



ANALYSIS

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1967, No. 6

An Act to make provision for the establishment and administration of prisons

(26 October 1967)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title and commencement - (1) This Act may be cited as the Prisons Act 1967.
(2) This Act shall come into force on the first day of January 1968.
2. Interpretation - In this Act, unless the context otherwise requires -
"Inmate" means any person for the time being in the legal custody of the Superintendent of any prison:
"Minister" means the Minister of Justice:
"Officer" means the Superintendent or any officer or employee appointed under section 5 of this Act:
"Secretary for Justice" means the Secretary for Justice appointed under the provisions of the Public Service Act 1965.

3. Administration of Act - (1) Subject to the control of the Minister, the Secretary for Justice shall be charged with the general administration of this Act.

(2) The Secretary for Justice shall have and may exercise the powers of a Visiting Justice under subsection (3) of section 8 of this Act:

Provided that nothing in this subsection shall be construed to confer on the Secretary for Justice any of the powers of a Visiting Justice to deal with offences against discipline.

(3) Subject to the control of the Minister and to the general directions of the Secretary for Justice, any officer of the Department of Justice who is for the time being authorised for the purpose by the Secretary for Justice shall have and may exercise all the powers, duties, and functions of the Secretary under this Act. The fact that any officer of the Department of Justice exercises any such power, duty or function as aforesaid shall be conclusive evidence of his authority to do so.

ESTABLISHMENT AND ADMINISTRATION OF PRISONS

4. Establishment of prisons - (1) The Minister may from time to time, by notice in the Gazette, declare any land or building or any part of any land or building to be a prison.

(2) The Minister may from time to time in like manner declare any land or building or any part of any land or building to be added to or excluded from any such prison as aforesaid.

(3) Any such notice as aforesaid may be in like manner revoked at any time.

(4) Every such notice under this section shall take effect from the date thereof or from such other date as may be specified therein.

5. Superintendent and other officers of prison - (1) To every prison there shall from time to time be appointed under the Public Service Act 1965 a Superintendent and such other officers and employees as may be required.

(2) The Minister may from time to time appoint to any prison such persons as may be required as chaplains, welfare officers, education officers, or other officers in part-time capacities.

(3) For every prison there shall be a medical officer who shall be an officer of the Department of Health.

(4) With respect to every person appointed under subsection (2) of this section, the following provisions shall apply -

(a) He shall not by virtue of that appointment become an officer or employee of the Public Service and nothing in the Public Service Act 1965 shall apply to the appointment:

(b) He may be paid out of money appropriated by the Legislative Assembly for the purpose such remuneration by way of salary or fees and such allowances as may be determined by the Minister, with the concurrence of the Minister of Finance:

(c) The appointment may be held in conjunction with any office or appointment that is not deemed inconsistent therewith.

(5) In every prison in which women or girls are received there shall be a sufficient number of female officers.

6. Superintendent to be charged with general administration of prison - (1) Subject to the provisions of this Act and to the control of the Secretary for Justice, every Superintendent of a prison shall be charged with the general administration of the prison, and, with the prior approval in writing of the Secretary for Justice, may make rules, not inconsistent with this Act or with any regulations thereunder, for the management of the prison and for the conduct and safe custody of the inmates.

(2) The powers conferred on Superintendents by this Act may, to the extent authorised by any regulations made under this Act and subject to the provisions of any such regulations, be exercised by any other officer.

(3) All references in any enactment or in any instrument, notice, or other document whatsoever to a gaoler shall be deemed to be references to a Superintendent, unless the context otherwise requires.

7. Protection of officers in discharge of duties - Every officer of a prison, while acting as such, shall have all the powers, authority, protection, and privileges of a constable.

8. Visiting Justices - (1) Every Commissioner of the High Court shall, without further appointment than this section, be a Visiting Justice for every prison under this Act.

(2) The Minister may from time to time appoint a Justice or Justices of the Peace to be a Visiting Justice or Visiting Justices for any specified prison.

