

Assented to in Her Majesty's name this 1st day of November, 1966.

Haskard
Governor.



No. 5

1966



Colony of the Falkland Islands.

IN THE FIFTEENTH YEAR OF THE REIGN OF

Her Majesty Queen Elizabeth II.

SIR COSMO HASKARD, K.C.M.G., M.B.E.

Governor.

An Ordinance

Relating to the Custody of Prisoners and the Regulation of Prisons.

(1st November, 1966)

ENACTED by the Legislature of the Colony of the Falkland Islands, as follows—

Date of commencement.
Enacting clause.

- 1. This Ordinance may be cited as the Prison Ordinance, 1966. Short title.
- 2. (1) In this Ordinance, unless the context otherwise requires— Interpretation.
 - “board” means the board established under section 7 of the Ordinance;
 - “civil prisoner” means any prisoner other than a criminal prisoner or trial prisoner;
 - “criminal prisoner” means any prisoner convicted of a crime or offence or ordered to pay any fine or penalty or other penal sum or to enter into a recognizance;
 - “medical officer” means an officer appointed under section 20 of this Ordinance;
 - “misconduct” means—
 - (a) disobeying any order of any prison officer or any prison rule;
 - (b) treating with disrespect any prison officer or any person authorised to visit the prison;
 - (c) idleness, carelessness, or negligence at work, or refusal to work;

- (d) using any abusive, insolent, threatening, or other improper language;
- (e) indecency in language, act, or gesture;
- (f) committing any assault;
- (g) communicating with another prisoner without authority;
- (h) leaving a cell or place of work or other appointed place without permission;
- (i) a prisoner wilfully disfiguring or damaging any part of the prison or any property which is not his own;
- (j) committing any nuisance;
- (k) a prisoner having in his cell or possession any unauthorized article, or attempting to obtain such an article;
- (l) giving to or receiving from any person any unauthorized article;
- (m) escaping from prison or from legal custody;
- (n) mutiny or inciting other prisoners to mutiny;
- (o) committing gross personal violence to a prison officer;
- (p) committing gross personal violence to another prisoner;
- (q) making repeated and groundless complaints;
- (r) making false and malicious allegations against a prison officer;
- (s) in any other way offending against good order and discipline;
- (t) attempting to do any of the foregoing things.

“Officer in Charge” means the person appointed by the Governor under section 3 of this Ordinance to be in charge of the prison;

“prison” means any place which the Governor may by order under subsection (2) of this section declare to be part of the prison;

“prison officer” means any police officer and any officer appointed under the provisions of section 3 of this Ordinance; “trial prisoner” means an accused person committed to prison on remand or to await trial.

(2) The Governor may, by order published in the Gazette, declare any place, whether established as a prison before or after the coming into operation of this Ordinance, to be a part of the prison for the purposes of this Ordinance, and may, in like manner, declare that any such place shall cease to be a part of the prison for the purposes of this Ordinance.

(3) Unless the Governor makes any order to the contrary under subsection (2) of this section, he shall be deemed to have made one to apply to the place which is at the date of the coming into operation of this Ordinance used as a prison and known as the Stanley Prison, and which shall from such date be named and referred to as the prison.

3. The Governor may from time to time appoint, for the control and conduct of the prison, an Officer in Charge, a matron and such other officers as he may deem necessary.

4. Every person appointed to be an Officer in Charge or a prison officer shall on appointment take the following oath before a justice of the peace —

I,....., do swear by Almighty God that I will not directly or indirectly reveal to any unauthorized persons such matters as shall come to my knowledge by virtue of my appointment. So help me God.

5. The Officer in Charge and officers shall, while engaged in the duties of prison officers, have all the powers, protection and

Appointment of prison staff.

Oaths.

Powers.

privileges of a constable within the meaning of the Police Ordinance, 1966.

Officer in Charge's standing orders.

6. The Officer in Charge shall, subject to the orders and directions of the Governor, exercise control and superintendence over the prison and the prison officers and may, with the approval of the Governor, issue standing orders, not repugnant to this Ordinance or any regulations made thereunder, for the observance of the prison officers in the discharge of their duties.

7. (1) The Governor shall on the first day of January in each year appoint from the panel of justices resident in Stanley two such justices to constitute a Board of Visiting Justices for the ensuing year. The Magistrate shall be a permanent and senior member.

Constitution of board.

(2) Visiting Justices shall enter and inspect any prison and see and receive complaints from prisoners when they may so decide but at least four times in any year, and after each such inspection shall report thereon and as to any complaints received from prisoners and the manner in which they were dealt with to the Governor.

