, of imprisonment unexpired as at the day on which the offence was committed, notwithstanding that at the time of conviction, his parole may have expired or been discharged, or his sentence, or sentences, of imprisonment may have expired.

Cancellation is automatic upon sentence of imprisonment for offence committed while on parole.

(2) Where a person referred to in subsection (1) is, at the time of conviction, still on parole, his parole is, by virtue of this subsection, cancelled.

76. (1) Where a member of the Board suspects on reasonable grounds that a person released on parole may have breached a condition of his parole, the member may—

Apprehension of prisoner whose parole has been, or may be, cancelled.

(a) summon the person to appear before the Board;

or

(b) apply to a justice for a warrant for the apprehension of the person, for the purpose of bringing him before the Board.

(2) Where a person fails to attend before the Board in pursuance of a summons issued under subsection (1), the Board—

(a) may proceed to deal with the matter in his absence;

or

(b) may direct a member of the Board to apply to a justice for a warrant for the apprehension of the person for the purpose of bringing him before the Board.

(3) A member of the Board may apply to a justice for a warrant for the apprehension and return to prison of a person whose release on parole has been cancelled.

77. (1) Upon receiving any application made under this Part, the Board shall notify the Permanent Head and the Commissioner of Police and shall advise them of the day and time fixed for the hearing of the application.

The Director, the Commissioner of Police and the prisoner may appear before the Board in any proceedings.

(2) For the purpose of any proceedings under this Part—

(a) the Permanent Head, or any officer of the Department authorized by the Permanent Head for the purpose, may make such submissions to the Board in writing as he thinks fit;

PART IV
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(b) the Commissioner of Police, or any member of the police force authorized by him for the purpose, may make such submissions to the Board in writing as he thinks fit;

and

(c) the prisoner may make such submissions in writing to the Board as he thinks fit.

(3) Where, in any proceedings before the Board, the Permanent Head, an officer of the Department, the Commissioner of Police or a member of the police force appears personally before the Board, the prisoner the subject of those proceedings may appear before the Board for the purpose of making submissions.

Board may
release a
prisoner on
parole more
than once in
relation to
the same
sentence.

78. The power of the Board or the Governor under this Part to release a person from prison on parole may be exercised by the Board or the Governor, as the case may require, notwithstanding that the Board or the Governor has released that person on parole on one or more previous occasions in respect of the same sentence of imprisonment.

PART VII

PART VII

CONDITIONAL RELEASE

79. (1) Subject to subsection (2), this Part applies to a prisoner who is serving a sentence of imprisonment for a term exceeding three months, or a number of sentences under which he is liable to imprisonment for more than three months, imposed after the commencement of this Part. Application of this Part.

(2) This Part does not apply to—

(a) a prisoner who is serving a sentence of life imprisonment;

or

(b) a prisoner who is serving or, at the expiration of his sentence of imprisonment, is liable to serve, a sentence of indeterminate duration.

(3) This Part applies to a prisoner notwithstanding that he may be serving the unexpired balance of a sentence of imprisonment by virtue of this Part or Part VI.

80. (1) Subject to subsection (2), the superintendent of a prison shall, at the end of each month served in the prison by a prisoner, credit the prisoner with an entitlement to ten days of conditional release. The superintendent shall grant ten days of conditional release to a prisoner at the end of each month of imprisonment.

(2) Where the superintendent is of the opinion that the conduct of a prisoner has been unsatisfactory at any time during a month, and that the prisoner will not be dealt with in respect of that conduct under any other provision of this Act or any other Act or law, he may credit the prisoner with an entitlement to a lesser number of days of conditional release than ten, or may refuse to credit him with any such entitlement in respect of that month.

(3) Where the superintendent exercises his powers under subsection (2), he shall give the prisoner notice in writing of that fact, specifying the conduct in respect of which the superintendent so exercised his powers.

(4) A prisoner in respect of whom the superintendent has exercised his powers under subsection (2) may appeal to a Visiting Tribunal in the prescribed manner against the decision of the superintendent.

(5) The Visiting Tribunal may, on an appeal under subsection (4), revoke the decision of the superintendent or may vary the decision by directing that the prisoner be credited with an entitlement to a greater number of days of conditional release, but not exceeding ten.

(6) The Permanent Head may, if he is of the opinion that a prisoner has, during the greater part of his time in prison, behaved in an exemplary manner or performed work that is arduous or responsible, or if he believes that other good reason exists for doing so, credit the prisoner with an entitlement to such number of days of conditional release, not exceeding fifty-six, as he thinks fit.

(7) When the total number of days of conditional release credited to a prisoner and the period he has served in prison together equal the term, or terms, of imprisonment to which he was sentenced, the prisoner shall (unless released earlier under any other provision of this Act or any other Act or law) be released from prison.

PART VII

Prisoner on conditional release may be returned to prison upon conviction of certain offences.