(3) In respect of the prison for which he is appointed, every Visiting Justice shall have the following powers and functions, namely -

(a) To visit and inspect the prison from time to time and, in his discretion, to interview any inmate:

(b) To examine into the treatment and conduct of inmates:

(c) To hear any complaint made to him by any inmate:

(d) To inquire into all abuses or alleged abuses within the prison or in connection with it:

(e) To inquire into any matter referred to him by the Secretary for Justice:

(f) For any of the purposes of this section, to take evidence on oath or otherwise:

(g) To report in writing to the Secretary for Justice on any of the aforesaid matters, or any other matters relating to the prison, as often as the Visiting Justice thinks fit, and whenever he is requested to do so by the Secretary for Justice.

(4) Every Visiting Justice shall also have power to deal with offences against discipline in accordance with this Act.

CONFINEMENT AND TREATMENT OF INMATES

9. Effect of warrant, etc., for specified prison - (1) Any warrant, writ, order, direction, or authority issued or given, whether before or after the commencement of this Act, for the detention of any person in any specified prison shall be sufficient authority for the reception and detention of that person in any other prison to which he might have been committed under sentence.

(2) Any warrant, writ, order, direction, or authority addressed to the Superintendent of a prison and identifying the prison by reference to its situation or by any other sufficient description shall not be invalidated by reason only that the prison is usually known by a different description.

10. Legal custody of inmates - (1) The Superintendent of any prison shall have the legal custody of every person lawfully detained in the prison.

(2) Such legal custody as aforesaid shall commence as soon as the inmate is received within the prison or into the custody of any officer of the prison, and shall continue while the inmate is confined in the prison, or is employed beyond the precincts of the prison, or is for any reason outside it in the custody or under the control or supervision of any such officer or of any probation officer or other person pursuant to this Act.

(3) Where any inmate is for any reason outside the prison in the custody or under the control or supervision of any probation officer or any other person pursuant to this Act, that probation officer or other person shall have the powers of an officer to give any lawful order to the inmate, and shall be deemed to be an officer for the purposes of the following provisions of this Act, namely -

(a) Section 7 (which relates to the protection of officers in the discharge of their duties);

(b) Section 26 (which relates to offences against discipline by inmates);

(c) Section 35 (which relates to the arrest of inmates unlawfully at large).

(4) Where owing to the illness or incapacity of the officer or person having the custody or control or supervision of any inmate outside the prison, or for any other reason, that custody or control or supervision ceases, the inmate shall return to the prison forthwith. If he fails so to return he shall be deemed to have escaped from lawful custody and to be unlawfully at large, and shall be liable accordingly.

11. Temporary detention of persons in custody - (1) Any person in lawful custody may, if it is inconvenient or impracticable immediately to take him to any prison for confinement therein, be temporarily detained in any other suitable place of security.

(2) The legal custody of any such person, who is temporarily detained under subsection (1) of this section shall commence as soon as that person is placed in the control or custody of the person in charge of the place of security.

(3) The person in charge of such place of security shall be deemed to be a person having custody or control or supervision of an inmate outside a prison under subsection (3) of section 10 of this Act.

12. Detention of short-term prisoners - (1) The Minister may declare any suitable place of security in any island other than Rarotonga as a place for the detention of short-term prisoners.

(2) Any person sentenced to imprisonment for eight days or less, or committed to prison or otherwise liable to be detained in custody for eight days or less, may be detained for that period or any part thereof in any place of security declared for that purpose under subsection (1) of this section.

13. Labour instead of imprisonment - (1) Any person sentenced to imprisonment or committed to imprisonment may, by order of the High Court made either at the time of sentence or committal or at any time thereafter, be discharged from custody on condition that he labours on the roads or other public works for the term or the residue of the term for which he has been so sentenced or committed.

(2) Every prisoner so discharged shall perform the labour so appointed for him under the control and subject to the direction of some officer nominated for that purpose by the Secretary for Justice or by a Resident Agent.

(3) If any prisoner so discharged makes default in the due performance of the labour so appointed for him, or is guilty of any insubordination or other misconduct, whether in respect of that labour or otherwise, he may be arrested without warrant by any officer of police or of prisons; and the High Court may in its discretion (without the necessity of any judicial inquiry) revoke the discharge of that prisoner and commit him to prison for a period equal to that for which he would have been imprisoned subsequent to the order of discharge had no such order been made, with such deduction (if any) as the Court thinks fit, having regard to any labour duly performed by the prisoner in accordance with the condition of his discharge.

14. Photographing and measuring of inmate convicted or accused of offence - (1) Subject to the provisions of any regulations made under this Act, any inmate of a prison being a person convicted or accused of an offence, may, by direction of the Superintendent, be photographed and have his measurements and fingerprints taken; and if necessary reasonable force may be used by officers of the prison to compel the inmate to submit to the taking of photographs, measurements, or fingerprints.

(2) Where the inmate is a person accused of an offence and is subsequently acquitted, all photographs, including the negatives, and fingerprints taken during his detention, in respect of the charge of that offence shall be forthwith destroyed by the Superintendent.

15. Separation of male and female inmates - In every prison used for the detention of both men and women, separate buildings or parts of a building shall be used for each.

16. Restraint of inmates - (1) No inmate shall be placed under mechanical restraint except in case of necessity; and the particulars of every such case shall be recorded and notice of it given forthwith to a Visiting Justice.

(2) No inmate shall be kept under mechanical restraint for more than twenty-four hours except pursuant to an order in writing signed by a Visiting Justice specifying the necessity for the restraint and the time during which the inmate is to be so kept.

(3) Nothing in this section shall apply to any inmate who is being escorted to or from a prison.

17. Work and earnings - (1) Subject to the provisions of any regulations made under this Act, every inmate not being a person only awaiting trial or on remand, shall be employed in such work as is directed by the Superintendent of the prison in which he is detained.

(2) Subject as aforesaid, any inmate detained only by reason of the fact that he is awaiting trial or is on remand may be employed under this section if he so requests.

(3) Earnings at such rate or rates as may from time to time be approved by the Minister, with the concurrence of the Minister of Finance, may be credited to every inmate employed under this section, and may be applied or paid in accordance with regulations made under this Act.

(4) All sums payable to the credit of an inmate under this section shall be paid out of money appropriated by the Legislative Assembly for the purpose.

18. Temporary release on parole for special purposes -

(1) The Minister may from time to time, subject to such conditions and restrictions as he thinks fit authorise the Secretary for Justice, in special circumstances, to direct a temporary release on parole of any inmate for such period or periods, and subject to such conditions (if any), as the Secretary for Justice thinks fit. Any authority given by the Minister under this section may be given either generally or in respect of cases of any specified class or in respect of any particular case.

(2) The Secretary for Justice may at any time direct the return to a prison of any person released on parole under this section.

(3) Every person released on parole under this section shall be deemed to be unlawfully at large if he is at large after the expiry of the period for which he was so released or after the giving of a direction for his return to a prison as aforesaid.

(4) Every person released on parole under this section shall be deemed to have escaped from lawful custody, and shall be liable accordingly if he is at large after the expiry of the period for which he was so released.

19. Part-time release to engage in employment - (1) The Minister may from time to time, as he thinks fit, authorise the Secretary for Justice to direct that any specified inmate who is serving a sentence of imprisonment and who wishes to be released under this section shall be released from day to day to engage in such employment (including self employment) as the Minister shall specify. Any such direction shall be given subject to any conditions or restrictions imposed by the Minister.

(2) The Minister may at any time authorise the Secretary for Justice to revoke any direction under this section.

(3) Where any direction under subsection (1) of this section is in force in respect of any inmate the Superintendent of the prison in which the inmate is detained shall release the inmate at such times and for such periods as are necessary to comply with the direction and during every such period the inmate shall comply with any conditions attached to the direction.

(4) Where any person in respect of whom a direction under this section is in force is charged with an offence against discipline under section 26 of this Act, the Superintendent of the prison in which that person is detained shall have power to suspend the direction until such time, not being in any case later than the second day after the hearing of the charge, as the Superintendent is notified of the Secretary for Justice's decision in respect of the direction:

Provided that any such suspension shall immediately cease to have effect if the charge is dismissed.

(5) The power to release a person under this section may be exercised more than once in respect of the same person.

(6) Any person released under this section may be arrested at any time without warrant by any constable or any officer of the prison, after any direction under this section has been revoked, and may be taken by that constable or officer to any place where that person may be lawfully detained.

(7) Any person released under this section shall be deemed to have escaped from lawful custody, and shall be liable accordingly, if he is at large without lawful excuse, (the proof of which excuse shall be on him) after the expiry of any period for which he was so released.