Record book.

8. Every member of the board may enter into, and examine the condition, of the prison and the prisoners therein, and may inspect the prison records, and shall record, in a book to be provided and kept by the Officer in Charge for that purpose, any remarks which he may think fit to make in regard to the condition of the prison or of the inmates thereof; and it shall be the duty of the Officer in Charge to make the book available for perusal by every member of the board who visits the prison, and at every meeting of the board.

Disqualification of board as to contracts.

9. No member of the board may in any way be concerned with any contracts for supplies for use in the prison.

Search.

10. (1) Every prisoner shall be searched when taken into custody by a prison officer, on reception into prison, and at such subsequent times as are directed and all unauthorized articles shall be taken from him.

(2) The searching of a prisoner shall be conducted in as seemingly a manner as is consistent with the necessity of discovering any concealed article.

(3) No prisoner shall be stripped and searched in the sight of another prisoner.

(4) A prisoner shall be searched only by a prison officer of the same sex as the prisoner.

Convicted prisoners' photographs, etc.

11. (1) All prisoners shall be weighed on admission and any of their personal particulars recorded.

(2) Convicted prisoners may be photographed, and prints may be taken of their hands and feet.

12. Whenever possible a separate cell shall be provided for every prisoner.

Cells.

13. Male prisoners shall be kept separate from female prisoners in such manner as to prevent their seeing, conversing with or communicating with each other.

Males and females.

14. The following classes of prisoners of each sex shall, so far as accommodation in the prison renders it practicable, be separated from one another, namely—

Other classes.

- (a) prisoners under the age of seventeen years from prisoners over that age;
 - (b) criminal and trial prisoners from civil prisoners;
 - (c) trial prisoners from convicted prisoners,
- and any other such class may be separated into such divisions as may be prescribed.

15. Separate cells shall be provided or appropriated for prisoners undergoing punishment for prison offences.

Punishment cells.

Infirm prisoners.

16. Adequate separate accommodation shall be provided for persons suffering from infirmity, sickness or other bodily or mental ailment.

Children of females.

17. (1) The child of a female prisoner may be admitted into the prison with its mother if the court which committed the prisoner shall have authorized such admission, and the child shall not be taken from its mother unless the medical officer shall so direct:

Provided that no such child shall be retained in prison after it has attained the age of twelve months unless the medical officer shall consider such retention to be highly desirable or unless there is no suitable person who is willing and able to care for the child.

(2) Any child so retained shall, if necessary, be clothed at the public expense.

(3) The medical officer may make such recommendations regarding the diet of such child as he may deem fit.

Compulsion to work.

18. All male prisoners over the age of seventeen years and under the age of sixty years who are undergoing sentence of imprisonment shall, if certified by the medical officer to be fit therefor, be set to work, and may be compelled to work inside or outside the walls of the prison, on such work and at such times and in such manner as may be prescribed, subject to the approval of the Governor, in standing orders issued by the Officer in Charge:

Provided that female prisoners shall not work outside the prison unless so ordered by the medical officer, and shall be employed only on such labour as is suitable for women.

Nature of work.

19. The work to which any prisoner undergoing sentence of imprisonment may be set within the prison shall be such as may be prescribed or as may be ordered by the Officer in Charge and approved by the Governor, and such work may include the necessary services of the prison or of the quarters of the Officer in Charge, but shall not include any personal services for prison officers.

Appointment of medical officer.

20. The duties of medical officer of the prison shall be performed by such medical officers as the Governor may from time to time appoint.

Duties of medical officer.

21. The medical officer shall have the general care of the health of all prisoners, and shall make known to the Officer in Charge any circumstances connected with the prison or the treatment of the prisoners which at any time appears to him to require consideration on medical grounds.

Examination of prisoners.

22. The medical officer shall examine every prisoner as soon as possible after admission and immediately prior to discharge, and on such other occasions and for such other purposes as may be prescribed, and shall record the results of such examination on the nominal roll of prisoners.

Inspection of prison.

23. When there are prisoners or other persons held within the prison the medical officer shall, at intervals of not more than once in each fortnight, inspect the prison, including the drains, lavatories and kitchens, and the food provided for prisoners, and shall perform such other duties in connection therewith as may be prescribed.

Medical officer's directions.

24. The Officer in Charge shall put into effect any directions which the medical officer may give for preventing injury to health.

Removal to hospital.

25. (1) A prisoner may, by the direction of the medical officer or, in urgent cases, of the Officer in Charge, be removed to the hospital.

(2) Save as otherwise expressly provided, a prisoner shall be deemed for all purposes to be in prison custody while he is in or proceeding to and from hospital:

Provided that a prison guard need not be provided unless the Officer in Charge thinks necessary.

(3) A prisoner shall be returned from the hospital to the prison when the medical officer certifies that he is fit to return.

26. No cell shall be used for the confinement of a prisoner unless — Fitness of cells.

(a) it shall have been certified by the Senior Medical Officer and the Superintendent of Works to be of such nature as not to cause a deterioration in the health of the prisoner; and

(b) it is furnished with the means of enabling the prisoner at any time to communicate with a prison officer.

27. The Officer in Charge shall give immediate notice to the Governor of the death of any prisoner, and thereupon the Coroner shall within twenty-four hours hold an inquest upon the body of such prisoner, but in no case shall any officer of the prison, or any person who has been confined in the prison be a juror on such inquest. Inquests.

28. The Governor may empower the board or the Officer in Charge to award punishment to prisoners, of such nature and in respect of such offences and in such manner as may be prescribed. Powers of punishment.

29. Prisoners sentenced to periods of imprisonment may, in such manner as may be prescribed, be released after expiry of not less than two-thirds of the time which they are sentenced to spend in prison: Remission.

Provided that no such reduction shall reduce the time spent in prison to less than thirty-one days.

30. (1) The Governor may at any time if he thinks fit release on licence a person serving a term of imprisonment for life subject to compliance with such conditions, if any, as the Governor may from time to time determine. Release on licence of persons serving imprisonment for life.

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

31. The Officer in Charge shall keep a register in which he shall record the religious denomination to which any prisoner admitted to the prison shall declare himself to belong, and shall, on the request of any minister of religion who may be authorized under the provisions of this Ordinance to visit prisoners, supply such minister with a list of the prisoners declared to belong to the religious denomination of that minister. Register.

32. Subject to the provisions of this Ordinance and to any conditions which may be prescribed, the Governor may authorize a minister of any religious denomination to visit any prisoner belonging to the same denomination who shall consent thereto, and to celebrate religious services in the presence of such prisoner. Visiting ministers.

33. So far as is practicable, arrangements shall be made for a minister of the Christian religion to hold services for the prisoners on Sundays, Good Friday and Christmas Day. Services.

34. The Officer in Charge shall publish in a notice upon the outside of the prison walls the fact that an execution is about to take place. Announcement of pending execution.

35. (1) Judgment of death shall be executed within the walls of the prison. Place of execution.

(2) The public shall have no right to be present at or witness such execution, but subject to the requirements of this Ordinance, such persons only as the Officer in Charge may authorize in writing to enter the prison for such purpose and at such time as the Officer in Charge may appoint.

Persons to be present.

36. (1) The Officer in Charge or other officer charged with the execution, the medical officer and such prison officers as the Officer in Charge directs shall be present at the execution.

(2) A minister of religion authorized under this Ordinance to visit prisoners in the prison may be present at the execution.

Certificate and declaration. First Schedule.

37. (1) Immediately after the execution the medical officer shall sign a certificate in the form prescribed in the First Schedule to this Ordinance, and shall deliver such certificate to the Officer in Charge.

Second Schedule.

(2) The Officer in Charge and such other persons present as the Officer in Charge allows shall sign a declaration in the form prescribed in the Second Schedule to this Ordinance and such certificate shall be retained by the Officer in Charge.

Inquest.

38. (1) The Coroner shall within six hours of the execution hold an inquest with a jury, and the Coroner's jury shall ascertain the identity of the body and whether judgment of death was duly executed.

(2) Such inquisition shall be in duplicate and one of the originals shall be delivered to the Officer in Charge.

Burial.

39. The body of every offender executed shall be buried within the prison walls:

Provided that if the Governor is satisfied that there is no convenient place within the walls for such burial he may appoint some other fit place for that purpose.

Standing orders of Officer in Charge.

40. The Officer in Charge may, with the previous approval of the Governor, make standing orders to be observed in the execution of any sentence of death.

Transmission of documents.

41. (1) The aforementioned certificate, declaration and a duplicate of the inquisition shall be transmitted by the Officer in Charge to the Governor forthwith.

(2) Copies of the said documents shall be publicly exhibited outside the principal entrance to the prison as soon as possible after the execution and for a period of not less than twenty-four hours.

Saving as to legality.

42. Omission to comply with any provision of this Ordinance shall not of itself make the execution of judgment of death illegal.

Escaping.

43. Any prisoner who breaks or escapes from any prison or person having lawful custody of him shall be guilty of an offence and liable, on conviction or indictment, to imprisonment for a term not exceeding two years.

Attempts to escape.

44. Any prisoner who attempts to break or escape from prison or forcibly breaks out of his cell or makes any break therein with intent to escape therefrom shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding one year.

Aiding escape.

45. Any person who —

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

(b) conveys anything or causes anything to be conveyed into the prison with intent to facilitate the escape of a prisoner, shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding two years.

46. (1) Any person who without lawful authority or excuse introduces into the prison or delivers to any prisoner any spiritous or fermented liquor, tobacco, intoxicating or poisonous drug or any other article prescribed as prohibited, or, being a prison officer, suffers anything hereinbefore in this section enumerated to be sold or used in the prison, shall be guilty of an offence and liable, on summary conviction, to a fine not exceeding twenty pounds or to imprisonment for a term not exceeding six months or to both such fine and imprisonment.

Forbidden articles.

(2) Every prison officer convicted of contravening any provision of subsection (1) of this section shall, in addition to any punishment, forfeit his office and all arrears of salary due to him.

47. Any person who without the permission of the Officer in Charge communicates or attempts to communicate with any prisoner, or conveys or attempts to convey any letter or other communication to or from any prisoner, shall be guilty of an offence and liable on summary conviction to a fine not exceeding ten pounds and, if a prison officer, shall also forfeit his office and all arrears of salary due to him.

Forbidden communica-
tions.

48. The Officer in Charge shall cause to be fixed in a conspicuous place outside the entrance to the prison a notice summarising the offences against this Ordinance and the punishment to which offenders are liable.

Notice of offences.

49. (1) Immediately on admission every convicted prisoner shall, if he has a right of appeal, be informed thereof and of conditions governing such appeal.

Appellants.

(2) Any prisoner who properly notifies the Officer in Charge of his intention to appeal shall be given all necessary facilities for prosecuting such appeal.

(3) From the date of entering into a recognizance to prosecute an appeal each prisoner shall be known and treated as an appellant.

(4) Subject to any direction of the Supreme Court, the time during which an appellant is in custody shall not count as part of his sentence, in which case the sentence shall commence from the date upon which the prisoner is taken into custody after the determination of the appeal.

50. (1) Every prisoner confined in the prison shall be deemed to be in the legal custody of the Officer in Charge, and shall not be removed from the prison before he becomes lawfully entitled to release save in the following cases —

Special removal of
prisoners.

- (a) in pursuance of any order or process of a court of justice;
- (b) in case of fire or sudden or urgent necessity;
- (c) for the purpose of work or recreation;
- (d) in any case in which the medical officer or, in case of emergency and in the absence of the medical officer, the Officer in Charge, may direct his removal to hospital for purposes of examination or treatment:

Provided that the Governor may order the removal of a prisoner to such other place of confinement as may be specified in the order for the purpose of enabling the prison to be altered, enlarged, repaired or rebuilt, or in case of a contagious or infectious disease breaking out in the prison, for the prisoner to appear before a court of examination, trial or as a witness, or for any other reasonable cause, and may at any time order that any such prisoner be returned to the prison.

(2) A prisoner who has been removed from the prison in pursuance of the provisions of this section shall, notwithstanding such removal, be deemed for the purposes of this Ordinance to be confined within the prison.

Removal of visitors.

51. The Officer in Charge may remove or cause to be removed from the prison any visitor to the prison whose conduct is improper.

Regulations.

52. The Governor may make regulations generally for giving effect to the provisions of this Ordinance, and in particular, but without prejudice to the generality of the foregoing regulations—

- (a) the management and discipline of the prison;
- (b) visits to and communications with prisoners;
- (c) the working of prisoners outside the prison walls.

Repeal.
(Part 2. Cap. 51)

53. Part 2 of the Police and Prisons Ordinance is hereby repealed.

Section 37 (1)

FIRST SCHEDULE

Certificate of Medical Officer

I A.B., the Prison Medical Officer, hereby certify that I this day examined the body of C.D., on whom judgment of death was this day executed in the prison and that on examination I found that the said C.D., was dead.

Dated this day of 19.....

(Signed) A.B.

Section 37 (2)

SECOND SCHEDULE

Declaration of Officer in Charge and others

We, the undersigned hereby declare that judgment of death was this day executed on C.D. in the prison in our presence.

(Signed) Officer in Charge.

..... Prison Officer.

..... Medical Officer.

..... Chaplain.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

Clerk of the Legislative Council.

Ref. 0836/II.