81. (1) A prisoner released from prison under this Part is released upon the condition that, from the time of his release until the day upon which his sentence, or sentences, of imprisonment expire or are discharged or extinguished, he will not commit any prescribed offence.

(2) Where a person released under this Part is sentenced to a term of imprisonment of one month or more for a prescribed offence committed during the period of his conditional release, he is liable to serve in prison the balance of his sentence, or sentences, of imprisonment unexpired as at the day on which the prescribed offence was committed, notwithstanding that, at the time of his conviction, his sentence, or sentences, of imprisonment may have expired.

(3) Where a person released under this Part is, during the period of his conditional release, convicted of a prescribed offence committed during the period of his conditional release in respect of which he is sentenced to a term of imprisonment of less than one month, is fined or enters into a recognizance with or without a suspended sentence of imprisonment, the court may, by order, upon the application of the prosecution, cancel the conditional release of the person.

(4) Upon the cancellation of the conditional release of a person, he shall be liable to serve in prison the balance of his sentence, or sentences, of imprisonment unexpired as at the day upon which the prescribed offence was committed, and the court may issue a warrant for his return to prison.

(5) In this section—

“prescribed offence” means—

(a) an indictable offence;

(b) a summary offence in respect of which a sentence of imprisonment may be imposed;

or

(c) any other summary offence designated by the regulations as a prescribed offence for the purposes of this section.

Person on conditional release may apply to court for discharge from balance of sentence.

82. (1) A person who has been released under this Part may apply to a court of the same jurisdiction as the court that imposed the sentence of imprisonment he is then serving for an order discharging him from the unexpired portion of his sentence.

(2) The court may, upon an application made under subsection (1), make an order discharging the person from the unexpired portion of his sentence of imprisonment.

(3) Where the unexpired portion of a sentence is discharged pursuant to this section, the sentence of imprisonment imposed by the court shall be deemed to have been wholly satisfied.

PART VIII

PART VIII

MISCELLANEOUS

83. (1) The superintendent of a correctional institution may, with the approval of the Permanent Head, make rules relating to the management of the institution. Superintendent may make rules.

(2) A superintendent may, with the approval of the Permanent Head, vary or revoke any rules made under subsection (1).

(3) The Subordinate Legislation Act, 1977, does not apply to rules made under this section.

84. The superintendent of a correctional institution shall comply with any order or direction given by an officer of a court, or a member of the police force, in the course of, and for the purpose of, executing any process or order of a court or justice that he is required or empowered by law to execute. Superintendents to comply with orders and directions of officers of courts and police officers in enforcing court orders.

85. The superintendent of a correctional institution shall, upon receiving into the institution any person to be detained therein, furnish that person with a written statement, in a form approved by the Minister, of the rights, duties and liabilities of that person under this Act, the regulations and the rules of the institution. Statement of rights, duties, etc., must be given to person received into a correctional institution.

86. Subject to this Act, an officer of the Department or a member of the police force employed in a correctional institution may, for the purposes of exercising his powers or discharging his duties under this Act, use such force against any person as is reasonably necessary in the circumstances of the particular case. Prison officers may use reasonable force in certain cases.

87. Any judge of the Supreme Court, any person holding judicial office under the Local and District Criminal Courts Act, 1926-1981, and any Magistrate may, at any reasonable time, enter and inspect any correctional institution. Certain persons may enter and inspect correctional institutions.

88. The Minister may, for the purposes of this Act, acquire land in accordance with the Land Acquisition Act, 1969-1972. Minister may acquire land.

89. (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act. Regulations.

(2) Without limiting the generality of subsection (1), regulations may be made—

- (a) providing for the treatment of remand prisoners;
- (b) providing for the treatment of contempt prisoners;
- (c) providing for the treatment of prisoners, or any particular class of prisoners, other than remand or contempt prisoners;
- (d) providing for the remission of any part of the sentence of a prisoner, being a sentence to which Part VII does not apply;
- (e) regulating the conduct of prisoners, or of prisoners of a particular class;

- (f) prescribing the practice or procedure of Visiting Tribunals, and any powers of Visiting Tribunals, or of persons constituting Visiting Tribunals;
 - (g) prescribing the practice and procedure, and any powers, of a superintendent in dealing with breaches of the regulations;
 - (h) prescribing the duties of officers of the Department or members of the police force employed in correctional institutions;
 - (i) prescribing the weapons or any other thing that may be carried or used by officers of the Department or members of the police force employed in correctional institutions, and the purposes for which and the manner in which any such weapon or thing may, or may not, be used;
 - (j) providing for the holding or investing of moneys or any other personal property on behalf of prisoners, or of prisoners of a particular class;
 - (k) prescribing the purposes for which and the manner in which any moneys held to the credit of a prisoner may be applied;
- and
- (l) prescribing the manner and form in which applications for parole must be made, the frequency with which such applications may be made, and the directions that parole officers may give to persons under their supervision while on parole.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor