

[Chap0902]CHAPTER 9:02 PRISONS
ARRANGEMENT OF SECTIONS

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G.N. 213/1960F 219/1963

An Act to provide for the establishment of Prisons within Malawi, for a Prison Service, for the discipline of Prison Officers, for the management and control of Prisons and Prisoners lodged therein, and for matters incidental thereto

[23RD APRIL 1956]

PRELIMINARY

[Ch0902s1]1. Short title

This Act may be cited as the Prisons Act.

[Ch0902s2]2. Interpretation

In this Act, unless inconsistent with the context—

“**convicted prisoner**” means any prisoner under sentence of a court or court-martial;

“**junior officers**” means a prison officer of one of the ranks of junior officers set out in the Schedule;

“**mechanical restraint**” means restraint by the use of handcuffs, leg irons, straight jacket, or any other form of restraint approved by the Minister;

“**medical officer**” means a medical officer appointed or nominated under section 25;

“**officer in charge**” means the person appointed to be in charge of a prison under section 9;

“**official visitor**” means a person appointed as such under section 38;

“**penal diet**” means a punishment diet prescribed as a penal diet;

“**prison**” means any building or place declared to be a prison and includes a temporary prison established under section 4;

“**prison officer**” means any officer of the prison service and includes any officer seconded to such service;

“**prisoner**” means any person, whether convicted or not, under detention in any prison;

“**prohibited article**” means any article which is not issued to any prisoner by authority of the officer in charge, with the approval of the Commissioner, or in accordance with this Act;

“**reduced diet**” means a punishment diet prescribed as a reduced diet;

“**senior officer**” means a prison officer of one of the ranks of senior officers set out in the Schedule;

“**subordinate officer**” means a prison officer of one of the ranks of subordinate officers set out in the Schedule and includes any person temporarily employed under section 73 (5);

“**the service**” means the prison service established under this Act;

“**unconvicted prisoner**” means any person, not being a convicted prisoner, duly committed to custody under a writ, warrant, or order of any court, or any order of detention issued by any person authorized thereto by any Malawi law, or by order of a court-martial;

“**visiting justice**” means a visiting justice appointed under sections 34 and 35;

“**weapon**” means any firearm, baton, tear smoke, or such other instrument as may be prescribed;

“**young prisoner**” means a prisoner under the apparent age of 19 years and may, at the discretion of an officer in charge, include a prisoner whose apparent age does not exceed 20 years.

PART I ESTABLISHMENT OF PRISONS

[Ch0902s3]3. Establishment of prisons

The Minister may declare any building or place in Malawi to be a prison under this Act, and may declare that any such prison shall cease to be a prison.

[Ch0902s4]4. Temporary prisons

Such provision shall be made as the Commissioner may direct for the shelter and safe custody in temporary prisons of such number of prisoners as the Commissioner may determine, and every such temporary prison shall be deemed to be a prison for the purpose of this Act.

PART II CONSTITUTION AND ADMINISTRATION

[Ch0902s5]5. Establishment of service

There shall be established in Malawi a prison service.

[Ch0902s6]6. Application of Act to serving prison officers

27 of 1945 All the provisions of this Act shall extend to all persons who, immediately before the date of commencement of this section, were serving as members of any prison service or department established under the Prisons Ordinance, 1945 (now repealed) as if such persons had been appointed under this Act, and service under any such legislation, for the purposes of this Act, shall be deemed to be service under this Act.

[Ch0902s7]7. Commissioner of prisons and prison officers

There shall be a Commissioner of Prisons, hereinafter referred to as the Commissioner, who shall, subject to any general or special directions of the Minister, be responsible for the administration of this Act, and such prison officers as may be necessary for the administration of the prison service.

[Ch0902s8]8. Officers

The service shall consist of the ranks set out in the Schedule and that Schedule may be varied by the Minister by notice published in the *Gazette*.

[Ch0902s9]9. Appointment of prison officers

(1) The Commissioner shall appoint prison officers to be officers in-charge.

(2) In any place where there is a prison but no prison officer has been appointed as officer in-charge thereof, such prison shall be in the charge of such person as the Minister may appoint and the person so appointed shall, in matters relating to the prison and prisoners, be subject to the orders and directions of the Commissioner and shall, subject to any express limitation which may have been imposed on him by the Commissioner, be deemed to be the

officer in-charge of the prison and shall have all the powers conferred by this Act upon an officer in-charge.

[Ch0902s10]10. Liberty to resign

(1) Unless expressly permitted to do so by the Commissioner, no prison officer shall be at liberty to resign from the service except as may be provided by regulations.

(2) Any member of the service whose period of service expires during a state of war, insurrection, disturbance of the public peace, or other emergency or apprehended emergency, may be retained and his services prolonged for such period as the Minister may direct.

(3) If any prison officer withdraws himself from his official duties in contravention of this section, he shall be liable to a fine of K100.00 and to imprisonment for three months.

[Ch0902s11]11. Payments due to prison officers and other persons employed in prisons leaving the prison service may be set off

A sum due to a prison officer or other person employed in prisons or to his estate by way of salary, refund of pension contributions, pension or any other benefit whatsoever may be set off against a sum payable to the Government by the prison officer or other person employed in prisons on or at the time of his retirement, resignation, loss of office, death, discharge or other termination of service, as the case may be.

[Ch0902s12]12. Minister may appoint committee of inquiry

The Minister may, whenever he deems it necessary or desirable, appoint a committee of two or more persons of whom—

- (a) one shall be the Commissioner; and
- (b) the other or others shall be an officer or officers of the Public Service, to enquire into and report to him on the conduct, management or administration of any prison or any matter connected therewith or incidental thereto.

PART III POWERS AND DUTIES OF PRISON OFFICERS

[Ch0902s13]13. General powers and duties of Commissioner

30 of 1991, 33 of 1993 The Commissioner shall, subject to any orders or directions of the Minister, have the administrative command, superintendence, control, and direction of prisons and prison officers, and, for the exercise of these powers, may issue standing orders relating thereto. Notwithstanding the General Interpretation Act, standing orders issued in terms of this section need not be published in the *Gazette*. Cap. 1:01

[Ch0902s14]14. Officer in charge of a prison to supervise and control prison

Every officer in-charge shall supervise and control all matters in connexion with the prison to which he is appointed and shall be responsible to the Commissioner for the conduct and treatment of prison officers and prisoners under his control and for the due observance by prison officers and prisoners of this Act.

[Ch0902s15]15. Powers and duties of prison officers

Every prison officer shall exercise such powers and perform such duties as may be assigned to him in accordance with this Act and shall obey all lawful directions in respect of the execution of his office which he may receive from any officer senior to him in the service.

[Ch0902s16]16. Prison officers always available for duty

Every prison officer shall be deemed to be available for duty at all times and may at any time be detailed for duty in any part of Malawi.

[Ch0902s17]17. Prison officers and prohibited activities

(1) No prison officer shall be concerned in any employment other than the duties assigned to him in accordance with this Act.

(2) No prison officer shall accept any bribe, fee, gratuity, or reward from, or, without the permission of the Commissioner, have any business dealings with, prisoners, visitors to prisoners, persons he knows to be ex-prisoners, or friends of prisoners or ex-prisoners.

(3) Except with the written consent of the Minister and in accordance with such directions as the Minister may give, no prison officer shall commit any act which is prescribed as being an act constituting active participation in politics.

[Ch0902s18]18. Punishment by subordinate officers

No subordinate officer shall punish a prisoner unless lawfully ordered so to do by the Commissioner or by an officer in charge.

[Ch0902s19]19. Use of weapons by prison officers

- (1) Subject to this section, a prison officer may use a weapon against—
- (a) a prisoner who is—
 - (i) escaping or attempting to escape; or
 - (ii) engaged in a combined outbreak or in an attempt to force, break open or scale the outside door, gate, fence or enclosure wall of the prison; or
 - (iii) using violence to him or another prison officer or other person; and
 - (b) a person who—
 - (i) whilst assisting a prisoner to escape, is using violence to him or another prison officer or other person; or
 - (ii) is engaged in a combined break-in or in an attempt to force, break open or scale the outside door, gate, fence or enclosure wall of the prison or an inside door, gate, fence or wall of the prison; or
 - (iii) whilst so engaged, is using violence to him or another prison officer or other person.
- (2) Resort shall not be had to the use of a weapon—
- (a) as in subsection (1) (a) (i) is authorized, unless—
 - (i) the prison officer has reasonable grounds to believe that he cannot otherwise prevent the escape; and
 - (ii) the prison officer gives a warning to the prisoner that he is about to use the weapon against him; and
 - (iii) the warning given by the prison officer is unheeded;
 - (b) as in subsection (1) (a) (iii), (1) (b) (i) and (1) (b) (iii) is authorized unless the prison officer has reasonable grounds to believe that he or the other prison officer or other person, as the case may be, is in danger of suffering grievous bodily harm.
- (3) No prison officer shall in the presence of a prison officer senior to himself make use of a weapon as in subsection (1) is authorized, except on the orders of the senior prison officer.
- (4) The use of weapons in pursuance of this section shall be, as far as possible, to disable and not to kill.

[Ch0902s20]20. Prison officers' power of arrest

For the purpose of apprehending any person who may have escaped from lawful custody, every prison officer shall have the power to arrest such person and to convey him to a prison.

[Ch0902s21]21. Prison officers' visits to cells

(1) No prison officer shall, except in the case of sickness or emergency, enter a prison cell or ward at night unless accompanied by another prison officer.

(2) No male prison officer shall enter a cell in which female prisoners are confined, unless accompanied by a female prison officer.

[Ch0902s22]22. Power to take photographs and fingerprints of prisoners

An officer in charge may cause statistics as to height, weight, and measurements, photographs, fingerprints, handprints, and footprints of any prisoner to be taken by any person whom he may designate for such purpose, and shall make such records as the Commissioner may determine.

[Ch0902s23]23. Immunity for act done under authority of warrant

Where the defence to any suit instituted against a prison officer is that the act complained of was done in obedience to a warrant purporting to be issued by a judge or a magistrate, the court shall, upon production of the warrant containing the signature of the judge or the magistrate, and upon proof that the act complained of was done in obedience to such warrant, enter judgment in favour of such prison officer.

[Ch0902s24]24. Proof of signature not required

No proof of the signature of such judge or magistrate as is mentioned in section 23 shall be required unless the court has reason to doubt the genuineness thereof, and, where such signature is proved not to be genuine, judgment shall nevertheless be given in favour of such prison officer, if it be proved that, at the time the act complained of was committed, he believed on reasonable grounds that such signature was genuine.

PART IV APPOINTMENT AND DUTIES OF MEDICAL OFFICERS

[Ch0902s25]25. Medical officers

(1) The Minister may appoint as medical officer of a prison any medical practitioner who is registered as such in accordance with the law and where" no such medical practitioner is available, may also appoint as medical officer of a prison any person who is licensed in terms of section 15 of the Medical Practitioners and Dentists Registration Act. **Cap. 36:01**

(2) In default of any appointment in terms of subsection (1), a Government medical officer resident at the place where such prison is situated and nominated for such duty by the Secretary for Health shall be a medical officer for such prison.

[Ch0902s26]26. Duties of medical officers

Subject to section 14, the medical officer shall have the general care of the health of prisoners and shall visit the prison daily where practicable or when called upon by the officer in charge. He shall report to the officer in charge any circumstances connected with the prison or the treatment of prisoners which at any time appear to him to require consideration on medical or health grounds.

[Ch0902s27]27. Medical inspection

(1) The medical officer shall, where practicable, ensure that every prisoner is medically examined on admission to and before discharge from a prison, and shall perform such other duties as may be prescribed, and shall ensure that a record is kept of the state of health of every prisoner.

(2) Until he has been examined by the medical officer, every prisoner on admission shall, so far as possible, be kept apart from other prisoners.

[Ch0902s28]28. Observation of prisoners charged with a capital offence

The medical officer shall observe the mental condition of all prisoners under sentence of death or charged with a capital offence and, for this purpose, shall personally examine all such prisoners on every day on which he visits the prison, and shall furnish reports on such prisoners to the officer in charge in such form and at such times as may be prescribed.

[Ch0902s29]29. Examination of prisoners in solitary confinement or in hospital

The medical officer shall ensure that every prisoner under sentence of death, or charged with a capital offence, or in solitary confinement, or in hospital, is medically examined every day on which the medical officer visits the prison.

[Ch0902s30]30. Officer in charge empowered to order prisoner to be examined

Every officer in charge may order any prisoner to submit himself to medical examination as often as such officer thinks necessary.

[Ch0902s31]31. Death of a prisoner

The medical officer shall, on the death of any prisoner otherwise than by lawful execution, record in a register to be kept for such purpose the following particulars, so far as they can be ascertained—

- (a) the day on which the deceased was sentenced;
- (b) the day on which he was admitted to prison;

- (c) the day on which he first complained of illness, or was observed to be ill;
- (d) the labour, if any, on which he was engaged on that day;
- (e) the scale of his diet on that day; Death of a prisoner
- (f) the day on which he was admitted to hospital;
- (g) the day on which the medical officer or his subordinate was first informed of the illness;
- (h) the nature of the disease;
- (i) when the deceased was last seen before death by the medical officer or his subordinate;
- (j) when the prisoner died and, in cases where a postmortem examination is made, an account of the appearance after death, together with any special remarks that may appear to the medical officer to be required; and
- (k) his opinion as to the cause of death.

[Ch0902s32]32. Notification of death of prisoner

Upon the death of a prisoner, the officer in charge shall at once notify a magistrate or coroner and the medical officer of the prison and shall arrange for compliance with the law relating to inquests.

PART V VISITING JUSTICES, OFFICIAL VISITORS, MINISTERS OF RELIGION AND PRISONERS' AID SOCIETIES

[Ch0902s33]33. Judges may visit prisons

Judges of the High Court may visit and inspect any prison at any time and, while so doing, may inquire into any complaint or request made by a prisoner.

[Ch0902s34]34. Ministers to be visiting justices

Ministers of Malawi Government shall be visiting justices of all prisons in Malawi.

[Ch0902s35]35. Magistrates to be visiting justices in own areas Powers of visiting justices

Magistrates shall be visiting justices of the prisons situated in the area in which they normally exercise jurisdiction.

[Ch0902s36]36. Powers of visiting justices

(1) Any visiting justice may at any time visit a prison in respect of which he is a visiting justice, and may—

- (a) call for all books, papers, and records relating to the management and discipline of the prison;
- (b) visit every part of the prison and see every prisoner in confinement;
- (c) inspect and test the quality and quantity of prisoners' food;
- (d) ascertain, so far as possible, that the standing orders and regulations are observed;
- (e) inquire into any complaint or request made by a prisoner.

(2) A visiting justice who is a magistrate—

- (a) may, if requested by the Commissioner or the officer in charge, hear and determine a charge under section 90 (1) (b); and
- (b) for the exercise of such powers, may summon witnesses and administer oaths.

[Ch0902s37]37. Visiting justice to record visit in prescribed book

On completion of each visit, a visiting justice shall enter in a book to be kept for such purpose such remarks, suggestions, or recommendations for the information of the Commissioner as he may deem fit

[Ch0902s38]38. Appointment of official visitors

The Minister may appoint official visitors to any prison.

[Ch0902s39]39. Duties of official visitors

An official visitor shall—

- (a) at least once in every two months visit the prison to which he is appointed between such hours as may be prescribed;

- (b) visit all parts of the prison and see every prisoner in confinement, save that female official visitors may visit only those parts of each prison set aside for the detention of female prisoners;
- (c) inspect and test the quality and quantity of prisoners' food;
- (d) ascertain, so far as possible, that the standing orders and regulations are observed; and
- (e) inquire into any complaint or request made by a prisoner.

[Ch0902s40]40. Official visitors to record visit in prescribed book

On completion of each visit, an official visitor shall enter in a book to be kept for such purpose such remarks, suggestions, or recommendations for the information of the Commissioner as he may deem fit.

[Ch0902s41]41. Ministers of religion may visit prison

Ministers of religion, or other accredited representatives of any religious body recognized by the Minister whose visits are approved by the Commissioner, may at such hours and in such places as may be prescribed or as the officer in charge may permit—

- (a) be admitted to the prison to visit prisoners who may be desirous of their services; and
- (b) be permitted to hold religious services.

[Ch0902s42]42. Visits of probation officers and representatives of prisoners' aid society

A probation officer appointed as such under any law, or a representative of a prisoners' aid society who has obtained the written permission of the Commissioner, may be admitted to any prison at times to be arranged by the officer in charge.

PART VI DISCIPLINE OF PRISON OFFICERS

[Ch0902s43]43. Offences against discipline by prison officers

- (1) Any prison officer, other than the Commissioner who—
- (i) uses traitorous or disloyal words regarding the President;
 - (ii) is disrespectful in word, act, or demeanour to an officer senior to him in the service;
 - (iii) disobeys any lawful order including any standing order issued by the Commissioner in terms of section 13;
 - (iv) contravenes or fails or neglects to comply with any provision of regulations with which it is his duty to comply;
 - (v) renders himself unfit for duty through drink or by the use of drugs;
 - (vi) habitually uses to excess intoxicating beverages or habit-forming drugs;
 - (vii) absents himself without leave or overstays his leave;
 - (viii) sleeps at his post, or leaves it before being lawfully relieved, except in fresh pursuit of any offender whom it is his duty to apprehend;
 - (ix) being under arrest or confinement, leaves or escapes from his arrest or confinement before he is set at liberty by proper authority;
 - (x) neglects or refuses to assist in the apprehension of any prison officer or prisoner whom it is his duty to arrest;
 - (xi) by his neglect or default—
 - (A) allows; or
 - (B) contributes to,
 the escape of any prisoner;
 - (xii) offers or uses unwarranted personal violence to any person in his custody;
 - (xiii) shows cowardice in the course of his duty;
 - (xiv) uses any weapon without just cause or order;
 - (xv) without cause, fails to appear or appears late at any parade or duty appointed by an officer senior to him in the service;
 - (xvi) pawns, sells, loses by neglect, makes away with, wilfully spoils or fails to report any damage to any arms, ammunition, accoutrements, clothing, any medal or

- decoration granted to him for service or good conduct, or any other public property;
- (xvii) steals or destroys any property belonging or issued to a prison or prisoner;
 - (xviii) is slovenly, inattentive, uncivil, or quarrelsome;
 - (xix) without due authority, discloses or conveys any information concerning any investigation or matter relating to the service;
 - (xx) malingers or feigns or wilfully produces any disease or infirmity or fails to report any disease or accident;
 - (xxi) is guilty of misconduct or disobeys, whether in hospital or otherwise, any orders, by means of which misconduct or disobedience he produces or aggravates any disease or infirmity or delays its cure;
 - (xxii) incurs debt without any reasonable prospect, or intention, of paying the same, or, having incurred any debt, makes no reasonable effort to pay the same;
 - (xxiii) without proper authority, demands from any person any article, carriage, or portage;
 - (xxiv) resists an escort whose duty it is to apprehend him or to have him in charge;
 - (xxv) breaks out of, or leaves without lawful excuse, warders' lines, camp, or quarters;
 - (xxvi) makes or signs any false report or statement in any official record or document, knowing or having reasonable ground to believe that the same is false;
 - (xxvii) refuses or, by culpable neglect, omits to make or send a report or return which it is his duty to make or send;
 - (xxviii) knowingly makes a false accusation against any other prison officer or prisoner, or wilfully suppresses any material facts, or makes or joins in making any anonymous complaint;
 - (xxix) is unduly familiar with prisoners;
 - (xxx) assists or connives with any prisoner in having or obtaining any prohibited article;
 - (xxxi) with intent to cause any breach of this Act, holds correspondence or any intercourse with persons who have been discharged from prison or with their relatives or friends;
 - (xxxii) being called upon by the Commissioner (duly authorized thereto by the Minister) to furnish a full and true statement of his financial position, fails to do so;
 - (xxxiii) contravenes section 17, 18, 19 or 21;
 - (xxxiv) is guilty of any neglect of duty; or
 - (xxxv) is guilty of any other act, conduct, disorder, or neglect of duty to the prejudice of good order or discipline, shall be guilty of an offence against discipline.

(3) Nothing in this section shall be construed to exempt any prison officer from being proceeded against for any offence against any other law, so however that no such officer shall be punished twice for the same act or omission.

[Ch0902s44]44. Prison officer to have power to arrest

Any prison officer may arrest without warrant any prison officer, not being an officer of his own or of senior rank or grade, whom he suspects on reasonable grounds of having committed an offence under section 43. A prison officer effecting an arrest under this section shall forthwith bring the accused before the officer in charge, who shall cause the case to be heard without undue delay and may order the remand of the accused in custody for so long as may reasonably be necessary.

[Ch0902s45]45. Confinement of arrested prison officer

Until such time as his case is heard in accordance with this Act, any prison officer arrested under this Act may be confined in any prison quarters allocated for prison or guardroom purposes, or, if no other suitable quarters are available, in any prison quarters set apart for the detention of prisoners awaiting trial.

[Ch0902s46]46. Power to try junior prison officers

(1) The Commissioner, or a senior officer authorized by the Commissioner, may inquire into any alleged offence against discipline by a prison officer who shall be present at such inquiry and thereupon, if satisfied that such offence has been committed, the offender may be punished by—

- (a) admonition;
- (b) reprimand;
- (c) severe reprimand;
- (d) stoppage of pay where there has been absence without leave, or loss by negligence of or injury to public property;
- (e) fine not exceeding a month's pay;
- (f) reduction in rank;
- (g) dismissal, subject to any regulation;
- (h) the punishment set out in paragraph (a) or (b) and the punishment set out in paragraph (d);
- (i) any two or more of the punishments set out in paragraphs (c) to (g) inclusive:

Provided that, in the case of dismissal, the only further punishments which may be imposed shall be those set out in paragraphs (d) and (e).

(2) Every punishment awarded or recommendation made by a senior officer under subsection (1) shall be subject to confirmation by the Commissioner, and any such punishment shall remain in abeyance until the Commissioner has signified his decision thereon.

[Ch0902s47]47. Power to try subordinate prison officers

(1) The Commissioner, a senior officer or officer in charge may inquire into any alleged offence against discipline by a prison officer subordinate to him who shall be present at such inquiry and thereupon, if satisfied that such offence has been committed, the offender may be punished by—

- (a) admonition;
- (b) reprimand;
- (c) severe reprimand;
- (d) confinement to lines or extra duty for a period not exceeding seven days, or both such confinement and such extra duty;
- (e) fine not exceeding one-half of a month's pay;
- (f) forfeiture of one or more efficiency badges;
- (g) stoppage of pay where there has been absence without leave, or loss by neglect of or injury to public property;
- (h) reduction in rank;
- (i) dismissal, subject to any regulation;
- (j) the punishment set out in paragraph (a) or (b) and the punishment set out in paragraph (g);
- (k) any two or more of the punishments set out in paragraphs (c) to (i) inclusive:

Provided that, in the case of dismissal, the only further punishments which may be imposed shall be those set out in paragraphs (e) to (g) inclusive.

(2) Any sentence of a fine exceeding twenty shillings, reduction in rank, forfeiture of efficiency badges, or dismissal awarded by a senior officer or officer in charge under subsection (1) shall be subject to confirmation by the Commissioner, and any such punishment shall remain in abeyance until the Commissioner has signified his decision thereon.

[Ch0902s48]48. Procedure after award of punishment

(1) The Commissioner may enhance, vary, or remit any punishment referred to him for confirmation under section 46 or 47 and may cancel any recommendation made thereunder.

(2) An appeal against any decision of the Commissioner relating to any punishment awarded or recommendation made under section 46, 47 or section 51 (2) shall lie to the Minister, who may vary, or remit any such punishment and may act upon any such

recommendation as he deems fit. No appeal shall lie under this subsection unless notice of intention to appeal has been given to the Commissioner within fourteen days of his decision being conveyed to the prison officer concerned.

(3) No decision by the Minister or Commissioner in terms of this section shall be made to the prejudice of the prison officer concerned unless such officer has had an opportunity of making representations in writing on his own behalf to the Minister or Commissioner, as the case may be.

[Ch0902s49]49. Stoppages of pay

Any stoppage of pay exceeding one-half of the offender's monthly pay imposed by an officer in charge shall be subject to confirmation by the Commissioner and all stoppages of pay shall be recovered from the offender's pay due or thereafter accruing, and so much only of his pay shall be stopped as shall leave him a residue of at least one-half of his monthly pay.

[Ch0902s50]50. Power to summon witnesses

(1) Any prison officer empowered to make an inquiry under sections 46 and 47 may, subject to the general or special approval of the Commissioner, summon and examine witnesses on oath, may require the production of any document which in his opinion is relevant to such inquiry, may from time to time adjourn any such inquiry and, for the purposes of this section, may administer oaths.

(2) Any person summoned as a witness under subsection (1) who fails to attend at the time and place mentioned in the summons or, when required so to do by the prison officer holding the inquiry, fails to attend any adjourned hearing, refuses to take the oath or to answer any question lawfully put to him shall on conviction in a magistrate's court be liable to a fine not exceeding five pounds, or to imprisonment for a period not exceeding one month:

Provided that no witness shall be obliged to answer any question which may tend to incriminate him or render him liable to any forfeiture or penalty.

(3) Any person other than a prisoner summoned as a witness under subsection (1) shall be entitled to be paid such allowances and expenses as are normally allowed to such a witness when giving evidence before a magistrate's court.

[Ch0902s51]51. Offence against discipline may be tried by a magistrate

(1) In any case where it appears to the Commissioner, the senior officer or the officer in charge who is inquiring into an alleged offence against section 43 that the offence alleged to have been committed would not, by reason of its gravity or by reason of previous offences or for any other reason, be adequately punished by any of the punishments provided in sections 46 and 47 the Commissioner or such officer, as the case may be, shall, without recording a finding, stay the proceedings and, if the case is being investigated by a senior officer or the officer in charge, such officer shall transmit the proceedings to the Commissioner. Where any proceedings have been stayed by the Commissioner or by a senior officer or the officer in charge the Commissioner may order the accused to be taken before a magistrate's court to be dealt with in accordance with subsection (3).

(2) Where a case has been stayed and transmitted to the Commissioner, the Commissioner may, in lieu of ordering the accused to be dealt with by a magistrate's court, himself hear and determine the case, or direct the case to be dealt with by the senior officer or the officer in charge who transmitted it or by any other officer.

(3) Where an accused person is taken before a magistrate's court under subsection (1), he shall be liable for any of the offences mentioned in section 43 to a fine not exceeding three months' pay, and to imprisonment for six months.

[Ch0902s52]52. Interdiction

(1) The Commissioner may, at any time, in the interests of discipline or public interest, interdict from duty any prison officer if disciplinary or criminal proceedings are being instituted against him.

(2) Any prison officer interdicted in terms of subsection (1) shall receive such portion of his pay, being not less than one half, as the Commissioner shall determine.

(3) If such prison officer is not dismissed from the service, he shall receive for the period of his interdiction—

- (a) in the case of acquittal, his full pay;
- (b) in any other case, such proportion of his pay as the Commissioner may decide.

An appeal shall lie to the Minister from any decision of the Commissioner under paragraph (b) and such appeal shall be made and may be dealt with, *mutatis mutandis*, in accordance with section 48 (2).

(4) A prison officer shall not by reason of being interdicted from office cease to be a prison officer. During the term of such interdiction, the powers, functions, and privileges vested in him as a prison officer shall be in abeyance, but he shall continue subject to the same responsibilities, discipline, and penalties, and to the same authorities, as if he had not been interdicted.

[Ch0902s53]53. Dismissal upon fine or imprisonment

The Minister may, on the recommendation of the Commissioner, dismiss from the service any junior or subordinate officer sentenced by a court to a fine or imprisonment in respect of any offence against any law.

[Ch0902s54]54. Pay not to accrue during absence without leave or imprisonment

Unless the Commissioner otherwise orders, no pay shall accrue to any prison officer in respect of any day during which he is absent from duty without leave or is undergoing any sentence of imprisonment.

PART VII DESERTION OR INCITING

[Ch0902s55]55. Desertion

Any prison officer who absents himself from duty without reasonable cause for a period exceeding twenty-one days shall be deemed to be a deserter and shall be liable to a fine of £100 and to imprisonment for two years.

[Ch0902s56]56. Deserter may be apprehended by prison or police officer

Any prison officer or police officer who has reason to believe that any prison officer has deserted from the service may apprehend him and—

- (a) take him forthwith to a police station and lay a charge against him; or
- (b) if there is no police station in the vicinity, take such person forthwith before a magistrate with a view to obtaining a warrant for his arrest.

[Ch0902s57]57. Penalty for inciting prison officer to desert

Any person who by any means, directly or indirectly, procures or persuades, or attempts to procure or persuade, any officer of the service to desert, or who aids, abets or is accessory to the desertion of any officer of the service, or who, having reason to believe that any person is a deserter, harbours such deserter, or aids him in concealing himself or assists in his rescue, shall be liable to a fine of £50 and to imprisonment for six months.

[Ch0902s58]58. Penalty for mutiny or sedition

Any prison officer who mutinies and any prison officer or other person who, directly or indirectly, instigates, commands, counsels, or solicits any mutiny or sedition amongst any prison officers or prisoners or disobedience to any lawful command given by any prison officer, or who attempts to seduce any prison officer from his allegiance or duty, shall be liable to a fine of £100 and to imprisonment for two years, and in addition to any such punishment shall be liable to a sentence of corporal punishment in accordance with section 98.

PART VIII ADMISSION AND CONFINEMENT OF PRISONERS

[Ch0902s59]59. Admission of prisoners

(1) No person shall be admitted into a prison unless accompanied by—

- (a) a remand warrant, order of detention, warrant of conviction or of committal under the hand of any person authorized to sign or countersign such warrant or order under any law;
- (b) an order of a court martial;
- (c) a written requisition of an immigration officer issued in terms of the Immigration Act; or [Cap. 15:03](#)
- (d) an order in writing signed by a member of a police force of or above such rank as may be prescribed.

(2) An order issued under subsection (1) (d) shall be valid only for such period as is necessary to obtain a warrant or order referred to in subsection (1) (a) and for no longer.

(3) The officer in charge shall satisfy himself before the admission of a prisoner that such prisoner is the person named in the requisition or in the warrant or order of detention accompanying him, and that such requisition, warrant, or order bears the signature of the proper authority lawfully authorized to issue it, and that it is in all other respects in order.

(4) The officer in charge shall not refuse to accept any prisoner merely on the ground that there is an error on the face of any requisition, warrant or order of detention accompanying such prisoner, but shall take steps as soon as practicable to have such error corrected.

[\[Ch0902s60\]](#)**60. Admission of infant child with female prisoner**

Subject to such conditions as may be specified by the Commissioner any unweaned infant child of a female prisoner may be received into prison with its mother and may be supplied with clothing and necessaries at the public expense:

Provided that, when such child has been weaned, the officer in charge, on being satisfied that there are relatives or friends of the child able and willing to support it, shall cause such child to be handed over to such relatives or friends, or, if he is not so satisfied, shall hand such child over to the care of such welfare authority as may be approved for the purpose by the Commissioner.

[\[Ch0902s61\]](#)**61. Particulars of prisoner to be recorded**

Upon the admission to prison of any person, the officer in charge shall cause to be recorded such particulars regarding such person as may be prescribed.

[\[Ch0902s62\]](#)**62. Search of prisoners**

Every prisoner, male or female, shall be searched on admission, and at such time subsequently as may be prescribed by a prison officer of his or her own sex, but not in the presence of a person of the opposite sex, and all prohibited articles taken from him.

[\[Ch0902s63\]](#)**63. Money and other effects of prisoners to be kept in custody of the officer in charge**

(1) All money, clothes, or other effects brought into a prison by any prisoner, or sent to a prison for his use, which he is not permitted to retain shall be placed in the custody of the officer in charge, who shall keep an inventory of the same, and all such money, clothes, or other effects shall be returned to such prisoner when he is released or discharged.

(2) Where any clothes of such prisoner are so old, worn-out, or dirty as to be unsuitable for further use, the officer in charge may order the same to be destroyed, and in such case, on the release or discharge of such prisoner, the officer in charge may, at the public expense, provide him with suitable clothing.

(3) The officer in charge may refuse to take into prison any property of a prisoner which by reason of its bulk, nature, or excessive quantity cannot be conveniently stored in the prison.

PART IX SEGREGATION AND CLASSIFICATION OF PRISONERS

[\[Ch0902s64\]](#)**64. Separation of prisoners**

(1) Male and female prisoners shall be kept apart and confined in separate parts of the prison in such manner as to prevent their communicating the one sex with the other.

(2) Subject to subsection (1), prisoners of each sex shall be divided into the following classes—

- (a) unconvicted prisoners;
- (b) convicted prisoners;
- (c) young prisoners;
- (d) adults;
- (e) first offenders;
- (f) prisoners with previous convictions;
- (g) prisoners suspected or certified as being of unsound mind;
- (h) such other classes as the Commissioner may determine; and, so far as the prison accommodation renders it practicable, each such class shall be kept apart from the other classes.

PART X CUSTODY AND REMOVAL OF PRISONERS

[Ch0902s65]65. Prisoners in lawful custody of officer in charge

Every person confined in a prison shall be in the lawful custody of the officer in charge thereof and, subject to this Act, shall remain in such lawful custody and be subject to prison discipline and to this Act during the whole period of his imprisonment, whether he is or is not within the precincts of a prison.

[Ch0902s66]66. Production of prisoners in court

(1) Where it appears to the High Court or any magistrate's court that the attendance before such court of a person who is a prisoner is necessary for the purpose of obtaining evidence in any proceeding before such court, the judge or magistrate, as the case may be, may issue an order directed to the officer in charge of the prison where the prisoner is serving a sentence, requiring him to produce the prisoner at the time and place specified in the order, and such officer in charge shall arrange for compliance with such order.

(2) The court before which any person is produced in accordance with an order issued in terms of subsection (1) may give such directions as to the costs of compliance with the order as such court may deem fit.

[Ch0902s67]67. Prisoners under police escort

(1) Prisoners on remand or committed for trial, who are required to attend any court, may be taken for that purpose into police custody at the prison to which they have been committed, and shall remain under police supervision and guard until returned to the prison or discharged by the court.

(2) Where on the removal of any prisoner from any prison the number of prison officers is insufficient to provide escort for such prisoner, the officer in charge of the prison from which the prisoner is to be removed may, with the general or special permission of the Commissioner of Police in Malawi, deliver the prisoner to any member of the police force who may be detained for such duty.

(3) While a prisoner is in the custody of a member of a police force in accordance with this Act, he shall be deemed to be in lawful custody, and escape from the custody of such member of a police force shall be deemed to be escape from lawful custody.

[Ch0902s68]68. Statements to police officers

(1) Subject to subsection (2), a member of a police force, with the approval of the officer in charge of a prison and on production of an order in writing from a member of a police force of or above such rank as may be prescribed, may, in the sight and hearing of a prison officer, interview within a prison any prisoner for purposes connected with the investigation of any offence whatsoever.

(2) If the officer in charge is satisfied that a prisoner is willing to be interviewed by members of a police force out of the sight and hearing of a prison officer, then the officer in charge may permit that prisoner to be interviewed by not less than two members of a police force within the prison and out of the sight and hearing of a prison officer.

[Ch0902s69]69. Prisoners and criminal investigations

(1) If a commissioned officer of a police force certifies verbally or in writing that a prisoner is required at a police station or any other place in the interests of justice or in connexion with the investigation of a crime, whether committed or alleged to have been committed by such prisoner or by some other person and whether or not such prisoner is detained in connexion with such crime, the officer in charge in whose custody such prisoner is may release, remove, or permit the removal of such prisoner from prison in accordance with this section.

(2) An officer in charge may release any unconvicted prisoner into police custody for such period as he considers necessary for the purposes mentioned in subsection (1).

(3) An officer in charge may remove or permit the removal of a convicted prisoner from prison in the custody of a prison officer, and in any interview between the police and such prisoner such prison officer shall remain in sight of the prisoner.

(4) Subject to the general or specific directions of the Commissioner, an officer in charge may release any convicted prisoner into police custody for such period as he considers necessary for the purposes mentioned in subsection (1).

[Ch0902s70]70. Removal of prisoners from one prison to another

The Commissioner may, by any general or special order, direct that any prisoner shall be removed to any prison other than that in which he is confined or to which he has been committed.

[Ch0902s71]71. Certain prisoners may be restrained

Whenever the officer in charge considers it necessary for the safe custody of any prisoner that he should be confined by means of mechanical restraint, he may so confine him but in accordance with such regulations as may be prescribed.

[Ch0902s72]72. Mentally disordered or defective prisoners

(1) Any convicted prisoner adjudged according to any law to be a mentally disordered or defective person shall remain in the place named in the order providing for his detention as such until such prisoner has been discharged in accordance with such law, whereupon the Minister shall, if such prisoner has not completed the sentence in respect of which he was committed, order that he be delivered into the custody of the officer in charge of a prison for the completion of such sentence. In cases where the prisoner has completed the sentence in respect of which he was committed, he shall forthwith be released.

(2) If any prisoner mentioned in subsection (1) was sentenced to death before being adjudged to be a mentally disordered or defective person and such sentence has not, at the time when he is certified to be of sound mind, been commuted to a term of imprisonment, then the Minister shall report the matter to the President.

[Ch0902s73]73. Removal of sick prisoners to hospital

(1) In the case of the serious illness of a prisoner, the officer in charge, on the advice of the medical officer, may make an order for the removal of such prisoner to a hospital. In cases of emergency, or in the absence of the medical officer, such removal may be ordered by the officer in charge.

(2) So long as any prisoner who has been removed to any hospital under this section remains therein, he shall be deemed to be in lawful custody. The medical authority in charge of the hospital shall on admission of such prisoner, and at the end of every month while such prisoner remains in hospital, transmit to the officer in charge of the prison whence he came a certificate signed by him, stating his opinion as to the necessity for such prisoner to remain in the hospital and, when possible, stating the period for which such prisoner should so remain.

(3) When, in the opinion of the medical authority in charge of any hospital, it is no longer necessary that any prisoner should remain therein, he shall transmit to the officer in charge of the prison whence such prisoner came a certificate stating that such necessity has ceased, and thereupon such officer in charge shall cause such prisoner to be brought to the prison, if he is still liable to be confined therein.

(4) Every reasonable precaution shall be taken by the medical and other officers of any hospital to prevent the escape of any prisoner at any time under treatment therein, and it shall be lawful for such officers to take such measures for preventing the escape of any such prisoner as are reasonably necessary:

Provided that the medical authority in charge of any such hospital may refuse to take or permit any action authorized under this section, if, in his opinion, such action would be prejudicial to the health of such prisoner or impracticable for any good and sufficient reason.

(5) Where, on account of the gravity of the offence for which any prisoner is in custody, or for any other reason, an officer in charge considers it to be desirable to take special measures for the security of such prisoner while he is undergoing treatment in hospital, it shall be lawful for him, by order in writing, to give such prisoner into the custody of fit and proper persons, being not less than two in number and willing to undertake such duty, one of whom at least shall always be with such prisoner by day and night, and such persons are hereby vested with authority to do all things reasonably necessary to prevent such prisoner from escaping and shall be answerable for his safe custody until such time as he is handed over to an officer in charge on his discharge from hospital, or until such time as his sentence expires, whichever may first occur.

[Ch0902s74]74. Serving sentence while in hospital

The period during which a prisoner has been detained in any hospital or institution in terms of section 72 or 73 shall be reckoned as part of his period of imprisonment.

PART XI LABOUR OF PRISONERS

[Ch0902s75]75. Employment of convicted prisoners

(1) Subject to subsection (2), every prisoner under sentence of imprisonment may be kept to labour within or without the precincts of any prison in any part of Malawi and in any employment that may be approved by the Minister.

(2) Female prisoners shall not be employed outside a prison except on the recommendation of a medical officer, and then only on such labour as may be prescribed.

[Ch0902s76]76. Employment of unconvicted prisoners

Unconvicted prisoners may elect to be given light employment, but shall be required to keep clean their cells, precincts of cells, clothing, furniture, and utensils.

PART XII MAINTENANCE

[Ch0902s77]77. Maintenance of unconvicted prisoners from private sources

An unconvicted prisoner may be permitted to maintain himself and to arrange for the purchase of, or receive from private sources at proper hours, such food, clothing, bedding, or other necessaries as the Commissioner may from time to time determine.

[Ch0902s78]78. Food, etc., not to be transferred to other prisoners

No food, clothing, bedding or other necessaries permitted under section 77 shall be given, hired, or sold to any other prisoner, and any prisoner who contravenes this section shall be liable to lose all privileges permitted under section 77 for such time as the officer in charge may determine.

[Ch0902s79]79. Food, clothing and bedding for unconvicted prisoners

If an unconvicted prisoner does not provide himself with food, clothing, and bedding, he shall receive the normal prison food, clothing, and bedding.

PART XIII PROHIBITED ARTICLES AND AREAS

[Ch0902s80]80. Power to search

Any prison officer may examine anything being brought into or being taken out of a prison and may stop and search, or cause to be stopped and searched, any person or vehicle suspected by him of bringing any prohibited article into, or taking any such article out of, a prison, or of carrying out of a prison any property belonging to such prison, and the officer in

charge shall immediately be informed of the finding of any such article or property and may seize and dispose of it in accordance with the instructions of the Commissioner.

[Ch0902s81]81. Penalty for introduction or removal of prohibited articles into and from prison and for unauthorized communication with prisoners

Any person who, save as is provided in this Act—

- (a) removes from or introduces into or throws from or into or attempts by any means whatsoever to remove from or introduce into a prison or takes from or gives to any prisoner any article whatsoever; or
- (b) communicates with any prisoner,

shall be liable to a fine of £25 and to imprisonment for six months.

[Ch0902s82]82. Power of arrest

Any prison officer may arrest without a warrant any person who—

- (a) commits or attempts to commit any offence against section 81;
- (b) when suspected by him of committing any offence against section 81 refuses on demand of such prison officer to give his name and address; or
- (c) on the demand of a prison officer, gives a name or an address which such prison officer knows or has reason to believe to be false or which subsequently proves to be false,

and shall deliver such person into the custody of a member of a police force, and thereupon such member of a police force shall proceed as if the offence had been committed in his presence.

[Ch0902s83]83. Unauthorized communications

(1) Every letter or document, except as may be prescribed, written in a prison by or on behalf of a prisoner shall be delivered to the officer in charge of that prison who shall, before the letter or document is removed from the prison, clearly endorse or cause to be endorsed thereon—

- (a) the name of the prison;
- (b) a statement to the effect that its removal from the prison is authorized; and
- (c) the signature or initials of the prison officer making the endorsement.

(2) Every person who comes into possession of a letter or document which he has reasonable cause to believe was written in a prison by or on behalf of a prisoner and which is not endorsed in accordance with subsection (1) shall report that fact as soon as possible to the Commissioner or the officer in charge of the nearest prison and shall deliver the letter or document or cause it to be delivered to the Commissioner or such officer in charge.

(3) No person shall, without the authority of the Minister, publish or cause to be published or transmit to any person for publication or otherwise the whole or any part of a letter or document which he has reasonable cause to believe was written in a prison by or on behalf of a prisoner and which is not endorsed in accordance with subsection (1).

(4) Any person who contravenes or fails to comply with this section shall be liable to a fine of £25 and to imprisonment for six months.

[Ch0902s84]84. Offences in respect of prisons and prisoners

Any person who—

- (a) is found loitering within one hundred yards of any prison, or other place where prisoners may be for the purpose of imprisonment or labour, and who fails to depart therefrom upon being requested to do so by any prison officer or by a member of a police force; or
- (b) in any manner wilfully interferes with any prisoner or gang of prisoners,

shall be liable to a fine of £25 and to imprisonment for six months.

[Ch0902s85]85. Removal of certain offenders

Any person who is found committing an offence against section 84 may be removed from the place where he is committing such offence by a prison officer or a member of a police

force and, if the offence is repeated by any such person after he has once been removed in accordance with this section, he may be arrested without a warrant by a prison officer, who, if he makes such an arrest, shall hand the offender over to a member of a police force.

[Ch0902s86]86. Unlawful possession of articles supplied to prison officers

Any person, other than a prison officer, who is found in possession of any article which has been supplied to any prison officer for the purposes of his duty, or of any other prison property, and who fails to account satisfactorily for his possession thereof, or who, without lawful authority, purchases or receives any such article or property from any prison officer, or who aids or abets any prison officer in selling or disposing of any such article or property, shall be liable to a fine of £25 and to imprisonment for six months.

[Ch0902s87]87. Offences in connexion with uniforms and decorations

(1) Any person who wears or uses without due authority any uniform or decoration supplied to or authorized for use by any member of the service, or any uniform or decoration so nearly resembling the same as to be calculated to deceive, shall be guilty of an offence.

(2) Any person who falsely represents himself by act or words to be a person who is or has been entitled to use or wear any uniform or decoration referred to in subsection (1) shall be guilty of an offence.

(3) Any person convicted of an offence under this section shall be liable to a fine of £25 and to imprisonment for six months.

[Ch0902s88]88. Notice to be displayed stating offences in respect of prisons and prisoners

The officer in charge shall cause to be affixed in a conspicuous place outside the prison a notice setting forth the acts prohibited under sections 81, 84 and 86 and the penalties which may be incurred by their commission.

PART XIV DISCIPLINE OF PRISONERS

[Ch0902s89]89. Prison offences

The following acts and omissions shall be prison offences when committed by a prisoner—

- (1) mutiny;
- (2) incitement to mutiny;
- (3) quarrelling with any other prisoner;
- (4) making groundless complaints;
- (5) making false charges against prison officers in reply to any questions as to matters concerning the prison or prison discipline, or answering untruthfully any questions put by a prison officer while carrying out this Act;
- (6) holding any communication, in writing, by word of mouth or otherwise, with a prisoner or any other person in disobedience of the regulations of the prison;
- (7) doing any act calculated to create any unnecessary alarm among prisoners or prison officers;
- (8) omitting or refusing to march as ordered, when moving about the prison, or when proceeding to or returning from work;
- (9) refusing, without satisfactory reason, to eat the food prescribed;
- (10) eating or appropriating any food not assigned to him or taking from or adding to the portions of food assigned to other prisoners;
- (11) without permission of a prison officer, removing food from a cookhouse or from a place where meals are served, or disobeying any order as to the issue and distribution of food and drink;
- (12) wilfully destroying food, or throwing it away without orders;
- (13) introducing into food or drink anything likely to render it unpalatable or unwholesome;
- (14) omitting or refusing to wear the clothing issued to him, or exchanging any portion of it for the clothing of other prisoners, or losing, discarding, damaging, or altering any part of it;

- (15) removing, defacing, or altering any distinctive number, mark, or badge attached to or worn on such clothing;
- (16) omitting or refusing to keep his person clean, or disobeying any order as to the cutting or shaving of hair;
- (17) omitting or refusing to keep clothing, blankets, bedding, or equipment clean, or disobeying any order as to the arrangement or disposition of any such articles;
- (18) interfering in any way with prison locks, lamps, or lights, or other public property without authority;
- (19) stealing the prison clothing or any part of the prison equipment of any other prisoner;
- (20) committing a nuisance in any part of the prison;
- (21) defacing or injuring the walls, furniture, or other property of the prison;
- (22) spitting on or otherwise soiling any floor, door, wall, or other part of the prison building, or any article in the prison;
- (23) wilfully fouling latrines, washing or bathing places;
- (24) failing or refusing to take due care of, or injuring, destroying, or misappropriating any tools or any clothing or other articles, being public property;
- (25) wilfully causing to himself, or failing to report, any illness, injury, or disability;
- (26) any act of insubordination;
- (27) failing to assist in the suppression of violence;
- (28) taking part in any attack upon any prison officer or upon another prisoner;
- (29) escaping, conspiring with a person to procure the escape of a prisoner or assisting or inciting another prisoner to escape from the prison in which he is detained or from a conveyance, hospital or other place whatsoever where or in which he may be or whilst in course of removal in custody from one place to another or from any other lawful custody;
- (30) possessing any instrument or other thing with intent to procure his own escape or that of another prisoner;
- (31) omitting or refusing to help any prison officer to prevent an escape, an attempted escape, or an attack upon such officer or upon another prisoner;
- (32) contravening or failing or neglecting to comply with any regulation or lawful order, including a standing order, made under this Act or under any regulation with which it is his duty to comply;
- (33) treating with disrespect any prison officer, or any visitor or any person employed in connexion with the prison;
- (34) being idle, careless, or negligent at work, or refusing to work;
- (35) leaving his cell or other appointed location, or his place of work, without permission;
- (36) receiving or having in his possession any prohibited article which he is not entitled to have;
- (37) any assault or act of violence;
- (38) making unnecessary noise;
- (39) disorderly or indecent behaviour;
- (40) insulting, threatening, or indecent language;
- (41) malingering, or refusing to undergo medical treatment;
- (42) wilfully bringing a false accusation against any prison officer or prisoner;
- (43) abetting the commission of any prison offence; or
- (44) any other act, conduct, disorder, or neglect to the prejudice of good order or discipline.

[Ch0902s90]90. Trial of prison offences

(1) A charge against a prisoner in respect of a prison offence may, subject to this section, be heard and determined—

- (a) before a magistrate's court, by a magistrate; or

(b) within a prison, by the Commissioner or, at the request of the Commissioner or the officer in charge, by a visiting justice.

(2) A prisoner charged with a prison offence under subsection (1) (b) shall be informed of the nature of the charge and shall be given an opportunity of hearing the facts alleged against him and of being heard in his defence.

(3) The Commissioner may confer the power of hearing and determining a charge under subsection (1) (b) upon an officer in charge and, in so doing, may limit the officer's power to award punishments conferred by section 92 to punishments less stringent than those specified in that section.

(4) Nothing in this section contained shall be construed as precluding the prosecution of a prisoner for an offence in terms of any other law, so, however, that no prisoner shall be punished twice for the same act or omission.

[Ch0902s91]91. Punishments for prison offences heard and determined before a magistrate's court

(1) A prisoner found guilty of a prison offence under section 90 (1) (a) may be awarded—

(a) any one or more or all of the following punishments—

(i) imprisonment for a period not exceeding six months;

(ii) loss, for a period not exceeding sixty days, of a remission of sentence earned in terms of section 107;

(iii) corporal punishment in accordance with sections 96, 97 and 98;

(iv) deprivation of privileges;

(v) extra work for a period not exceeding ten days; and, additionally or alternatively,

(b) if he is of or over the age of sixteen years, one, but not more than one, of the following punishments—

(i) solitary confinement for a period not exceeding twenty-five days;

(ii) solitary confinement with penal diet in accordance with section 93 (1);

(iii) reduced diet with or without solitary confinement in accordance with section 93 (2).

(2) If a prisoner is found guilty of a prison offence specified in section 89 (1), (2), (28), (29), (30) or (31), subsection (1) (a) (i) shall have effect as if the reference in that subsection to the words "six months" were a reference to the words "two years".

(3) A sentence of imprisonment awarded for a prison offence in terms of this section to a prisoner who—

(a) is a convicted prisoner shall commence on the date of expiry of the sentence of imprisonment being served by the convicted prisoner at the time of the offence;

(b) is not a convicted prisoner shall commence on the date the sentence of imprisonment is awarded.

[Ch0902s92]92. Punishments for prison offences heard and determined within a prison

(1) A prisoner found guilty of a prison offence under section 90 (1) (b) may, subject to subsection (2), be awarded—

(a) any one or more or all of the punishments specified in section 91 (1) (a) (ii) to (v) inclusive; and, additionally or alternatively,

(b) if he is of or over the age of sixteen years, one, but not more than one, of the punishments specified in section 91 (1) (b).

(2) The following provisions shall apply in connexion with the award, in terms of subsection (1), of a sentence of corporal punishment to a prisoner found guilty of a prison offence under section 90 (1) (b)—

(a) in a case tried by the Commissioner or by a visiting justice the sentence shall not be subject to confirmation;

(b) in a case tried by a senior officer or officer in charge, the sentence shall be subject to confirmation by the Commissioner;

- (c) if a sentence of corporal punishment is not carried out, for medical reasons, the Commissioner, visiting justice, senior officer or officer in charge, as the case may be, may substitute for the sentence any punishment, other than corporal punishment, which he is authorized to award in accordance with subsection (1)

[Ch0902s93]93. Special provisions relating to the punishments of solitary confinement with penal diet and of reduced diet

(1) Punishment of solitary confinement with penal diet awarded to a prisoner found guilty of a prison offence shall not be awarded for a period exceeding fifteen days and, when awarded for a period exceeding three days, the punishment of penal diet shall be imposed, at three-day intervals, for periods of not more than three consecutive days at a time. No prisoner sentenced to solitary confinement with penal diet shall be put to any form of manual labour until the sentence is completed and no period of solitary confinement served in terms of this subsection shall exceed fifteen days.

(2) Punishment of reduced diet with or without solitary confinement shall not be awarded to a prisoner found guilty of a prison offence for a period exceeding twenty-five days and, when awarded for a period exceeding eight days, the punishment of reduced diet shall be imposed, at three-day intervals, for periods of not more than eight consecutive days at a time.

PART XV ESCAPES

[Ch0902s94]94. Assisting prisoner to escape, etc.

(1) A person, other than a prisoner, who—

- (a) aids a prisoner in escaping or attempting to escape, conspires with a person to procure the escape of a prisoner or incites a prisoner to escape from the prison in which he is detained or from a conveyance, hospital or other place whatsoever where or in which he may be or whilst in course of removal in custody from one place to another or from any other lawful custody; or
- (b) with intent to facilitate the escape of a prisoner—
- (i) conveys any thing—
- (A) to a prisoner; or
- (B) into a conveyance, prison, hospital or other place whatsoever where or in which a prisoner may be;

or

- (ii) places any thing outside a conveyance, prison, hospital or other place whatsoever where or in which a prisoner may be so that it may come into the possession or use of a prisoner.

shall be liable to imprisonment for seven years.

[Ch0902s95]95. Harboursing prisoners

A person harboursing or employing a prisoner whom he knows to be unlawfully at large shall be liable to a fine of £50 and to imprisonment for six months.

PART XVI CORPORAL PUNISHMENT

[Ch0902s96]96. Prison offences for which corporal punishment may be awarded

No sentence of corporal punishment for a prison offence shall be awarded under section 91 or 92 unless the prison offence is one specified in section 89 (1), (2), (28), (29), (30), (31) or (37) or is a third or subsequent offence against any provision of that section.

[Ch0902s97]97. Certain prisoners not liable to corporal punishment

No sentence of corporal punishment for a prison offence shall be awarded in terms of section 91 or 92 to a prisoner who is—

- (a) a woman; or
- (b) under sentence of death.

[Ch0902s98]98. Number of strokes to be specified

Whenever a sentence of corporal punishment for a prison offence is awarded under section 91 or 92 the number of strokes, which shall not exceed twelve, shall be specified.

[Ch0902s99]99. Corporal punishment; confirmation

Where any law provides for confirmation of any sentence of corporal punishment awarded by a court, no such sentence shall be carried out until it has been confirmed in accordance with such law.

[Ch0902s100]100. Type of cane and method of infliction

Corporal punishment shall be inflicted with a cane of a type and in a manner approved by the Minister.

[Ch0902s101]101. Medical officer and officer in charge to be present while corporal punishment is being inflicted

A sentence of corporal punishment shall not be carried out unless—

- (a) a medical officer has, after examination, certified that in his opinion the prisoner is physically fit to undergo the sentence of corporal punishment about to be inflicted on him; and
- (b) the medical officer who made the examination referred to in paragraph (a) and the officer in charge are present while the corporal punishment is being inflicted on the prisoner.

[Ch0902s102]102. Sentence of corporal punishment may be stayed

The medical or prison officer mentioned in section 101 may at any time during the carrying out of the sentence of corporal punishment intervene and prohibit the remainder of the sentence from being carried out if in his opinion the punishment is likely to cause more serious injury than is contemplated in the sentence.

[Ch0902s103]103. Corporal punishment not to be inflicted by instalments

No sentence of corporal punishment shall be carried out by instalments.

PART XVII PRISONERS UNDER SENTENCE OF DEATH

[Ch0902s104]104. Confinement of condemned prisoner

Every prisoner sentenced to death shall be confined in some safe place within a prison and, if possible, shall be kept apart from other prisoners and shall be placed under constant observation both by day and by night.

[Ch0902s105]105. Persons who may have access to condemned prisoner

No person other than a prison officer, a medical officer, a visiting justice, a minister of religion, or person authorized by the Commissioner shall have access to a prisoner under sentence of death:

Provided that such prisoner may, with the consent of and subject to any reasonable conditions which may be imposed by the Commissioner or the officer in charge, be visited by his legal advisers and such of his relatives and friends as he may express a wish to see.

[Ch0902s106]106. Attendance at execution by officials

(1) Executions shall be carried out at such prisons as the Commissioners may specify and shall be attended by the officer in charge and such other prison officers as the Commissioner or officer in charge may direct, and may be attended by the sheriff, or deputy sheriff, by a minister of religion and such other persons as the Minister may authorize.

(2) As soon as may be after sentence of death has been executed on the prisoner, the medical officer shall examine the body and shall ascertain the fact of death and shall sign a certificate thereof and deliver such certificate to the officer in charge, who shall also sign such certificate and transmit it to the registrar of the court which imposed the sentence.

PART XVIII REMISSION OF SENTENCE

[Ch0902s107]107. Remission

(1) A convicted prisoner under sentence of imprisonment for a period of more than one month, other than a prisoner sentenced to imprisonment for life, may earn by satisfactory industry and good conduct remission of one-third of his sentence:

Provided that in no case shall a sentence be reduced by reason of remission to less than one month.

24 of 1962(F)(2) Any convicted prisoner who, immediately before the date of commencement of the Prisons Amendment Act, 1962 (that is to say, the 1st October, 1962), was serving a sentence of imprisonment of less than three years, may earn by satisfactory industry and good conduct remission of his sentence equal to—

- (a) one-quarter of the period of imprisonment which he had served at the said date; and
- (b) one-third of the sentence which was imposed on him and which is unexpired at the said date;

and accordingly any remission credited to such prisoner on the said date shall be disregarded:

Provided that in no case shall a sentence be reduced by reason of remission to less than one month.

(3) Any convicted prisoner other than a prisoner—

- (a) sentenced to imprisonment for life; or
- (b) referred to in subsection (4) or in section 109,

who, immediately before the date of commencement of the Prisons Amendment Act, 1962, was serving a sentence of imprisonment of three years or more, may earn by satisfactory industry and good conduct remission of one-third of his sentence.

(4) Any convicted prisoner who, immediately before the date of commencement of the Prisons Amendment Act, 1962, was being detained in prison in consequence of the cancellation of a licence granted to him under the provisions then comprising Part XIX of this Act to be at large in Malawi or in any other territory, may earn by satisfactory industry and good conduct remission of one-third of the sentence of imprisonment which was imposed on him and which was unexpired at the date his detention commenced in consequence of the cancellation of his licence.

(5) For the purpose of giving effect to subsections (1), (2), (3) and (4) every prisoner referred to in those subsections shall—

- (a) in the case of a prisoner referred to in subsection (1), on his admission to prison; and
- (b) in the case of a prisoner referred to in subsections (2), (3) and (4), on the date of commencement of the Prisons Amendment Act, 1962,

be credited with the full amount of remission he can earn from which shall be deducted any loss of remission awarded to him for a prison offence in terms of section 91 or 92.

(6) The Commissioner may restore in whole or in part any remission forfeited or lost under this Act including any remission forfeited or lost before the date of commencement of the Prisons Amendment Act, 1962.

[Ch0902s108]108. Remission on special grounds

The Commissioner may recommend to the Minister, who, if he thinks fit, may recommend to the President that remission should be granted to a prisoner by reason of the meritorious conduct or the mental or physical condition of such prisoner.

PART XIX TRANSITIONAL PROVISIONS RELATING TO A PRISONER IN RELATION TO WHOM A LICENCE TO BE AT LARGE WAS IN FORCE AT THE DATE OF COMMENCEMENT OF THE PRISONS AMENDMENT ACT, 1962

[Ch0902s109]109. Transitional provisions

24 of 1962(F)(1) Notwithstanding the repeal of the former Part XIX of this Act by section 11 of the Prisons Amendment Act, 1962, the provisions of that Part, other than section 113 (2) and (3), as in force before such repeal shall, subject to subsection (2), continue to apply in relation to a licence to be at large which was in force immediately before the date of commencement of the

Prisons Amendment Act, 1962 (that is to say, the 1st October, 1962), and in relation to the person to whom that licence refers.

(2) Any person referred to in subsection (1) who, after the date of commencement of the Prisons Amendment Act, 1962, is detained in prison by virtue of Part XIX of this Act as in force immediately before such date, may earn by satisfactory industry and good conduct remission of one-third of the sentence of imprisonment which was imposed on him and which was unexpired at the date such detention commenced.

(3) For the purpose of giving effect to subsection (2) any prisoner referred to in that subsection shall, on the date on which his detention commences, be credited with the full amount of remission he can earn from which shall be deducted any loss of remission awarded to him for a prison offence under section 91 or 92.

PART XX RELEASE ON LICENCE OF PRISONERS UNDERGOING IMPRISONMENT FOR LIFE

[Ch0902s110]110. Release on licence of prisoners undergoing imprisonment for life

(1) The Minister may at any time if he thinks fit release on licence a prisoner undergoing imprisonment for life for any offence for which he was convicted, subject to such conditions as may be specified in the licence; and the Minister may at any time vary, modify or cancel any such condition.

(2) The Minister who released a prisoner in terms of subsection (1) may at any time by order recall to prison that prisoner but without prejudice to the power of the Minister to release him on licence again: and where any prisoner is so recalled his licence shall cease to have effect and he shall, if at large, be deemed to be unlawfully at large.

(3) An order made in terms of subsection (2) shall be sufficient authority for the arrest of the prisoner to whom it relates as if it were a warrant of arrest issued by a magistrate.

PART XXI REPORT ON LONG-TERM PRISONERS

[Ch0902s111]111. Report on long-term prisoners

(1) At the end of every four years' imprisonment of each prisoner undergoing imprisonment for life, or for a period exceeding seven years, the Commissioner shall forward, in accordance with this section, a report upon such prisoner.

(2) If the prisoner was sentenced for an offence against any law, the report shall be submitted to the Minister.

(3) Where the Minister asks for a report on any prisoner to be supplied at any time or at intervals more frequent than those provided in subsection (1), the Commissioner shall supply such report as requested, and shall arrange for compliance with any instructions as to pardon, respite, reprieve, commutation or remission of sentence given by the President.

PART XXII DISCHARGE OF PRISONERS

[Ch0902s112]112. Officer in charge to be responsible for discharge of prisoners

(1) Every officer in charge shall be responsible for the due discharge from prison of all prisoners under his control immediately upon their becoming entitled thereto.

(2) Where, by or under any enactment in force in Malawi, a prisoner becomes entitled to discharge from a prison otherwise than by the expiration of his sentence, the officer in charge shall not discharge him otherwise than in accordance with the terms of an order, warrant or instruction issued in writing under the hand of a person authorized to do so under such enactment or in due course of law.

[Ch0902s113]113. Day of discharge of prisoners

All prisoners who are not persons committed to a prison under the provisions of a law relating to imprisonment for non-payment of debts shall be discharged by noon on the day on which they are entitled to be discharged, but, should that day fall on a Sunday or public holiday, they shall be discharged by noon on the next preceding day not being a Sunday or public holiday.

[Ch0902s114]114. Travelling expenses of prisoner on discharge

The travelling expenses to such place as the Commissioner may determine of a prisoner on his discharge from prison shall, if the Commissioner by standing orders or otherwise so directs, be paid out of moneys provided by Parliament.

PART XXIII MISCELLANEOUS

[Ch0902s115]115. List of prisoners detained to be delivered to High Court

Every officer in charge within the area for which any session of a High Court is held for the trial of criminal cases shall deliver to that Court at the commencement of each such session a list of the unconvicted prisoners then within his prison, and that list shall specify in the case of each such prisoner the date of admission and the authority for detention, and shall deliver also a list of detained witnesses.

[Ch0902s116]116. Rewards for apprehension of escaped prisoners

(1) The Commissioner may offer rewards to persons who give information leading to the apprehension of prisoners who have escaped from custody, and any person giving any such information, whether or not any such offer has previously been made, and any person who apprehends, secures, and hands over or causes to be handed over to any officer in charge any prisoner who has escaped may be paid his just and reasonable expenses and, in addition, such sum by way of reward as the Commissioner may determine.

(2) No payment of any sum as a reward shall be made under the authority of this section to any prison officer or member of a police force unless, in the opinion of the Commissioner, such exceptional circumstances exist as to justify such a payment being made.

[Ch0902s117]117. Commutation of death sentence to sentence of imprisonment

Where the President pardons any person who has been sentenced to death on condition that he serves a period of imprisonment, that person shall be deemed to have been sentenced to such period by the court before which he was convicted.

[Ch0902s118]118. Detention of prisoners from other countries

(1) Every person who has been sentenced by a competent court within any country to which the Minister may declare this section to apply may be sent into, imprisoned, and detained in Malawi until the expiration of such sentence, or during such portion thereof as may be deemed necessary, and shall be treated and be subject to this Act as if he were undergoing the sentence of a competent court of Malawi.

(2) A certificate under the hand of the Minister, setting forth that from documents laid before him it appears that the person named in the certificate has been sentenced as described in subsection (1) to a period of imprisonment as specified in the certificate, shall be accepted at all times during the continuance of such period as conclusive evidence that such person is lawfully under detention in accordance with this section.

[Ch0902s119]119. Removal of prisoners outside Malawi

(1) Every person who has been or may hereafter be sentenced to imprisonment by any competent court within Malawi may, by warrant signed by the Minister, be removed to any country in which he was born or where he normally resided before his entry into Malawi, in order that such person may be detained in any prison in such country until the expiration of his sentence or release according to law.

(2) Every person detained in custody by reason of his having been charged with an offence and either found to have been insane at the time of such offence, or found or certified or otherwise lawfully proved to be unfit on the grounds of his insanity to be tried for such offence, and every person convicted of an offence, and afterwards certified or otherwise lawfully proved to be insane may, by warrant signed by the Minister, be removed to any such territory as is provided in subsection (1), in order that such person may be confined in such place as may be stated in such warrant until the Minister may otherwise determine.

(3) Any person in course of removal under a warrant signed in accordance with this section shall be deemed to be in lawful custody whilst in any part of Malawi.

(4) Nothing in this Act contained shall prevent the conviction, judgment, finding, order, or sentence recorded or made in respect of any person removed in terms of this section from being questioned within Malawi in the same manner as if he had not been removed, and the sentence of such person may be remitted and his discharge ordered in the same manner and by the same authority as if he had not been removed.

[Ch0902s120]120. Minister may grant permission to be absent from prison

The Minister may, subject to such conditions as he may specify, grant a prisoner permission in writing to be absent from prison for a specified period for personal, family or other reasons if, in the opinion of the Minister, the circumstances of the case warrant the granting of such permission.

PART XXIV REGULATIONS AND TRANSITIONAL

[Ch0902s121]121. Power to make regulations

(1) The Minister may make regulations with respect to any of the following matters—

- (a) the powers and duties and terms and conditions of engagement and service of prison officers and other persons employed in prisons;
- (b) the powers and duties of medical officers and the medical inspection of prisoners;
- (c) measures for the prevention of contagious and infectious diseases in prisons;
- (d) the powers and duties of visiting justices, official visitors, ministers of religion, and prisoners' aid societies;
- (e) the type and description of cells for separate confinement;
- (f) the safe custody, classification, hours of labour, mode of employment, segregation, diet, clothing, maintenance, instruction, discipline, discharge, treatment, correction, and training of prisoners;
- (g) visits to and communications with prisoners;
- (h) the introduction of a progressive stage system;
- (i) the introduction of a payment system for prisoners;
- (j) for the responsibility and safe keeping of all stores, equipment, and accoutrements issued to prisons;
- (k) for accounts and accounting procedure;
- (l) for preventing prison officers or visitors or other persons who have access to prisons from divulging to any unauthorized person any information concerning the administration of prisons or the condition, treatment, and affairs of prisoners;
- (m) the establishment, constitution, functions, and procedure of a prison officers' association and for matters incidental thereto;
- (n) the custody and maintenance, including charges to be paid by a judgment creditor, of persons who may be committed to a prison under any law relating to imprisonment for non-payment of debts;
- (o) the treatment of persons declared to be habitual criminals under any law;
- (p) the carrying out of any sentence of solitary confinement, or spare or reduced diet, awarded under any law;
- (q) the establishment of such boards as the Minister deems necessary or expedient for any purpose arising under this Act and the powers, rights, privileges and duties of and the procedure to be followed by such boards;
- (r) prescribing anything to be prescribed under this Act; and
- (s) generally for the effective administration of this Act, for the good management and government of prisons, and the discipline and safe custody of prisoners.

(2) Regulations made under subsection (1) may prescribe penalties for a contravention thereof, or failure to comply therewith, not exceeding a fine of £100 and imprisonment for twelve months.

(3) In exercising the powers conferred upon him by subsection (1), the Minister may restrict the application of any regulation to one or more prisons and may apply differing regulations in respect of different prisons or classes of prisoners determined by him.

(4) Different regulations may be made in terms of subsection (1) (a) for different classes of prison officers and other persons employed in prisons.

[Ch0902s122]122. Transitional

(1) Unless a contrary intention appears therein, references in any written law to a prison shall be construed as including a reference to a prison established under this Act.

(2) Any person sentenced to any period of imprisonment under any law having force and effect in Malawi, who at the date of commencement of this section was due to serve some further part of such sentence, shall be deemed to be a prisoner for the purposes of this Act.

SCHEDULE s. 8 RANKS OF THE SERVICE

Senior Officers

Commissioner for Prisons
Senior Superintendent
Superintendent

Junior Officers

Assistant Superintendent
Technical officer Gaoler
Gaoler

Subordinate Officers

Warder 1st Class
Warder 2nd Class
Warder 3rd Class
Warder 4th Class
Instructor

SUBSIDIARY LEGISLATION ESTABLISHMENT OF PRISONS NOTICE

under s. 3

G.N.222/1963 268/1970 88/1971 1/1974

The President has declared that the prisons specified in the Schedule shall be prisons under the provisions and for the purposes of the Act.

SCHEDULE

CLASS I

Malawi Government Prison, Blantyre
Malawi Government Prison, Domasi
Malawi Government Prison, Dzeleka Farm, Dowa
Malawi Government Prison, Lilongwe
Malawi Government Prison, Mikuyu Farm, Zomba
Malawi Government Prison, Mikuyu, Zomba
Malawi Government Prison, Mpyupyu Farm, Zomba
Malawi Government Prison, Zomba

CLASS II

Malawi Government Prison, Bvumbwe Tung Station
Malawi Government Prison, Chikwawa
Malawi Government Prison, Chitipa
Malawi Government Prison, Dedza
Malawi Government Prison, Karonga
Malawi Government Prison, Lilongwe Remand
Malawi Government Prison, Mangochi

Malawi Government Prison, Mulanje
Malawi Government Prison, Mzimba
Malawi Government Prison, Mzuzu
Malawi Government Prison, Ntcheu
Malawi Government Prison, Nkhata Bay
Malawi Government Prison, Nkhotakota
Malawi Government Prison, Nsanje
Malawi Government Prison, Thyolo.

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REGULATION

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PRISON REGULATIONS

under s. 121

PRELIMINARY

1. Citation

These Regulations may be cited as the Prison Regulations.

2. Interpretation

In these Regulations, unless inconsistent with the context—

“**civil prisoner**” means any person detained in a prison in terms of section 16 (1) of the Immigration Act, and any other person detained in a prison who is not serving a sentence of imprisonment or who is not an untried prisoner; [Cap. 15:03](#)

“**judgment debtor**” means a person committed to a prison under any law relating to imprisonment for non-payment of debts;

“**long-term prisoner**” means any prisoner serving a total sentence of imprisonment of seven years or more;

“**offence against discipline**” means an offence committed by a prison officer to which Part VI of the Act relates;

“**prison offence**” means an offence committed by a prisoner to which Part XIV of the Act relates;

“**prisoner**” does not include a civil prisoner;

“standing orders” means orders issued by the Commissioner under section 13 of the Act.

PART I MISCELLANEOUS PROVISIONS RELATING TO PRISON OFFICERS

3. Attestation

Every person shall, on enlistment in the service, make a declaration in the form prescribed in the First Schedule.

4. Training

A prison officer shall undergo such training at such places and at such times as the Commissioner may determine.

5. Searching of staff and quarters

(1) Subject to subregulations (2) and (3) a prison officer and his quarters may be searched at any time.

(2) No search of a prison officer shall be made in the presence of prisoners or otherwise than—

- (a) on the order of a prison officer who is his senior in rank; and
- (b) by a prison officer who is—
 - (i) of like sex; and
 - (ii) his senior in rank; and
- (c) in the presence of another prison officer of like sex.

(3) No search of a prison officer's quarters shall be made in the presence of prisoners or otherwise than—

- (a) on the order of a prison officer who is his senior in rank; and
- (b) by a prison officer who is his senior in rank; and
- (c) in the presence of another prison officer.

6. Liberty to resign

(1) Subject to section 10 of the Act and subregulation (2), no prison officer shall be at liberty to resign from the service until he has completed three years' service and unless he has given one month's notice of his intention to resign to the Commissioner.

(2) A junior prison officer shall be at liberty to resign from the service before he has completed three years' service if—

- (a) he satisfies the Commissioner that for reasons of urgent private affairs he has good cause to do so; and
- (b) he makes a refund of the expenses of his engagement as follows—
 - (i) in the case of a junior prison officer recruited in the United Kingdom whose passage and rail fare to Malawi were paid by the Government—
 - (A) on resignation during his first year of service, £50;
 - (B) on resignation during his second year of service, £40;
 - (C) on resignation during his third year of service, £30;
 - (ii) in the case of a junior prison officer whose rail fare to Malawi was paid by the Government and who—
 - (A) was recruited in the Republic of South Africa; or
 - (B) paid his own passage to South Africa—
 - (I) on resignation during his first year of service, £30;
 - (II) on resignation during his second year of service, £20;
 - (III) on resignation during his third year of service, £10;
 - (iii) in the case of a junior prison officer who—
 - (A) was recruited in Malawi; or
 - (B) paid on his own passage and rail fare to Malawi—
 - (I) on resignation during his first year of service, £20;
 - (II) on resignation during his second year of service, £10;
 - (III) on resignation during his third year of service, £5.

7. Participation in politics

(1) Subject to subregulation (2), the following acts in relation to a prison officer are prescribed as being acts constituting active participation in politics for the purposes of section 17 (3) of the Act—

- (a) joining or being associated with an organization or movement of a political character;
- (b) canvassing any person in support of or otherwise actively assisting an organization or movement of a political character;
- (c) displaying or wearing rosettes, favours, symbols, posters, placards or like articles having a political significance;
- (d) attending a political meeting or assembly when wearing the uniform of the service or any part thereof which is likely to identify him with the service;
- (e) asking questions from the floor at a political meeting;
- (f) expressing views of a political character to a prisoner or publishing such views or causing them to be published in speeches, broadcasts, letters to the Press, articles, leaflets, posters, placards, books or otherwise;
- (g) any other act or conduct whatever of a prison officer whereby the public might reasonably be induced to associate or identify him with an organization or movement of a political character.

(2) Nothing in subregulation (1) shall be construed as precluding an officer from—

- (a) asking questions from the floor at a political meeting held with the permission of the Minister responsible for the Public Service at which the audience consists only of persons in the employment of the Government of Malawi;
- (b) explaining Government policy in the course of his duties as an officer;
- (c) performing the duties of a returning officer, polling officer or like officer at a parliamentary or local authority election or at a referendum;
- (d) voting at a parliamentary or local authority election or at a referendum.

PART II POWERS, FUNCTIONS AND DUTIES OF PRISON OFFICERS GENERALLY

8. Visits and inspections

The Commissioner shall visit and inspect and cause to be visited and inspected all prisons as often as is necessary in the interests of good administration.

9. Uniforms

Unless the Commissioner otherwise directs, a prison officer on duty shall wear the appropriate uniform and badges of rank prescribed in the Second Schedule.

10. Duty to report irregularities

A prison officer, other than an officer in charge, shall immediately report any contravention of the Act or of the regulations made thereunder or of standing orders which comes to his notice to the officer in charge.

11. Arms, Accoutrements, etc., to be delivered up on discharge

A prison officer shall, on his discharge from the service, deliver his arms, ammunition, accoutrements, uniform and other equipment which has been issued to him—

- (a) if he is an officer in charge, to his relieving officer; or
- (b) if he is not an officer in charge, to the officer in charge.

12. Representations to Minister or Commissioner

(1) A prison officer who wishes to make representations of a public nature to the Commissioner, shall—

- (a) if he is an officer in charge, submit his representations in writing direct to the Commissioner;
- (b) if he is not an officer in charge, submit his representations in writing to the officer in charge for transmission to the Commissioner.

(2) A prison officer who wishes to make representations of a private and confidential nature to the Commissioner shall submit his representations in writing direct to the Commissioner.

(3) The Commissioner may, if he considers it necessary in the interests of the service to interview any prison officer who has made representations under subregulation (1) or (2), summon that prison officer before him at public expense.

(4) If a prison officer requests that any representations made by him under subregulation (1) or (2) shall be brought to the notice of the Minister, the Commissioner shall forward those representations to the Minister with such comments as he may wish to make.

PART III POWERS, FUNCTIONS AND DUTIES OF AN OFFICER IN CHARGE

13. Investigation of irregularities

(1) An officer in charge shall investigate without delay any contravention of the Act or of the regulations made thereunder or of standing orders which is reported to him by a prison officer or otherwise comes to his notice.

(2) In the case of a prison offence or an offence against discipline, an officer in charge shall investigate the matter not later than the following day or, if the following day is a Sunday or a public holiday, on the next following working day.

14. Cleanliness of prison

An officer in charge shall cause the prison to be kept clean and tidy and all cells to be washed or cleaned once each week or more frequently, if circumstances require.

15. Prison walls, etc.

An officer in charge shall—

- (a) ensure that both sides of the outside walls of the prison are kept clear of vegetation, rubbish or anything likely to facilitate escape; and
- (b) cause all tools and other equipment likely to facilitate escape which are not in use or under lock and key in a store to be guarded.

16. Precautions against fire

An officer in charge shall—

- (a) prescribe—
 - (i) the precautions against fire to be observed in the prison; and
 - (ii) the steps to be taken for the disposal and safeguarding of prisoners in the event of fire; and
 - (iii) the measures to be taken to extinguish and prevent the spreading of any fire; and
 - (iv) the duties of prison officers with respect to any matter referred to in this paragraph;
- (b) ensure—
 - (i) that all prison officers are acquainted with and trained in their duties in the event of fire; and
 - (ii) that appliances for the extinction of fire are kept at all times in good order and ready for use.

17. Notification of illness and injury of prison officers

(1) An officer in charge shall notify without delay the illness or injury of any prison officer to the medical officer.

(2) If a prison officer is injured in the course of duty, the officer in charge shall submit a report in writing to the Commissioner giving full particulars of the circumstances in which the prison officer sustained his injury.

18. Sick prisoners

(1) An officer in charge shall notify the medical officer of the name of any prisoner who—

- (a) is ill or injured; or
- (b) complains of illness or injury; or
- (c) appears to the officer in charge to require treatment for any physical or mental ailment; or

- (d) is in solitary confinement; or
- (e) is under restraint.

(2) An officer in charge shall notify the medical officer of any case of sudden illness or serious injury in the prison.

(3) An officer in charge shall ensure that adequate arrangements are made for sick prisoners and for their safe custody and shall, so far as he is able in the circumstances, put into effect any written recommendation regarding the treatment, isolation or care of a sick prisoner made to him by the medical officer.

(4) If an officer in charge is notified by the medical officer that a prisoner is dangerously ill, he shall inform the Commissioner and the relatives of the prisoner.

(5) If a prisoner is seriously injured at labour or otherwise, the officer in charge shall submit a report in writing to the Commissioner giving full particulars of the circumstances in which the prisoner sustained his injury.

19. Recommendations of medical officer

(1) An officer in charge shall comply, whenever it is practicable, with the lawful and reasonable recommendations of the medical officer.

(2) If an officer in charge is of the opinion that it is not practicable to comply with any recommendation made to him by the medical officer, or that the recommendation is not lawful or reasonable, he shall refer the matter to the Commissioner for his decision.

20. Disposal of body

(1) If the interests of public health and the circumstances permit, an officer in charge shall, after complying with section 32 of the Act, cause the body of any prisoner who has died to be delivered to his relatives or friends for burial, should they so request.

(2) If the relatives or friends of any dead prisoner do not request that the body of the prisoner be delivered to them for the purpose of burial, an officer in charge shall cause the body to be decently interred at public expense.

(3) An officer in charge shall dispose of the property of a dead prisoner, which was taken from him on his admission to prison, in accordance with the law of Malawi relating to the administration of the estates of deceased persons.

21. Complaints and applications of prisoners

(1) An officer in charge shall—

- (a) ensure that every prisoner is given opportunity, and reasonable facilities therewith, to—
 - (i) make complaints to him; or
 - (ii) make application to him in regard to any matter; or
 - (iii) interview a visiting justice; or
 - (iv) interview an official visitor;
- (b) investigate any complaint made to him by a prisoner;
- (c) deal with any application made to him by a prisoner; and
- (d) redress any legitimate grievance of a prisoner.

(2) A note of any complaint or application made by a prisoner to an officer in charge in terms of subregulation (1) (a) (i) or (ii) shall be entered in the record of that prisoner, together with a note of the decision of or the action taken by the officer in charge.

22. Prisoners to have facilities to appeal

An officer in charge shall ensure that every prisoner is given opportunity, and reasonable facilities therewith, to—

- (a) note and prosecute an appeal against conviction and, additionally or alternatively, sentence; or
- (b) submit a statement on review in terms of any Territorial law relating to the review of criminal judgments.

23. Petitions

(1) Subject to subregulation (3) an officer in charge shall permit a prisoner to submit a petition to the Minister with respect to any matter relating to his imprisonment or in mitigation of sentence.

(2) The Minister may, if he thinks fit, transmit any petition made to him in terms of subregulation (1) to the President, as the circumstances of the case require, for his consideration and decision.

(3) No petition referred to in subregulation (1) shall be made—

- (a) in mitigation of sentence, if an appeal by the prisoner to a court is pending;
- (b) within twelve months of the rejection of a similar petition by the prisoner;
- (c) if the decision on a petition already submitted by the prisoner is pending.

(4) A prisoner may submit a petition to the Commissioner with respect to any matter affecting his imprisonment at any time.

(5) An officer in charge shall forward to the Commissioner for his decision, or, as the case may be, for transmission to the Minister any petition under this section, together with a report on the prisoner giving his full particulars, a medical report, if the circumstances of the case require, and any comments which the officer in charge may wish to make.

(6) The Commissioner shall give notice of the decision come to on any petition submitted by a prisoner in terms of this regulation to the officer in charge who shall—

- (a) cause a note of the decision to be entered on the record of the prisoner; and
- (b) inform the prisoner of the decision.

(7) A prisoner shall acknowledge that he has been informed of the decision on his petition by affixing his signature or mark against the note of the decision entered on his record.

24. Visits and inspections

(1) Subject to subregulation (2), an officer in charge shall—

- (a) visit and inspect daily all wards, cells, yards, workshops, kitchens, latrines and other parts of the prison; and
- (b) visit and inspect daily all working parties of prisoners; and
- (c) so far as circumstances permit, see each prisoner daily; and
- (d) inspect the food issued to prisoners daily and ascertain whether the food is wholesome and of the correct quantity.

(2) If an officer in charge is unable to carry out the visits and inspections referred to in subregulation (1), he shall record in a journal to be kept for the purpose to what extent he has omitted to do so and the reason for the omission.

(3) An officer in charge who is unable to make any or all of the visits and inspections referred to in subregulation (1) may delegate his duties to another prison officer.

25. Unlock and lock-up

An officer in charge shall ensure that all prisoners are locked up and unlocked at the times prescribed in standing orders or otherwise fixed by the Commissioner in writing.

26. Reports accounting for prisoners

(1) An officer in charge shall require and be furnished with reports accounting for all prisoners in the prison at lock-up and unlock of the prisoners and at the hours they go to and return from labour.

(2) An officer in charge may require and shall be furnished with reports accounting for all prisoners at such times other than those specified in subregulation (1) as he may think fit.

27. Accounts, stores, records, etc.

An officer in charge shall—

- (a) be responsible for the safe custody of all prisoners' records, warrants, monies, stores, furniture, tools, clothing, arms, ammunition and other things and materials, including the property taken from prisoners on admission to prison, kept in the prison;
- (b) ensure that such books and records as the Commissioner may determine are properly maintained and kept up to date.

28. Maintenance of arms, ammunition, etc.

An officer in charge shall ensure that all arms, ammunition, batons and similar equipment kept in the prison are maintained in good condition, securely stored and readily available for issue to prison officers.

29. Night visits

(1) An officer in charge shall ensure that the night guard of the prison and each part of the prison is visited at least once a week at an uncertain hour between the hours of eleven at night and five in the morning.

(2) An officer in charge shall cause a note of every visit made in terms of subregulation (1), stating the hour, the condition of the prison and the alertness of the guard, to be recorded in red ink in a book kept for the purpose.

30. Recreation of prisoners on public holidays

An officer in charge shall ensure that on public holidays properly organized recreation and exercise are arranged for the prisoners.

PART IV POWERS, FUNCTIONS AND DUTIES OF MEDICAL OFFICERS

31. Medical Inspection

(1) A medical officer shall not less than once each week inspect every part of the prison and, in particular, the sanitation and the facilities provided for washing and cooking, in order to ascertain whether any condition exists which is likely to be injurious or dangerous to the health of the prisoners.

(2) A medical officer shall immediately report in writing to the officer in charge any condition in the prison which, in his opinion, is likely to be injurious or dangerous to the health of the prisoners.

32. Labour classification

(1) A medical officer shall, if circumstances permit, examine each convicted prisoner and classify him for the purposes of labour as—

- (a) fit for all types of labour; or
- (b) fit for industrial labour; or
- (c) fit for light labour; or
- (d) unfit for any type of labour.

(2) A medical officer shall endorse the labour classification of each prisoner on his record.

33. Medical attention

A medical officer shall—

- (a) examine all prisoners who complain of illness; and
- (b) treat all sick prisoners; and
- (c) notify the officer in charge of all cases of serious illness or infectious or contagious disease; and
- (d) make in writing to the officer in charge such recommendations regarding the treatment, isolation or care of a sick prisoner as he thinks fit.

34. Medical reports on prisoners under sentence of death

(1) For the purposes of section 28 of the Act, a medical officer shall report to the officer in charge on the mental condition of a prisoner under sentence of death—

- (a) within one week of his first examination of the prisoner; and
- (b) if subsequently there is, in the opinion of the medical officer, a change in the mental condition of the prisoner, immediately on observation of that change; and
- (c) immediately after the dismissal of any appeal lodged by the prisoner.

(2) A medical officer shall report to the officer in charge on the physical condition of a prisoner under sentence of death at the same time as he reports on the mental condition of that prisoner in terms of subregulation (1).

(3) An officer in charge shall immediately submit any report made by a medical officer in terms of this regulation to the Commissioner, together with any comments which he may wish to make.

(4) In this regulation, any reference to a medical officer shall be construed as a reference to the medical officer of the prison to which a prisoner under sentence of death has been transferred in terms of regulation 116 (1).

35. Report on serious medical condition of prisoner

If a medical officer is of the opinion that—

- (a) the life of a prisoner is likely to be endangered by his further confinement in prison; or
- (b) a sick prisoner is unlikely to survive his sentence; or
- (c) a prisoner is totally and permanently unfit to undergo prison discipline; or
- (d) the mental health of a prisoner appears likely to become impaired by his further confinement in prison,

he shall submit a report in writing giving his opinion and the reasons for his opinion to the officer in charge who shall immediately forward it to the Commissioner for transmission to the Minister.

36. Vaccination or inoculation

A medical officer may, if he thinks it necessary for the interests of health, vaccinate or inoculate any prisoner who, in his opinion, is fit to be vaccinated or inoculated.

37. Pregnancy

(1) A medical officer shall notify the officer in charge in writing of any woman prisoner who is pregnant.

(2) The officer in charge shall, in the case of an unconvicted prisoner who is pregnant, report the fact to the court in which criminal proceedings against her have been instituted.

38. Maintenance of books and records

In addition to the register referred to in section 31 of the Act, a medical officer shall maintain such books and records as the Commissioner may determine.

39. Safekeeping of drugs, poisons and surgical instruments

A medical officer, in conjunction with the officer in charge, shall make such arrangements and take such precautions as may be necessary for the safe keeping of any drugs, poisons and surgical instruments in any prison so that no unauthorized person shall have access to them.

40. Application where no medical officer appointed

Nothing in this Part relating to medical officers shall apply with respect to any prison to which a medical officer has not been appointed or nominated in terms of section 25 of the Act.

PART V VISITING JUSTICES, OFFICIAL VISITORS MINISTERS OF RELIGION AND PRISONERS' AID SOCIETIES

41. Visiting Justices and official visitors

An officer in charge shall—

- (a) notify a visiting justice or official visitor of the name of any prisoner who has expressed a desire to interview him;
- (b) notify the Commissioner immediately of any visit made by a visiting justice or official visitor to the prison stating the remarks made by that visiting justice or official visitor in the visitors' book and the action taken by him in regard to those remarks.

42. Hours at which official visitors may visit prisons

(1) An official visitor may visit the prison to which he is appointed between the time at which the prisoners parade for labour and half an hour before the time at which the prisoners parade for lock-up.

(2) An officer in charge may in special circumstances which he shall report to the Commissioner permit an official visitor to enter the prison at a time other than a time specified in subregulation (1).

43. Ministers of religion

An officer in charge shall render every reasonable assistance to ministers of religion who have been duly authorized to visit the prison to hold religious services and give religious instruction.

44. Prisoners' aid societies

(1) Authorized members of a prisoners' aid society shall only interest themselves in the welfare of prisoners.

(2) An officer in charge shall afford every assistance to authorized members of prisoners' aid societies to visit prisoners for the purposes of their welfare.

45. Grants to prisoners' aid societies

The Minister may pay to the council of any approved prisoners' aid society, under such conditions as he may think fit, any grant which may be made by Government towards prisoners' aid work.

46. Payment of travelling and subsistence allowances

The Minister may approve the payment of travelling and subsistence allowance to official visitors, duly recognized ministers of religion and authorized representatives of a prisoners' aid society from moneys provided by Parliament for the purpose.

PART VI DISCIPLINE OF PRISON OFFICERS

47. Complaints against prison officers

An officer in charge shall refer to the Commissioner any complaint or charge against a prison officer with which he is not competent to deal.

48. Submission of returns to Commissioner

An officer in charge shall render to the Commissioner each month a return showing the particulars of any punishment—

(a) referred to in section 47 (1) (a) to (d) inclusive of the Act;

(b) of a fine of twenty shillings or less,

imposed on a prison officer during the preceding month for an offence against discipline.

PART VII DESERTION

49. Desertion

(1) If a prison officer absents himself from duty, the officer in charge shall make reports to the Commissioner after the prison officer has been absent for periods of seven days, fourteen days and twenty-one days.

(2) After a prison officer has been absent for a period exceeding twenty-one days, the officer in charge shall report him as a deserter to the person in charge of the nearest police station.

(3) The officer in charge shall report to the Commissioner and to the person in charge of the nearest police station the return to duty of any prison officer whose absence has been reported in terms of this regulation.

PART VIII ADMISSION AND CONFINEMENT OF PRISONERS.

50. New admissions to be interviewed by officer in charge

All prisoners admitted to a prison on conviction or transfer shall be interviewed by the officer in charge as soon after their admission as possible.

51. Hours of admission

No person shall be admitted to prison between the hours of 10 p.m. and 6 a.m.

52. Ranks of police officers who may sign order

The rank of a member of a police force by whom an order in writing shall be signed for the admission of a person into prison under section 59 (1) (d) of the Act shall be a rank of commissioned or superior officer of police.

53. Diet, clothing, etc., of prisoners

(1) On admission to prison, a prisoner shall, subject to regulations 54 and 55, be—

(a) placed on the appropriate diet scale prescribed in the Third Schedule;

- (b) issued with the clothing and accessories in the appropriate scale prescribed in the Fourth Schedule;
- (c) issued with the cell equipment in the appropriate scale prescribed in the Fifth Schedule.

(2) An officer in charge may, in assessing the appropriate scales referred to in subregulation (1), act on the advice of the medical officer and such other authorities as he may deem necessary to consult.

54. Diet scale of prisoners may be varied

(1) An officer in charge may vary the prescribed scale of diet or substitute one item of diet for another.

(2) An officer in charge shall report to the Commissioner any variation or substitution made by him in terms of subregulation (1).

(3) A prisoner admitted to a civil hospital shall be placed on the normal hospital diet.

55. Variation of diet, clothing, accessories and cell equipment of individual prisoners

(1) An officer in charge may increase, reduce or vary the diet of any individual prisoner or the clothing, accessories and cell equipment issued to any individual prisoner.

(2) An officer in charge shall cause details of any increase, reduction or variation made by him in terms of subregulation (1) to be entered in a book kept for the purpose.

56. Prisoners' property

(1) The property of a prisoner which is taken from him on his admission to prison shall be labelled so as to be easily identifiable as the property of the prisoner from whom it is taken, and the prisoner shall acknowledge that the property taken from him is correctly listed and accurately described so as to provide conclusive evidence of its value in the inventory kept by the officer in charge under section 63 of the Act by affixing his signature or mark against the entry relating to his property in that inventory.

(2) An officer in charge shall cause the clothes of any prisoner taken from him on admission to prison, which are not so old, worn out or dirty as to be unsuitable for further use, to be washed before being placed in store.

(3) No tobacco, intoxicating liquor, snuff, foodstuff, firearms or ammunition in the possession of a prisoner shall be accepted as prisoner's property at the time of his admission, and if any tobacco, intoxicating liquor, snuff, or foodstuff cannot otherwise be disposed of it shall be destroyed.

(4) An officer in charge shall give every facility to a prisoner to dispose of his property: Provided that sufficient clothing for the prisoner to wear on discharge shall be retained.

(5) An officer in charge shall inspect the place where property which is taken from prisoners on their admission to prison is stored at regular intervals and take such steps as he may consider necessary for its proper preservation.

(6) The property of any prisoner who has escaped and has not been recaptured or who has been released and which has not been claimed by him may be sold by public auction after the expiration of a period of five years from the date of his escape or, as the case may be, his release.

(7) The proceeds of any property sold by public auction under subregulation (6), together with any money deposited in the name of any prisoner referred to in that subregulation, shall be credited to revenue.

(8) An officer in charge may order any property referred to in subregulation (6) which, in his opinion, has no value to be destroyed.

57. Weighing of prisoners

(1) An officer in charge shall, if circumstances permit, cause every prisoner to be weighed immediately on his admission to prison and once each month thereafter.

(2) The weight of a prisoner determined at each weighing referred to in subregulation (1) shall be recorded in the prisoner's record and in such books as the Commissioner may determine.

(3) An officer in charge shall notify the medical officer of any substantial change in the weight of any prisoner.

58. Haircutting and shaving

(1) The hair of a convicted male prisoner shall be kept short and tidy.

(2) The head of a convicted prisoner shall not be shaved except on the order of the officer in charge acting on the advice of the medical officer in the interests of health and hygiene.

(3) Save as is provided in subregulation (4), a convicted male prisoner shall keep his face close shaved unless he has the permission of the officer in charge to keep or grow a moustache and additionally or alternatively a beard.

(4) If the genuine religious principles of any convicted prisoner inhibit the shaving of his face or the cutting of his hair, he shall not be required to shave or to have his hair cut except on the order of the officer in charge acting on the advice of the medical officer in the interests of health and hygiene.

(5) The hair of a convicted female prisoner shall be kept clean and tidy and shall not be cut except at her request or on the order of the officer in charge acting on the advice of the medical officer in the interests of health and hygiene.

(6) An unconvicted prisoner shall not be required to shave his face or to have his hair cut except on the order of the officer in charge acting on the advice of the medical officer in the interests of health and hygiene.

59. Bathing

Subject to such instructions as the officer in charge acting on the advice of the medical officer may give, every prisoner shall bathe himself on his admission to prison and thereafter as often as the officer in charge may require.

60. Rights and privileges of prisoner

(1) No prisoner shall conduct any business in any prison or initiate any legal proceedings from prison without the permission of the Commissioner.

(2) A prisoner shall not be entitled to exercise any right or claim any privilege which is not a right or privilege conferred on a prisoner by the Act or these Regulations or by any other law.

61. Forcible feeding

A prisoner shall not be forced to eat except on the order of the officer in charge acting on the advice of the medical officer.

PART IX CLASSIFICATION OF PRISONS

62. Classification of prisons

Prisons shall be classified into the following categories which may be either maximum or medium security prisons— [G.N. 88/1975](#)

(a)	Prisons for the detention of all classes of prisoners sentenced to any term of imprisonment;
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Class I prisons.

(b)	Prisons for the detention of all classes of prisoners sentenced to any term of imprisonment not exceeding two years and prisoners awaiting transfer to a Class I prison;
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Class II prisons.

63. Detention of prisoners in any prison

The Commissioner may generally or specifically order the detention in any prison of prisoners for the purposes of their classification under section 64 of the Act.

64. Cell accommodation

(1) In no circumstances shall two male prisoners only be locked up together in the same cell; the number shall always be one or three or more.

(2) A prisoner shall not be authorized to change the cell allotted to him except on the order of the officer in charge.

PART X CUSTODY, REMOVAL AND RESTRAINT OF PRISONERS

65. Medical examination before transfer

(1) A medical officer shall examine any prisoner who is to be transferred to another prison.

(2) No prisoner shall be transferred to another prison—

- (a) unless the medical officer has certified that he is fit to be transferred; and
- (b) otherwise than in accordance with such instructions in regard to his health as the medical officer may give.

66. Prisoner under restraint

(1) A prisoner confined by means of mechanical restraint under section 71 of the Act shall be confined by means of a strait-jacket, handcuffs or leg-irons.

(2) A prisoner confined by means of mechanical restraint shall be released from his confinement as soon as circumstances permit.

(3) In no circumstances shall mechanical restraint be used as a punishment.

(4) An officer in charge shall—

- (a) on each occasion on which he employs mechanical restraint, record the circumstances in a book kept for the purpose stating—
 - (i) the mechanical restraint employed;
 - (ii) the reason why such mechanical restraint was necessary; and
 - (iii) the period for which it was employed; and
- (b) notify the Commissioner, the medical officer and the visiting justice who next visits the prison of the particulars entered in that book.

67. Use of handcuffs and leg-irons

(1) An officer in charge may order the use of handcuffs for prisoners transferred to another prison.

(2) In no circumstances shall leg-irons be used for prisoners transferred to another prison.

68. Prisoners' clothing at court

(1) A convicted or unconvicted prisoner shall not appear in court in prison clothing.

(2) If the clothing of a convicted or an unconvicted prisoner is not suitable or sufficient for the purpose of his appearance in court, he shall be provided with garments which are not of a prison pattern.

PART XI LABOUR OF PRISONERS

69. Hours of work

(1) Subject to this regulation and regulation 71, the hours of work for prisoners shall be the hours of work prescribed in standing orders or otherwise fixed by the Commissioner in writing.

(2) The hours of work for prisoners shall be—

- (a) not less than eight or more than ten hours each week day; and
- (b) not more than five hours on Saturday.

(3) Prisoners employed on task work shall cease work on completion of each task.

70. Days of rest

Except under special circumstances which shall be reported to the Commissioner, Sundays and all public holidays shall be observed as days of rest.

71. Wet weather

In wet weather an officer in charge shall decide whether prisoners are to be sent to work outside the prison and the times at which they are to be sent to work outside the prison.

72. Exercise of prisoners employed on sedentary work

Prisoners who are not employed in association with one another or who are employed on sedentary work, such as tailoring or mat-making, shall, if circumstances permit, be permitted to exercise in the open air for one hour each day.

73. Prison labour

An officer in charge shall ensure that—

- (a) prisoners are properly and usefully employed; and
- (b) work on which prisoners are employed is not dangerous; and
- (c) a note of each type of work on which a prisoner is employed is entered in his record.

(2) No prisoner shall be authorized to transfer from one working party to another except on the order of the officer in charge.

74. Prisoners classified as unfit for labour

(1) If a prisoner is classified under regulation 32 as unfit for any type of labour, he shall, if circumstances permit and whilst he is so classified, be detained in the prison hospital but not in solitary confinement.

(2) A prisoner classified as unfit for any type of labour shall be permitted to exercise for one hour each day if he is fit enough to do so.

75. Outside working parties

(1) Prisoners working outside the prison shall not be employed at a distance of more than ten miles from the prison except on the authority of the Commissioner.

(2) An officer in charge shall ensure that every working party employed at a distance of more than ten miles from the prison is adequately supervised and visited.

(3) No prison officer shall be given charge of more than five prisoners in any isolated working party employed outside the precincts of the prison.

(4) An officer in charge shall decide, with particular reference to security, the proportion of prison officers to prisoners in working parties of more than five prisoners employed outside the precincts of the prison.

76. Restriction on employment of prisoners

Except on the order of the Commissioner, no prisoner shall be employed—

- (a) in the service of any other prisoner; or
- (b) in the service of any prison officer or servant of the prison; or
- (c) for the private benefit of any person.

77. Prisoner not to be employed in disciplinary capacity

No prisoner shall be employed in any disciplinary capacity.

78. Prisoner may be ordered not to work in association

(1) If at any time it appears to an officer in charge that it is desirable for the maintenance of good order and discipline or in the interests of any prisoner that the prisoner should not be employed in association with other prisoners, he may arrange for that prisoner to work in a cell or in a place apart from other prisoners and not in association with other prisoners.

(2) A prisoner who is not employed in association with other prisoners shall be returned to work in association with other prisoners on the order of the officer in charge.

(3) An officer in charge shall, on the advice of the medical officer, order that a prisoner who is not employed in association with other prisoners shall be returned to work in association with other prisoners.

79. Simple imprisonment

A convicted prisoner sentenced to simple imprisonment may be employed in cleaning the yards, wards or any part of the prison or in his regular trade or occupation, but shall not be employed outside the precincts of the prison.

80. Labours for female prisoners

The labour prescribed for the purposes of section 75 (2) of the Act shall be light labour of a suitable nature authorized by an officer in charge.

PART XII MAINTENANCE: CIVIL PRISONERS

81. Civil prisoner may procure food and other necessities

(1) A civil prisoner shall be allowed to procure for himself and to receive at hours to be determined by the officer in charge food and other necessities.

(2) An officer in charge may regulate the amount and quality of the food and other necessities procured by any civil prisoner for the prevention of extravagance and luxury.

(3) If a civil prisoner does not procure food for himself, he shall receive the appropriate prison diet.

82. No statistics to be taken of civil prisoner

No person shall take the statistics of any civil prisoner which are referred to in section 22 of the Act.

83. Civil prisoners may smoke

A civil prisoner shall be permitted to smoke and to receive reputable newspapers and magazines in accordance with such restrictions as to time and place as the officer in charge may determine.

84. Employment

(1) A civil prisoner may elect to be given employment.

(2) A civil prisoner shall be required to keep his cell, the precincts of his cell, his clothing, furniture and utensils clean and tidy.

85. Clothing

(1) A civil prisoner shall not be given or compelled to wear prison dress unless, in the opinion of the officer in charge, his clothing is insufficient, improper or in an insanitary condition.

(2) An officer in charge may require any civil prisoner who attempts to escape to wear prison clothing.

86. Exercise

(1) A civil prisoner may exercise daily during such periods as the officer in charge may determine.

(2) A civil prisoner shall not associate with any other class of prisoner during any period of exercise.

87. Property

The property of a civil prisoner, other than the clothing which he is wearing in accordance with regulation 85, shall be dealt with in accordance with regulation 56.

88. Visits

A civil prisoner may be visited daily at such times and places as the officer in charge may determine.

89. Letters

A civil prisoner shall be permitted to write and receive one letter each week and in special circumstances may be permitted by the officer in charge to write and receive more than one letter each week.

90. Restrictions on food, clothing or bedding

(1) An officer in charge may order that any food, clothing or bedding which a civil prisoner receives from private sources in terms of this Part shall be searched.

(2) An officer in charge may confiscate any prohibited article discovered in the course of any search made under subregulation (1).

(3) Any prohibited article discovered in the course of a search made under subregulation (1) shall, if it is perishable, be destroyed, or, if it is not perishable, be placed with the prisoner's property.

91. Maintenance of judgment debtor

(1) The amount prescribed by the Minister to be paid for the daily maintenance of a judgment debtor shall be paid weekly in advance.

(2) An officer in charge shall not admit to his prison any person as a judgment debtor unless he has received from the judgment creditor payment of one week's maintenance in advance.

(3) For the purposes of payment of maintenance, a period of detention of a judgment debtor shall be treated as commencing at twelve noon on the day of his admission to prison.

(4) If the maintenance of a judgment debtor has not been paid by twelve noon on the day it is due, the officer in charge shall forthwith discharge the judgment debtor.

(5) An officer in charge shall discharge a judgment debtor immediately—

- (a) upon payment of the amount of the debt and costs mentioned in the warrant; and
- (b) on the giving by the judgment creditor of his written consent to the discharge; and
- (c) upon an order of court.

PART XIII SEARCHES PROHIBITED ARTICLES AND AREAS

92. Responsibility for search

(1) For the purpose of ensuring that prohibited articles are not being kept in the prison, an officer in charge shall, subject to this Part, cause the prison and all prisoners to be searched at such times as he may fix.

(2) An officer in charge shall ensure that searches are performed conscientiously and frequently enough to prevent the keeping of prohibited articles in the prison.

93. Search of wards and cells

Prison wards and cells shall be searched not less frequently than once every two weeks.

94. Search of workshops

(1) When a prison workshop is searched, the technical officer in charge of the work carried on in that workshop and the discipline officer in charge of the workshop shall be present.

(2) A search of a prison workshop shall, if circumstances permit, be carried out by prison officers who are not prison officers detailed for duty in that workshop.

(3) A search of a workshop shall include a search of all cupboards and receptacles therein.

95. Separate search of prisoners and cells

(1) The following prisoners and the cells which they occupy shall be searched each morning and evening—

- (a) prisoners undergoing punishment for a prison offence;
- (b) prisoners awaiting trial for a prison offence;
- (c) prisoners who are mentally disordered or defective persons in terms of any law relating to mental disorders;
- (d) prisoners under sentence of death;
- (e) prisoners under observation.

(2) An officer in charge may order the search each morning and evening of—

- (a) any prisoner other than a prisoner referred to in subregulation (1);
- (b) the cell of any prisoner other than a prisoner referred to in subregulation (1).

96. Special search

If a prison officer has reason to suspect that a prisoner is in possession of a prohibited article, he shall carry out a special search of—

- (a) such prisoner by removing his clothing out of sight of other prisoners and the prison staff;
- (b) the cell occupied by such prisoner.

97. Entries in search book

An officer in charge shall on each occasion on which a search is carried out under this Part, other than a search of—

- (a) a returning work party carried out at the prison gate; or

- (b) a prisoner on admission to prison; or
 - (c) a workshop party leaving a prison workshop,
- record the particulars in a book kept for the purpose stating—
- (i) the results of the search;
 - (ii) the names of the prison officers carrying out the search.

98. Rub-down search

- (1) For the purposes of this section—
“**rub-down search**” means a quick search of a prisoner without removing his clothes.
- (2) All prisoners leaving a prison workshop after labour or for any other reason shall be subjected to a rub-down search to ensure that no tools or other prohibited articles are removed from the workshop.

99. Search on return from labour

Unless the Commissioner otherwise directs, every prisoner shall be searched on his return to prison from labour outside the prison.

100. Search of out-going working parties

Working parties leaving the prison for labour outside shall be searched at irregular intervals to ensure that no property is being taken out of the prison to be disposed of by prisoners.

101. Two or more prison officers to carry out search

A search shall, if circumstances permit, be carried out by more than two prison officers.

102. Officers of the same sex to carry out search

A prisoner shall only be searched by a prison officer of like sex.

PART XIV DISCIPLINE OF PRISONERS

103. Solitary confinement

(1) When a prisoner is undergoing solitary confinement, the bedding, accessories and clothing which he is not wearing and all the cell equipment, other than the bed and the chamber pot, shall be removed from his cell.

(2) A prisoner undergoing solitary confinement may be supplied with a book of a religious nature.

(3) A prisoner undergoing solitary confinement shall be exercised for one hour each day.

(4) A prisoner undergoing solitary confinement may be permitted to bathe himself during the daily period of exercise referred to in subregulation (3).

104. Visits to prisoners under punishment

An officer in charge shall ensure that every prisoner under punishment for a prison offence is visited not less than twice daily by a prison officer.

105. Submission or return of punishments to Commissioner

An officer in charge shall render to the Commissioner each month a return showing the particulars of any punishment imposed on a prisoner under section 90 of the Act.

106. Commissioner may review punishments

The Commissioner may review any punishment imposed upon a prisoner and may vary or remit such punishment.

107. Written record of proceedings

Disciplinary proceedings against a prisoner shall be recorded in writing.

PART XV ESCAPING

108. Prevention of escape

It shall be the duty of all prison officers at all times to prevent the escape of any prisoner.

109. Escapes to be reported

An officer in charge shall—

- (a) immediately report—
 - (i) in the form prescribed in Part I of the Sixth Schedule, the escape of any prisoner;

- (ii) in the form prescribed in Part II of the Sixth Schedule, the recapture of any escaped prisoner;
to the person in charge of the nearest police station and to the Commissioner;
- (b) take all reasonable steps practicable to effect the recapture of an escaped prisoner.

110. Inquiry into escape

An officer in charge shall hold an inquiry into the escape of any prisoner and submit a full report to the Commissioner.

PART XVI CORPORAL PUNISHMENT

111. Type of cane and method of infliction

(1) The type of cane with which corporal punishment shall be inflicted approved by the Minister under section 100 of the Act shall be—

- (a) in the case of a prisoner under the age of nineteen years, a rattan cane, three feet long and not more than three-eighths of an inch in diameter;
- (b) in the case of a prisoner who is nineteen years of age or over, a rattan cane, four feet long and not more than half an inch in diameter.

(2) The manner in which corporal punishment shall be inflicted approved by the Minister under section 100 of the Act shall be as follows—

- (a) a blanket or similar form of protection shall be placed across the small of the prisoner's back above the buttocks;
- (b) a small square of thin calico shall be dipped in water, wrung out and tied over the prisoner's buttocks;
- (c) strokes shall be administered from one side upon the buttocks of the prisoner and on no account on the back.

112. Sentence of corporal punishment to be carried out as soon as possible

Subject to section 99 of the Act, a sentence of corporal punishment shall be carried out as soon as possible after it has been awarded.

113. Senior or Junior officer to be present

(1) The officer in charge or a senior or a junior prison officer to whom he has delegated that duty shall attend the infliction of every sentence of corporal punishment.

(2) Corporal punishment shall not be inflicted in the presence of other prisoners.

114. Endorsement of warrant

An officer in charge shall cause the date a sentence of corporal punishment is inflicted, together with the number of strokes inflicted, to be endorsed on the warrant of sentence.

115. Corporal punishment prevented on grounds of health

(1) If a sentence of corporal punishment is not carried out wholly or in part on the grounds of the prisoner's health, the officer in charge shall forward to the Commissioner a certificate given by the medical officer stating that fact.

(2) If a sentence of corporal punishment which—

- (a) is not a sentence of corporal punishment awarded under section 90 of the Act; and
- (b) is not awarded with any other punishment,

is not carried out wholly or in part on the grounds of the prisoner's health, the officer in charge shall forward immediately to the court imposing the sentence of corporal punishment a certificate given by the medical officer stating that fact.

(3) The officer in charge shall inform the Commissioner of any order made by the court in and the result of any case referred to in subregulation (2).

PART XVII PRISONERS UNDER SENTENCE OF DEATH

116. Transfer

(1) The Commissioner shall cause a prisoner under sentence of death to be transferred immediately under sufficient escort to the prison where the sentence of death is to be carried out.

(2) An officer in charge shall report the admission of a prisoner under sentence of death who has been transferred under subregulation (1) to the Commissioner stating the date of the sentence, the court imposing the sentence and the offence.

117. Right of appeal

(1) An officer in charge shall inform every prisoner under sentence of death who has been transferred under regulation 116 (1) of his right to appeal.

(2) An officer in charge shall report to the Commissioner—

- (a) if a prisoner under sentence of death lodges an appeal;
- (b) when the period in which a prisoner under sentence of death may lodge an appeal has lapsed.

(3) A certificate stating that compliance has been made with subregulation (1) and standing orders relating to appeals by prisoners under sentence of death shall be sent with any report made to the Commissioner under subregulation (2) (b).

118. Illness of prisoner under sentence of death

(1) A prisoner under sentence of death who becomes sick shall not be removed from the cell set aside for his detention without the authority of the Commissioner.

(2) A medical officer shall not treat any sick prisoner under sentence of death in any other place than the cell set aside for his detention without the authority of the Commissioner.

(3) An officer in charge shall cause such bedding and other equipment to be placed in the cell set aside for the detention of a prisoner under sentence of death who is sick as the medical officer may require in writing.

119. Report on mental condition

(1) Any prison officer who notices anything in the demeanour or behaviour of a prisoner under sentence of death that indicates to him that the prisoner has become mentally disordered shall immediately report in writing to the officer in charge.

(2) The officer in charge shall forward any report made to him under subregulation (1) to the medical officer and to the Commissioner.

120. Searching

An officer in charge shall cause a prisoner under sentence of death to be searched twice daily by a responsible person and shall take every precaution to ensure that he does not obtain any article with which he may do himself injury.

121. Supervision

If more than one prisoner under sentence of death is confined in any prison, the officer in charge shall ensure that adequate arrangements are made in accordance with section 104 of the Act for their proper supervision.

122. Facility to see minister of religion

An officer in charge shall ensure that every prisoner under sentence of death is given every facility to see a minister of religion.

123. Visits

(1) An officer in charge shall arrange for a prisoner under sentence of death, who so wishes, to be visited by his relatives or, if he has no relatives, by his friends.

(2) If an officer in charge is satisfied that the relatives or friends of a prisoner under sentence of death have not the means to pay the costs of their transport to the prison, he may recommend to the Commissioner that the whole or part of the costs shall be paid from moneys provided by Parliament for the purpose.

124. Issue of cigarettes and other luxuries

A prisoner under sentence of death may be issued with cigarettes, tobacco, snuff and such other luxuries as the Commissioner may in standing orders or otherwise in writing authorize.

125. Notification of date of execution to prisoner

(1) On receipt of the warrant of execution, an officer in charge or the officer responsible, as the case may be, shall give a prisoner under sentence of death three days' notice of his impending execution.

(2) A prisoner under sentence of death who has been informed of his impending execution may be given a special diet and such other privileges as the Commissioner may in standing orders or otherwise in writing authorize.

126. Disposal of property

An officer in charge shall ensure that every prisoner under sentence of death who has been informed of his impending execution is given an opportunity and reasonable facilities therewith to dispose of his property.

127. Notification of execution to press

(1) Save as is provided in subregulation (2), no information concerning any prisoner under sentence of death shall be divulged to any unauthorized person, whether before or after his execution.

(2) An officer in charge shall issue a public notice in the following form after an execution has been carried out—

“This is to certify that the sentence of death passed uponby the High Court sitting atwas duly carried out at the Prison thisday of, 19”

128. Carrying out of death sentence

Execution of a death sentence shall be carried out by such person or persons as the Commissioner may appoint.

129. Medical officer

(1) A medical officer may attend executions.

(2) A medical officer shall be within the prison whenever an execution is carried out.

130. Disposal of body

The body of an executed prisoner shall be disposed of in accordance with the instructions of the Commissioner.

131. Allowances

Such allowances as the Minister may approve shall be paid from moneys provided by Parliament for the purpose to the executioner, assistant executioner and the prison officers attending any execution.

PART XVIII REMISSION OF SENTENCE

132. Remission table

Remission of sentence in accordance with Part XVIII of the Act shall be calculated by means of the Remission Table drawn up and issued by the Commissioner.

PART XIX LICENCE TO BE AT LARGE

133. Interpretation of terms

In this Part—

“**holder**” means a person to whom a licence has been issued under section 108 of the Act as in force immediately before the commencement of the Prison Amendment Act, 1962 (that is to say, the 1st October, 1962);

“**licence**” means a licence to be at large under Part XIX of the Act as in force immediately before the commencement of the Prison Amendment Act, 1962 (that is to say, the 1st October, 1962).

134. Records of reports made by holder

The officer in charge of the police station to whom a holder is required to report shall enter in the place provided in the licence a note of each occasion on which the holder reports to him.

135. Commissioner to be notified if holder fails to comply with conditions of licence

A magistrate, prison officer, probation officer or a member of a police force shall notify the Commissioner immediately it comes to his notice that a holder has failed to comply with any condition of his licence.

PART XX REPORT ON LONG-TERM PRISONERS

136. Prisoners detained during President's pleasure

An officer in charge shall immediately report to the Commissioner the admission to his prison of any person on a warrant of the President detaining that person during His Excellency's pleasure.

137. Reports on detainees

An officer in charge shall submit reports on prisoners referred to in regulation 136 at such times as the Commissioner may in each case determine.

PART XXI DISCHARGE OF PRISONERS

138. Reduction of sentence on proportionate payment of fine

If a portion of a fine imposed on a prisoner is paid before the expiration of a period of imprisonment imposed on him in default of payment of that fine, a proportionate reduction in the period of his imprisonment shall be made.

139. Amount proportionate to part of day not to be paid

No amount which would have the effect of reducing a period of imprisonment imposed in default of payment of a fine by part of a day shall be paid.

140. Mode of payment

Payment of a portion of a fine shall be made in office hours to the officer in charge or the clerk of the court imposing the fine.

141. Rations or subsistence allowance on discharge

A prisoner discharged from a prison in a District in which he does not normally reside shall be supplied with sufficient food for his journey to his home within Malawi or with a subsistence allowance at such rates as are prescribed in standing orders or are otherwise authorized by the Commissioner in writing.

142. Hours of discharge

No prisoner shall be discharged from a prison between the hours of 10 p.m. and 6 a.m.

PART XXII VISITS AND COMMUNICATIONS

143. Restriction on visits to prisons and communication with prisoners

Save as is provided in the Act, in Part V and in this Part, no person who is not a prison officer or a medical officer shall—

- (a) communicate with any prisoner without the authority of the officer in charge or the Commissioner; or
- (b) enter any prison otherwise than in accordance with the terms of a permit issued by the officer in charge on the authority of the Minister or the Commissioner; or
- (c) be in any prison between the hours of six at night and five in the morning without the written authority of the officer in charge or the Commissioner.

144. Minimum provision of visits and letters

(1) Save as is otherwise provided in this Part and in Part XXIV, every prisoner shall be permitted—

- (a) to write and receive one letter on his admission to prison and thereafter once every four weeks; and
- (b) to receive one visitor once every four weeks; and
- (c) to write one letter to his family for the purpose of informing them of his transfer to another prison.

(2) An officer in charge may permit a prisoner who is eligible for a visit to write a letter and receive a reply instead of receiving a visitor.

(3) If a prisoner becomes eligible to receive a visitor or a letter whilst undergoing solitary confinement, an officer in charge may order that that visit or the delivery of the letter be deferred until the prisoner has ceased to be in solitary confinement.

(4) The Commissioner may, on the recommendation of an officer in charge, as a privilege, permit any prisoner or class of prisoner to write and receive more than one letter and receive more than one visitor each month.

(5) In addition to the letters which a prisoner may be eligible to write and receive or the visitor which a prisoner may be eligible to receive in terms of this regulation, an officer in charge may permit him to write and receive letters and to receive visitors for any purpose which, in the opinion of the officer in charge, is likely to promote the best interests of the prisoner or his family, either during his confinement in prison or after his discharge, and such letter or visit shall be reported to the Commissioner.

145. Visits to persons imprisoned in default of payment of a fine

(1) An officer in charge shall permit any prisoner undergoing a period of imprisonment in default of the payment by him of a fine to interview relatives or friends at a reasonable hour on any weekday or to communicate with them by letter for the purpose of procuring the payment of that portion of the fine imposed on him necessary to secure his release.

(2) An officer in charge shall inform every prisoner referred to in subregulation (1) of the provisions of that subregulation on his admission to prison.

146. General restriction and supervision

(1) The Commissioner may impose such restrictions upon and supervision over letters and visits as he deems necessary for securing discipline and good order, for the prevention of crime and the association of criminals and for the welfare of prisoners.

(2) For the purposes of section 83 of the Act, there shall be exempt from subsection (1) of that section a letter or document written or prepared by a prisoner or by a legal practitioner acting on his behalf—

- (a) for the purposes of or in connexion with proceedings in any court or tribunal;
- (b) purporting to be a power of attorney, agreement, deed, conveyance, transfer, mortgage, bond, assignment, cession, lease, promissory note, bill of exchange, will or other legal document of a like nature;
- (c) purporting to be a note, memorandum or instruction authorizing a legal practitioner acting on behalf of a prisoner to prepare any of the documents referred to in paragraph (b);
- (d) purporting to be a notice, application, certificate, return, statutory declaration or other like document prescribed or required in terms of any law.

147. Censorship of letters

(1) An officer in charge or a prison officer to whom he has delegated the duty shall read every letter to and from a prisoner.

(2) An officer in charge may stop any letter referred to in subregulation (1), if, in his opinion, its contents are objectionable or it is of inordinate length.

(3) A prisoner to whom or by whom a letter is written which is stopped in terms of subregulation (2) shall be advised that the letter has been stopped.

(4) A prisoner to whom a letter is written which has been stopped in terms of subregulation (2) may elect to have the letter returned to the writer or placed with his property against his discharge.

148. Postage

(1) Letters written by prisoners in terms of this Part shall be dispatched at public expense in a plain envelope.

(2) In no circumstances shall an envelope in which a letter written by a prisoner is contained bear the initials O.M.G.S. or any official frank or any other thing which might indicate that it contains a letter written by a prisoner.

149. Restriction and supervision of visits

Unless the Commissioner otherwise instructs—

- (a) all visits take place—
 - (i) within the sight and hearing of a prison officer;
 - (ii) at such times and places as the officer in charge may determine;
- (b) a prisoner shall not be visited by more than three visitors at any one visit;
- (c) a visit shall not last longer than thirty minutes.

150. Visits by members of a police force

An order in writing for the interview of a prisoner in terms of section 68 (1) of the Act may be made by a member of the police force of or above the rank of assistant inspector.

151. Visits by legal representatives

An officer in charge shall permit the legal representative of any prisoner—

- (a) who is a party to legal proceedings, to interview him in connexion with those proceedings in the sight of, but not in the hearing of, a prison officer;
- (b) who is not a party to legal proceedings, to interview him in connexion with other legal business in the sight of and in the hearing of a prison officer,

for reasonable periods at all reasonable times.

152. Costs of indigent visitors may be defrayed from public funds

(1) The Commissioner may authorize that the costs or a portion of the costs of any visit made by the indigent relatives of a long-term prisoner shall be paid from moneys provided by Parliament.

(2) An officer in charge shall recommend to the Commissioner any case in which, in his opinion, the costs or a portion of the costs of a visit should be paid from moneys provided by Parliament.

153. Visits by Government officers

An officer of the Government who is required to visit a prison in the course of his duties may do so with the permission of the officer in charge.

154. Visitors' book to be signed

(1) Any person, other than a visitor to a prisoner who visits a prison in terms of this Part shall sign the prison visitors' book.

(2) An officer in charge shall report to the Commissioner forthwith all visits made to his prison to which subregulation (1) relates and shall inform the Commissioner of the remarks made in the prison visitors' book by the persons making the visits and any action taken by the officer in charge thereon.

155. Certain visits shall not be liable to forfeiture

Visits to which regulations 144 (5), 145 and 151 relate shall not be liable to forfeiture.

PART XXIII PAYMENT SCHEME

156. Introduction of payment scheme

The Commissioner may authorize the introduction in any prison or part of a prison of a payment scheme for prisoners.

157. Payment scales

A convicted prisoner sentenced to imprisonment for a period exceeding two years, shall, on the completion of one year of such term of imprisonment and provided that he has been of good behaviour during such year, be placed on the payment scale prescribed in the Eighth Schedule if he is detained in a prison or part of a prison in which a payment scheme has been introduced. [G.N. 16/1969](#)

158. Rate of payment may be varied

(1) Notwithstanding regulation 157, the Commissioner, on the recommendation of an officer in charge, may vary the rate of payment made to any prisoner.

(2) Any variation in the rate of payment to a prisoner made under subregulation (1) shall be noted in his record.

159. Payments to prisoners

(1) The Commissioner shall, by standing orders or otherwise in writing, prescribe the periods on the expiration of which prisoners may make purchases of goods with the amounts which they have earned during the preceding payment period.

(2) Prisoners shall not without the authority of the Commissioner be authorized to handle any amounts which they have earned and purchases shall be made on their behalf by the officer in charge.

(3) Payments made to prisoners in terms of this Part shall be limited to the purchase of such luxuries, including cigarettes, tobacco and snuff, as the officer in charge may determine.

(4) At the end of each payment period the officer in charge shall inform each prisoner eligible for payment of the amount he has earned.

(5) A prisoner shall elect at the end of each payment period either to make purchases to the total amount due to him or to have the total amount due to him placed to his credit for payment to him on his discharge.

160. Restriction on goods purchased

The Commissioner may, by standing orders or otherwise in writing, restrict the issue and use and provide for the safe-keeping of goods purchased by prisoners in terms of this Part.

161. Method of accounting

The Commissioner shall, by standing orders or otherwise in writing, prescribe the method of accounting to be adopted in the administration of payment schemes.

162. Payments may be forfeited

Payments made in terms of this Part are a privilege for prisoners whose conduct and industry warrant it, and payments may be forfeited in whole or in part as in section 91 (1) (a) (iv) of the Act is provided.

PART XXIV PROGRESSIVE STAGE SYSTEM

163. Prisoners eligible

Prisoners serving a total sentence of imprisonment of three years or more or life sentences shall serve their sentences in accordance with this Part which the officer in charge shall explain to them on their admission to prison.

164. First stage

A prisoner who is eligible shall, on his admission to prison, be a first stage prisoner.

165. Second stage

(1) If a first stage prisoner is of good behaviour for a continuous period of six months, he shall be advanced to the second stage.

(2) A second stage prisoner shall wear a yellow armband on his right arm.

166. Privileges second stage

A second stage prisoner shall be permitted to write and receive a letter and to receive a visitor once every three weeks and shall be given such other privileges as the officer in charge may determine.

167. Third stage

(1) If a second stage prisoner is, as a second stage prisoner, of good behaviour for a continuous period of twelve months, he shall be advanced to the third stage.

(2) A third stage prisoner shall wear a blue armband on his right arm.

168. Privileges third stage

A third stage prisoner shall be—

- (a) permitted to write and receive a letter and to receive a visitor once every two weeks;
- (b) permitted to remain unlocked, in such places as the officer in charge may determine, for a period of one hour after the prescribed lock-up time for the purpose of participating in games and such other pursuits as the officer in charge may determine; and
- (c) allotted responsible employment in the prison and in working parties.

169. Special stage leaders

(1) If a third stage prisoner is, as a third stage prisoner, of good behaviour for a continuous period of six months and proves himself to be reliable and trustworthy, he shall be advanced to the special stage as a leader.

(2) A special stage leader shall wear a red chevron on each arm.

170. Privileges special stage leaders

(1) A special stage leader shall have the privileges of a third stage prisoner and may, in addition, be permitted to smoke during the period he is unlocked after the prescribed lock-up time in a place set apart from other prisoners if the officer in charge so determines.

(2) The officer in charge may—

(a) permit a special stage leader to escort other prisoners in the vicinity of the prison or in small working parties; and

(b) permit a special stage leader to move about in the vicinity of the prison unescorted.

171. Reduction in stage

(1) If a punishment referred to in section 91 (1) (a) (i) to (iv) inclusive or 91 (1) (b) of the Act is imposed on any prisoner referred to in this Part for a prison offence, the authority punishing him shall order that he be reduced for such period as the authority may fix, to the stage next below the stage in which he was placed at the time of his offence.

(2) If a prisoner who has been reduced to a lower stage under subregulation (1) is of good behaviour throughout the period fixed by the authority imposing the punishment, he may be advanced to the stage from which he was reduced.

172. Reduction of special stage leader

An officer in charge may at his discretion reduce a special stage leader who proves unreliable or neglects his duties or fails in his responsibilities to the third stage for a period to be fixed by him.

173. Promotion in stage

The Commissioner may authorize the promotion of any prisoner, who has not advanced through the appropriate stages, direct to the special stage for any act or conduct, in the opinion of the Commissioner, particularly deserving of reward.

174. Transitional provisions

Any person serving a total sentence of imprisonment of three years or more or a life sentence, who has completed two years of his sentence at the date of commencement of these Regulations, may be admitted to the special stage if he has been of good behaviour for the continuous period of six months immediately preceding that date.

PART XXV MISCELLANEOUS

175. Persons not to divulge information without authority

(1) Save as is provided in subregulations (2) and (3), no prison officer or other person authorized to visit a prison shall, without the authority of the Commissioner, divulge to any person, otherwise than in the course of his duties, any information concerning the administration of prisons and the condition and treatment and affairs of prisoners.

(2) A visiting justice or official visitor may bring to the notice of the Minister or the Commissioner any contravention of the Act or of these Regulations or any other matter affecting the welfare or interests of a prisoner which comes to his notice in the course of duties.

(3) A member of a prisoners' aid society authorized to visit a prison, may bring to the notice of the Commissioner, a visiting justice or official visitor any contravention of the Act or of these Regulations or any other matter affecting the welfare or interests of a prisoner which comes to his notice in the course of his duties.

176. Cameras and photographs prohibited without authority

No person shall take a camera into any prison or take photographs in any prison without the authority of the Commissioner.

177. Offences and penalty

Any person who contravenes or fails to comply with the provisions of this Part or of regulation 143 shall be liable to a fine of K200 and to imprisonment for twelve months.

SCHEDULES
FIRST SCHEDULE *reg. 3*
DECLARATION ON ENLISTMENT

I, A. B., swear by Almighty God/do solemnly, sincerely, and truly declare and affirm that I will be faithful and bear true allegiance to the Republic of Malawi and will obey all orders of the President and all the officers placed over me and subject myself to all Acts, regulations and standing orders relating to the Malawi Prison Service during my service.

SECOND SCHEDULE *reg. 9*
DRESS REGULATIONS
PART I BADGES OF RANK

Commissioner of Prisons	:	(a)	Cherry red braid band and one row of silver oak leaves on edge of cap peak.
		(b)	Collar gorgettes—black with silver oak leaf spray.
		(c)	Crossed tipstaves surrounded by a wreath and surmounted by two sun emblems on shoulder straps.
Assistant Commissioner	:	(a)	Cherry red braid band and one row of silver oak leaves on edge of cap peak.
		(b)	Collar gorgettes—black with silver stripe.
		(c)	Crossed tipstaves surrounded by a wreath on shoulder straps.
Senior Superintendent	:	(a)	Plain silver band on edge of cap.
		(b)	Lion's head and sun emblem on shoulder straps.
Superintendent	:	(a)	Plain silver band on edge of cap peak.
		(b)	Lion's head on shoulder straps.
Assistant Superintendent	:		Two sun emblems on shoulder straps.
Gaoler	:		Malawi Arms within wreath on right arm.
Warder Class I	:		Three chevrons.
Warder Class II	:		Two chevrons.
Warder Class III	:		One chevron.

NOTES : 1. The following items of equipment shall be of white metal—

- (a) Cap badge
 - (b) Buckles
 - (c) Clasps
 - (d) Chain
 - (e) Whistle.
2. Chevrons shall be of white braid on a green base.
3. All buttons to bear the Central Shield of the Malawi Coat of Arms and to be of green horn.
4. Prison Service badge to be the Central Shield of the Malawi Coat of Arms in a garter bearing the inscription “MALAWI GOVERNMENT SECURITY PRISONS” surmounted by a Lion and the Rising Sun.

PART II A. SENIOR AND JUNIOR STAFF UNIFORMS

- (a) Cap, khaki with soft crown and cherry red braid band, Prison Service badge on front, black leather chin-strap and black leather edging to peak.
- (b) Bush shirt, terylene, open neck, four pockets with flaps, shoulder straps, short sleeves with turn-ups and belt as (i) below.
- (c) Shorts, terylene, two side pockets, to be worn 2 inches above the knee-cap.
- (d) Stockings, khaki, wool or cotton, to be worn with shorts.
- (e) Hose tops, black to be worn with stockings.
- (f) Stocking flashes—cherry red.
- (g) Shoes, black leather, plain toe-caps.
- (h) Boots, black leather.
- (i) Belt, cloth, with buckle.
- (j) Lanyard, double cord, black with clip and swivel.
- (k) Raincoat, approved pattern.
- (l) Pullover, khaki, long sleeves, V-neck, to be worn over shirt and collar and tie, shoulder straps carrying badges of rank will be worn.
- (m) Badges and buttons of approved pattern.
- (n) Whistle.

B. SUBORDINATE STAFF

- (a) Cap, khaki, with soft crown and cherry red braid band, Malawi Prison Service badge in front, black leather chin-strap.
- (b) Bush shirt, khaki drill, open neck, four pockets with flaps, short sleeves with turn-up.
- (c) Shorts, khaki drill, two side pockets, to be worn 2 inches above the knee-cap.
- (d) Shirts, khaki flannel with collar attached, open neck, two breast pockets, shoulder straps, long sleeves.
- (e) Shorts, khaki terylene, two side pockets, to be worn 2 inches above the knee-cap.
- (f) Pullover, khaki, long sleeves, V-neck.
- (g) Black belt, leather, with Prison Service clasp.
- (h) Raincape.
- (i) Whistle and chain, to be worn on belt with jersey pullover and across top of pocket with tunic or shirt.
- (j) Badges, buttons and buckles as specified.
- (k) Socks, wool.
- (l) Hose tops, khaki long.

Warders Class IV only

- (m) Puttees, green, short.
- (n) Boots, black leather.

(o) Stockings, khaki mixture.

Warders Classes III, II and I only.

(p) Stocking flashes, cherry red.

(q) Shoes, black leather.

**PART III SCALE OF ISSUE OF CLOTHING AND PERSONAL EQUIPMENT
SUBORDINATE OFFICERS**

		<i>On attestation</i>	<i>Thereafter</i>
1.	Cap	1	1 annually
2.	Bush shirt, khaki drill	1	1 every 3 years
3.	Shorts, khaki drill	1	1 every 3 years
4.	Shirts, khaki flannel	2	2 annually
5.	Shorts, khaki terylene	2	2 annually
6.	Pullover, khaki	1	1 every 2 years
7.	Belt, black leather	1	1 every 5 years
8.	Raincape	1	1 every 3 years
9.	Whistle and chain	1	
10.	Badges, buckles, buttons		
	(a) Badge, Wap	1	
	(b) Clasp (belt buckle)	1	
	(c) Buttons, green horn	1 set of 10	
	(d) Chevrons	1 set	1 set annually
11.	Socks, wool	4 pairs	4 pairs annually
12.	Hosetops, khaki	2 pairs	2 pairs annually
13.	Puttees, green short	2 pairs	2 pairs annually
14.	Boots, black leather	2 pairs	2 pairs annually
15.	Stockings, khaki	3 pairs	3 pairs annually
16.	Stocking flashes, cherry red	2 pairs	1 pair annually
17.	Shoes, black leather	2 pairs	2 pairs annually
18.	Baton, short	1	
19.	Overalls (drivers only)	As required	

PART IV MARKING OF UNIFORM-SUBORDINATE STAFF

All issues of uniform to subordinate staff must be clearly marked with the officer's number and the date of issue, e.g. 256—1—9—68.

Marking will be carried out as follows:

	<i>Colour of Mark</i>
Helmet—on sweat band	Black
Bush Shirt—inside collar, at back	Black
Shorts—inside waistband, at back	Black
Jersey—inside welt, at back	White
Puttees—inside, at junction of tape	White
Boots—inside, on left side	White
Belt—inside, at back	Black

Rain Cape—inside collar, at back	White
Blanket—across two corners diagonally opposite	White
Shirt—inside collar, at back	Black

(1) Marking will be by stencil and marking paint.

(2) As far as practicable, marking will be carried out at Headquarters Stores before issue to prisons.

**PART V GENERAL INSTRUCTIONS—WEARING OF UNIFORMS
ISSUE OF CLOTHING AND EQUIPMENT**

1.—(1) An officer shall, on first appointment, be issued with clothing and personal equipment as prescribed:

Provided that the Commissioner of Prisons may, in respect of certain officers, or certain classes of officers, direct that specified articles of clothing and personal equipment prescribed shall not be issued.

(2) Any clothing and personal equipment issued to an officer in terms of paragraph (1) shall remain the property of the Malaw[^] Government and an officer may at any time be ordered by the Commissioner of Prisons to return all or any such article so issued.

RETURN OF CLOTHING AND EQUIPMENT

2.—(1) An officer who fails to return any articles of clothing or equipment issued to him when ordered to do so in terms of paragraph 1 (2) or in terms of subparagraph (2) of this paragraph shall be liable to pay to the Government an amount equal to the cost thereof unless he can show to the satisfaction of the Commissioner of Prisons that such article was stolen, lost or destroyed, and that he took all reasonable precautions to prevent its theft, loss or destruction.

(2) An officer who retires, resigns or is discharged from the service shall return all articles of clothing and equipment on issue to him.

WEARING OF UNIFORM

3.—(1) Unless the Commissioner of Prisons otherwise directs, an officer when on duty shall wear the appropriate uniform and badges of rank.

(2) An officer shall not wear any article of uniform or badge of rank which he is not authorized to wear.

(3) An officer shall not wear any article of uniform or badge of rank when he is off duty.

MAINTENANCE OF CLOTHING AND EQUIPMENT

4. An officer shall maintain the clothing and personal equipment issued to him in serviceable condition.

5. *Bona fide* repairs to uniforms may be carried out in prison shops at the discretion of the officer-in-charge. The washing of uniforms within a prison may also be permitted where appropriate facilities exist and with the approval of the Commissioner of Prisons.

THIRD SCHEDULE *reg. 53 G.N. 31/1982*

<i>Ordinary Diet</i>		<i>Daily Issues All Prisons</i>
Maize Meal		680 g
	or Rice	454 g
	or Cassava Meal	680 g
	or Millet Meal	680 g
Peas or Beans		113 g
Fresh Vegetables		170 g
	or Fresh Peas or Beans	57 g
	or Sweet Potatoes	284 g
Chillies or Peppers		4 g

<i>Ordinary Diet</i>		<i>Daily Issues All Prisons</i>
Dripping		14 g
	or Groundnut Oil	7 g
	or Groundnuts (shelled)	28 g
	or Red Palm Oil	4 g
Salt		21 g
Fruit (in season)		113 g
<i>Ordinary Diet</i>		<i>Daily Issues Class I and II Prisons</i>
Meat		113g
	or Fresh Fish	227 g
	or Dry Fish	113g
Cocoa or Coffee		7 g
Sugar		7 g
Unlimited water		
<i>Penal Diet</i>		<i>Daily Issues Class I Prisons</i>
Maize Meal		454 g
	or Cassava Meal	454 g
	or Millet Meal	454 g
Unlimited water		
<i>Reduced Diet</i>		<i>Daily Issues Class I Prisons</i>
Maize Meal		340 g
	or Cassava Meal	340 g
	or Millet Meal	340 g
Fresh Vegetables		170 g
	or Fresh Peas or Beans	57 g
	or Sweet Potatoes	284 g
Peas or Beans		57 g
Dripping		14 g
	or Groundnut Oil	7 g
	or Groundnuts (shelled)	28 g
	or Red Palm Oil	4 g
Salt		21 g
Unlimited water		

General observation:

- (i) The above quantities are raw weight.
- (ii) Water used for cooking vegetables and meat should be issued as soup.
- (iii) Vegetables include: spinach, cabbage, tomatoes, kale, pumpkin, turnip, kohlrabi, lettuce, onions, beetroot, carrots, peas and leeks.
- (iv) Fruit includes: lemons, limes, oranges, pawpaws, bananas, mangoes, guavas, granadillas and mulberries.

- (v) Expenditure may be incurred at such rates as the Minister may approve from time to time for the purpose of purchasing additional rations for issue on Christmas Day.

FOURTH SCHEDULE reg. 53

PRISONERS' CLOTHING AND ACCESSORIES

<i>Scale</i>	<i>Male</i>
	2 shirts
	2 pairs of shorts
	2 singlets (cold season only)
	2 lb. soap monthly (where no laundry)
	1 lb. soap monthly (where laundry)
	1 pair of sandals, at the discretion of the officer-in-charge
<i>Scale</i>	<i>Female</i>
	2 dresses
	2 pairs of knickers
	2 petticoats
	2 singlets (cold season only)
	2 lb. soap monthly (where no laundry)
	1 lb. soap monthly (where laundry)
	1 pair of sandals, at the discretion of the officer-in-charge

FIFTH SCHEDULE reg. 53

CELL EQUIPMENT

<i>Scale</i>	
	3 or 4 blankets (cold season)
	2 or 3 blankets (hot season)
	1 sleeping mat
	1 mug
Where no permanent latrine is available the following additional issue will be made:	
	1 latrine bucket or 1 chamber pot

SIXTH SCHEDULE reg. 109

MALAWI PRISON SERVICE

PART I ESCAPE REPORT

1. Name and Prison No

.....

2. Village Chief

.....

3. District of origin

.....

4. Sentence

.....

5. Offence

.....

6. Court and date awarded

.....

7. Warder from whose custody he escaped

.....

8. Time and date of escape

9. Whether from inside or outside the prison

10. Place

11. Method of escape

12. Labour on which employed

13. If blame attached to any person

14. Steps taken to recapture.....

15. If fire-arms used amount of ammunition expended.....

16. Clothing or other articles of Government property taken by escapee and value

17. Description (overleaf)

Prison	
	<i>Officer-in-Charge</i>
19.....	

To: THE COMMISSIONER OF PRISONS, P.O. Box 28, ZOMBA, MALAWI.
THE OFFICER IN CHARGE, POLICE, DISTRICT.
OFFICER IN CHARGE, C.I.D., ZOMBA.

Description:

Height

Age (state if known or estimated)

Weight

Build

Peculiarities of body or limb

Colour

Colour of face or features

District

Chief

Sub-Chief

Granted under the Prisons Act, to Prisoner No

.....
 Name convicted by on the day of
 19 of the offence of and sentenced to
 imprisonment for life as recorded in Case File
 No..... of..... Court.

By virtue of the powers conferred by Part XX of the Prisons Act, I hereby order and direct
 that at present undergoing the above sentence in
 Prison be set at large on the day of
 19.....

And this shall be full and sufficient licence for the said to remain at
 large subject to the conditions and to the provisions of the aforesaid Act.

Given under my hand at this day of
 19

.....
Minister

Description of Holder of Licence

Race		
Colour.....		
Apparent age (date of birth if known).....		
Address.....		
Trade or profession		
Father's name		
Height.....		
Build (stout, medium, slender)		
District		Where applicable
Chief		
Village.....		

IDENTIFICATION MARKS
Photographs

Side Face		Front Face
-----------	--	------------

Fingerprints

RIGHT HAND

Right Thumb	Right Forefinger	Right Middle Finger	Right Ring Finger	Right Little Finger

LEFT HAND

Left Thumb	Left Forefinger	Left Middle Finger	Left Ring Finger	Left Little Finger

Passport or Identification Card No. (where known)

.....

Criminal Records Office No.

.....

DETAILS OF LICENCE

(1) Period of Licence months days

(2) Expiration date

Record of Reports made by Holder of Licence		
Date	Place	Signature and Designation of Officer to whom Report made

CONDITIONS OF LICENCE TO BE AT LARGE

You are hereby licensed to be at large within subject to the following conditions:

- (a) you shall preserve this licence and at all times produce it on demand by a magistrate, prison officer, probation officer, or member of a police force;
- (b) you shall abstain from any violation of any written law;
- (c) you shall not habitually associate with bad characters such as reputed thieves, house-breakers, receivers of stolen property and the like;
- (d) you shall not lead an idle or dissolute life;
- (e) you shall, at the time of your release from prison, inform the officer in charge thereof of the place where you intend to reside and shall as soon as possible proceed to such place and report personally to the officer in charge of the police station or the magistrate or District Commissioner in charge of the District whose office is nearest to the place where you intend residing;
- (f) you shall thereafter report personally to the officer in charge of the police station, the magistrate or the District Commissioner in charge of the District whose office is nearest to the place where you reside;
- (g) you shall, on every change of address within the same District, notify either personally or by letter the person to whom you originally reported in terms of paragraph (e) and, on every change of your residence from one District to another, shall either personally or by letter give that person forty-eight hours' prior notice of your intention to leave and, so far as is practicable, your future address and shall, within forty-eight hours of arrival at your destination within the new District in which you intend to reside, report yourself personally to the officer in charge of the police station, or the magistrate or District Commissioner whose office is nearest to your destination;
- (h)

.....
 If you prove to the satisfaction of any magistrate that you have, through no fault of your own, lost this licence, you shall be entitled to a duplicate.

If the Minister is satisfied that you have failed to comply with any of the conditions of this licence, he may order it to be cancelled, unless he is satisfied that your failure was due to

circumstances beyond your control and that you observed the conditions of your licence as soon as circumstances permitted.

You are warned that, once your licence has been cancelled, you will be treated as unlawfully at large and may be arrested and, in addition to any penalty which you may incur in respect of the act which led to the cancellation of your licence, be liable to be detained in prison for the period of your original sentence which was unexpired at the date of the cancellation of your licence.

If during the period of this licence to be at large you leave Malawi, unless authorized to do so by this licence or by the Minister, you will be guilty of an offence and liable to imprisonment for a period of three months.

I hereby certify that I fully understand the conditions of this licence, which have been explained to me by the officer in charge.

.....
<i>Witness</i>	<i>Signature or Mark of Holder</i>
.....
<i>Date</i>	<i>Officer in Charge</i>
..... <i>Prison</i>	

EIGHTH SCHEDULE *reg. 157*
PAYMENT SCHEME

(1) The following pay may be earned by prisoners in accordance with Part XXIII of these Regulations:

After 12 months 1s per week

(2) Special stage leaders appointed under regulation 169 may receive a gratuity of two shillings per month in addition to the above rate of pay.

NOTE

The Prison (Maintenance of Judgment Debtors) Regulations, 1956 (G.N. 110/1956 (F)) are not published here as these Regulations are to be replaced shortly.