(8) Every person released under this section shall continue to be in the legal custody of the Superintendent of the prison from which he is released during every period for which he is so released:

Provided that during every such period the person shall be deemed not to be an inmate for the purposes of sections 26 to 30 and section 35 of this Act.

TRANSFER AND REMOVAL OF INMATES

20. Transfer from one prison to another - Subject to the provisions of any regulations made under this Act, any inmate may from time to time be transferred, on the direction of the Secretary for Justice, from any prison to any other prison in which he may be lawfully detained.

21. Removal of inmate for judicial purposes - (1) Any inmate may be brought up for trial or sentence, and may be removed by or under the direction of the Superintendent from one prison to another or from one place of confinement to another for the purpose of being tried or of being sentenced or of undergoing his sentence.

(2) Where -

(a) Any inmate is charged with an offence, not being the offence for which he is in custody; or

(b) In any other case the interests of justice require the attendance of any inmate before a Court as a party or witness, or his attendance at an inquest as a witness, -

the High Court, or any Judge or Commissioner thereof may, by order in writing, direct the Superintendent of the prison in which the inmate is detained to bring him or cause him to be brought before the Court or as the case may require, before the Coroner as often as may be necessary; and the Superintendent shall obey the order.

(3) The High Court, Judge or Commissioner making any order under subsection (2) of this section shall if the order is made in a civil proceeding, require any person applying for the order to deposit a sum sufficient to pay the expenses of bringing the inmate before the Court or Coroner and returning him to the prison in which he is required to be detained, including the expenses of his maintenance and custody from the time he leaves the prison until the time he is so returned.

22. Removal of inmate to hospital, etc. - (1) Where it appears that any inmate requires medical, surgical, or dental treatment, he may from time to time, as the case may require, be removed by or under the direction of the Superintendent to a hospital or other suitable place for the purpose of treatment, and may in like manner be taken back to the prison.

(2) In any such case, the inmate shall be deemed to continue to be in the legal custody of the Superintendent while he is absent from the prison.

23. Removal of inmate for educational and other purposes -

(1) Any inmate may from time to time be removed from and returned to the prison in the custody or under the control or supervision of an officer of the prison or a probation officer or other person approved by the Superintendent for the purposes of this section, for any educational, recreational, or other purpose approved by the Minister.

(2) Any approval given by the Minister under this section may be given generally in respect of specified educational, recreational, or other purposes or specially in respect of any such purpose.

LENGTH OF SENTENCE

24. Calculation of term of sentence - (1) Except as provided in this section, the term of every sentence shall commence on the day on which the sentence is passed.

(2) If any sentence is quashed on appeal and another sentence is substituted therefor the term of that substituted sentence shall commence when the quashed sentence would have commenced.

(3) If the offender is not present at the High Court when the sentence is passed, or if the High Court suspends execution of the sentence, the term of the sentence shall commence on the day on which he is arrested to serve the sentence.

(4) A term of imprisonment imposed in default of payment of any sum of money shall commence on the day on which the person liable to that imprisonment is arrested to serve the term.

(5) If the sentence is cumulative on any other sentence, the term shall commence when the offender ceases to be liable to be detained under that other sentence:

Provided that where any sentence on which any other sentence is cumulative is quashed on appeal or is otherwise set aside, and no cumulative sentence is substituted therefore that other sentence shall commence when the first mentioned sentence would have commenced.

(6) Except in the case of a sentence for a term of three days or less, whenever an inmate is due to be discharged or released on a Saturday or a Sunday, or on Christmas Day, Good Friday, Anzac Day, or Constitution Day, he shall be discharged or released, as the case may require, on the nearest preceding day that is not one of those days.

25. Sentence to cease to run while offender unlawfully at large - Where any inmate escapes from lawful custody or is otherwise unlawfully at large, any time during which he is unlawfully at large shall not count as part of the period for which he was liable to be detained when he became an inmate, and for the purpose of calculating that period his detention shall be deemed to be resumed on the day on which he is again received within a prison or into the custody of an officer of the prison.

OFFENCES BY INMATES

26. Offences by inmates - (1) Every inmate commits an offence against discipline who -

(a) Disobeys any lawful order of any officer, or disobeys or fails to comply with any regulation made under this Act or any rule of the prison made under section 6 of this Act:

(b) Is idle, careless, or negligent at work, refuses to work, or wilfully mismanages his work:

(c) Uses or writes any abusive, insolent, insulting, threatening, profane, indecent, or obscene words:

(d) Behaves in an offensive, threatening, insolent, insulting, disorderly, or indecent manner:

(e) Without authority, communicates with any person, not being an inmate or an officer or any other person lawfully in the prison:

(f) Leaves his cell or place of work or other appointed place without permission:

(g) Without the approval of an officer has any article in his cell or in his possession, or gives to or receives from any person any article, or attempts to obtain any article:

(h) Repeatedly makes groundless or frivolous complaints:

(i) Commits any nuisance:

(j) Assaults any other inmate:

(k) Wilfully disfigures, damages, or destroys any part of the prison, or any property that is not his own:

(1) In any other way, offends against good order and discipline.

(2) Every inmate commits an offence against discipline

who -

(a) Obstructs any officer in the execution of his duty:

(b) Assaults any officer or any other person, not being an inmate:

(c) Makes false and malicious allegations against any officer, or any other inmate, or any other person lawfully in the prison:

(d) Without the permission of the Superintendent, combines with other inmates for the purpose of obtaining any alteration in conditions in the prison or of making any complaint:

(e) Mutinies, or incites other inmates to mutiny:

(f) Escapes from any prison or from lawful custody:

(g) Wilfully wounds or injures himself or pretends illness:

(h) Being an inmate to whom section 14 of this Act applies, refuses, after that section has been read to him to submit to be photographed or to having his measurements or fingerprints taken:

(i) Commits any act of gross misconduct or gross insubordination.

(3) Every inmate who attempts to commit any offence against discipline or who aids, counsels, or procures the commission of any such offence, shall be liable to be dealt with and punished in the same manner as if he had committed that offence.

27. Powers of Visiting Justice in relation to offences by inmates - (1) Every Visiting Justice shall have power to hear any complaint relating to any offence against discipline alleged to have been committed by any inmate, and may examine any person concerning the alleged offence, on oath or otherwise at his discretion.

(2) Every such hearing and examination shall be in the presence and hearing of the inmate charged with the offence, who shall be entitled to be heard and to cross examine any witness.

(3) Where on any hearing under this section the Visiting Justice finds the offence proved, he may impose any one or more of the following penalties, namely:-

- (a) Forfeiture or postponement of any privilege, for any period not exceeding three months;
- (b) Forfeiture of earnings, for any period not exceeding three months;
- (c) Exclusion from work in association with other inmates, for any period not exceeding twenty-eight days;
- (d) Restricted diet, as prescribed by regulations made under this Act for any period not exceeding fifteen days;
- (e) Confinement in a cell for any period not exceeding fifteen days;

Provided that where the Visiting Justice imposes more than one of the abovementioned penalties he may not direct that any of them are to be cumulative.

(4) Where the Visiting Justice is of opinion that in the circumstances of the case the inmate should be charged before the High Court with any offence under any enactment other than this Act instead of being dealt with under this section, he may in his discretion, at any time before imposing a penalty under this section, decline to proceed with the hearing and direct that an information be laid accordingly.

28. Powers of Superintendent in relation to certain offences by inmates - (1) The Superintendent of any prison shall have power to hear any complaint relating to any offence against discipline under subsection (1) of section 26 of this Act alleged to have been committed by any inmate of that prison, and may examine any person concerning the alleged offence on oath or otherwise at his discretion.

(2) Every such hearing and examination shall be in the presence and hearing of the inmate charged with the offence, who shall be entitled to be heard and to cross examine any witness.

(3) Where on any hearing under this section the Superintendent finds the offence proved, he may impose any one or more of the following penalties, namely -

- (a) Forfeiture or postponement of any privilege, for any period not exceeding twenty-eight days;
- (b) Forfeiture of earnings, for any period not exceeding seven days;
- (c) Exclusion from work in association with other inmates for any period not exceeding fourteen days;
- (d) Restricted diet as prescribed by regulations made under this Act for any period not exceeding three days;
- (e) Confinement in a cell for any period not exceeding seven days;

Provided that where the Superintendent imposes more than one of the above mentioned penalties he may not direct that any of them are to be cumulative.

(4) The Superintendent may in his discretion, at any time before imposing a penalty under this section, -

- (a) Refer the case to a Visiting Justice to be dealt with under section 27 of this Act, and thereupon the provisions of that section shall apply;

(b) If he is of opinion that in the circumstances of the case the inmate should be charged before the High Court with any offence under any enactment other than this Act, instead of being dealt with or referred to a Visiting Justice under this section, decline to proceed with the hearing and cause an information to be laid accordingly.

29. Right of appeal to Visiting Justice against decision of Superintendent - (1) If any inmate charged with an offence against discipline and dealt with by the Superintendent as aforesaid is dissatisfied with any finding of the Superintendent or any penalty imposed by him, the inmate may request that his case be referred by way of appeal to a Visiting Justice and thereupon the Superintendent shall cause the case to be brought before a Visiting Justice as soon as possible.

(2) If an appeal to the Visiting Justice under this section relates to any finding of the Superintendent, the Justice shall re-hear the whole case, and may either reverse that finding or confirm it, and may either confirm the penalty or, if in his opinion the circumstances require it, impose in substitution therefore any penalty that could have been imposed by the Superintendent.

(3) If such appeal relates only to a penalty imposed by the Superintendent, the Visiting Justice shall consider only the question of the penalty, and may either confirm the penalty or, if in his opinion the circumstances require it, impose in substitution therefor any penalty that could have been imposed by the Superintendent.

(4) Where there is an appeal under this section, any penalty imposed by the Superintendent shall be deemed to be suspended until the appeal is disposed of.

30. Effect of penalty and record thereof - (1) No penalty imposed under any of the provisions of sections 27 to 29 of this Act shall operate to extend the detention of any inmate beyond the term for which he was originally liable to be detained.

(2) Any Visiting Justice or Superintendent imposing a penalty under any of the aforesaid sections shall enter and sign in a separate book, to be called the Punishment Book, a statement of the nature of any offence for which a penalty is so imposed, together with the name of the offender, the date of the offence and particulars of the penalty.

(3) Any Visiting Justice hearing an appeal against the decision of a Superintendent shall enter and sign in the Punishment Book particulars of the appeal and the result thereof.

(4) The Superintendent shall forthwith send a copy of every such entry to the Secretary for Justice.

31. Failure to submit to medical examination or procedure - (1) Every inmate commits an offence and is liable to imprisonment for a term not exceeding three months who refuses to submit himself -

- (a) To any medical, dental, or X-ray examination required by regulations made under this Act: or
- (b) To any medical, surgical, or dental procedure (including an examination) when he has been ordered to undergo that procedure by a medical practitioner or a dentist, as the case may be, or by an officer acting on the instructions of a medical practitioner or dentist, and the procedure is one which, in

the opinion of the medical practitioner or dentist giving the order or instructions, is essential for the purpose of determining whether the inmate has any infectious disease or for the prevention of the spread of infection in the prison.

(2) Any sentence of imprisonment imposed pursuant to subsection (1) of this section may, in the discretion of the Court, be concurrent with or cumulative on any other sentence of imprisonment.

MISCELLANEOUS

32. Right of Justice to visit prison - Any Justice may at all reasonable times enter into any prison and examine the prison and the conditions of the inmates, and may enter any observations he thinks fit to make in relation to the prison and the management thereof in a visitors' book to be kept by the Superintendent:

Provided that the Justice shall not be entitled under this section to visit any inmate under sentence of death, or to communicate with the inmate except in relation to his treatment in the prison or to a complaint that he may make in respect of such treatment.

33. Superintendent to deliver calendar of persons committed for trial - The Superintendent of every prison in which there are confined any persons committed for trial before the High Court shall deliver to that Court a calendar of those persons.

34. Inquests of inmates - Where any inmate dies, the Superintendent shall forthwith report the death to the Coroner.

35. Arrest of inmate unlawfully at large - Any constable or any officer of a prison may arrest without warrant any person who, having been sentenced to imprisonment, or having been committed to a prison, is unlawfully at large, and may take him to any place where he may be lawfully detained.

36. Offences - (1) Every person commits an offence and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred dollars who, except under the authority of this Act or of any regulations made under this Act or the expressed authority of the Superintendent of the prison, -

- (a) Brings or causes to be brought into the prison, or delivers or causes to be delivered to any inmate, any liquor, tobacco, money, or letter, or any article or thing whatsoever:
- (b) Places or causes to be placed anywhere outside the prison any liquor, tobacco, money, or letter, or any article or thing whatsoever, with intent that it should come into the possession of an inmate:
- (c) Takes or causes to be taken out of the prison any letter or any article or thing whatsoever on behalf of the inmate:
- (d) Holds any communication with any inmate:
- (e) Photographs any inmate:
- (f) Attempts to do any of the aforesaid things:
- (g) Loiters about any place where inmates may be confined or employed and refuses or neglects to depart after being warned by any constable or by any officer of any prison.

(2) Notwithstanding anything in subsection (1) of this section, where any officer of a prison is so convicted of an

offence against any of the provisions of paragraphs (a), (b), and (c) of that subsection or of an attempt to commit any such offence, he shall be liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding two hundred dollars.

(3) Every person commits an offence and is liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred dollars who wilfully trespasses without lawful excuse on any land knowing or having reasonable cause to believe that it is part of a prison.

(4) Any constable, or any officer of a prison, who on reasonable and probable grounds believes that any person has committed an offence against this section may arrest that person without a warrant.

(5) Any constable, or any officer of a prison, who has reason to suspect that there is any breach by any person of any provision of this section may seize any liquor, tobacco, money, letter, article, or things, or any photograph or photographic film, in respect of which he has reason to suspect that the breach has occurred; and for the purpose of seizing any such photographic film as aforesaid may temporarily take possession of any camera in which it is contained. Anything so seized in respect of which any person is convicted of an offence under this section shall be forfeited to the Crown, unless the High Court orders that it be returned to the person appearing to the Court to be entitled thereto.

37. Regulations - (1) The High Commissioner may from time to time, by order in Executive Council, make all such regulations, not inconsistent with this Act, as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the generality of the powers conferred by subsection (1) of this section it is hereby declared that regulations may be made under this section for all or any of the following purposes, namely -

- (a) Prescribing the powers and duties of officers:
- (b) Ensuring the good management and government of prisons:
- (c) Ensuring the safe custody and discipline of inmates; and prescribing or regulating the classification, correction, separation, diet, instruction, treatment, mode of employment, hours of work, and earnings of inmates or different classes of inmates, and the application or payment of such earnings:
- (d) Providing for the transfer of inmates to a penal grade, prescribing the circumstances in which they may be so transferred, and prescribing or regulating the treatment of inmates so transferred:
- (e) Regulating the photographing of inmates and the taking of their measurements and fingerprints:
- (f) Regulating the transfer of inmates from one prison to another:
- (g) Regulating the manner in which the good conduct and industry of inmates under sentence of imprisonment may be assessed and marked for the purposes of recommending remission of sentences.

(3) Any regulations under this section may be made to apply generally to all prisons or to any specified prison or

prisons of any specified class or classes; and may be made to apply generally to all inmates or to inmates of any specified class or classes.

(4) Regulations made under this section may prescribe for offences against the regulations punishable by a term of imprisonment not exceeding three months or a fine not exceeding one hundred dollars or both.

(5) All regulations made under this section shall be laid before the Legislative Assembly within twenty-eight days after the date of the making thereof if the Legislative Assembly is then in session, and, if not, shall be laid before the Legislative Assembly within twenty-eight days after the date of the commencement of the next ensuing session.

38. Amendment, repeals and savings - (1) Section 30 of the Cook Islands Amendment Act 1957 is hereby amended by omitting therefrom the words "and officers of prisons".

(2) Sections 27 to 29 (both inclusive) of the Cook Islands Amendment Act 1957 are hereby repealed.

(3) Without limiting the provisions of the Acts Interpretation Act 1924 as amended and applied to the Cook Islands it is hereby declared that the amendment or repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under the provisions so amended or repealed or under any corresponding former provision, and every such document or thing, so far as it is subsisting or in force at the time of the amendment or repeal and could have been made or done under this Act, shall continue and have effect as if it had been made or done under the corresponding provision of this Act and as if that provision had been in force and the document was made or the thing was done.
