

The Prisons Act [1894]

An Act to amend the law relating to prisons

Whereas it is expedient to amend the law relating to prisons in India except the territories, which, immediately before The 1st November, 1956, were, comprised in Part B States, and to provide rules for the regulation of such prison; It is hereby enacted as follows:

State Amendment

Andhra Pradesh

In the preamble after the expression “except the territories which immediately before the 1st November, 1956, were comprised in Part B State”, the expression “other than the territories specified in sub-section (1) of Sec. 3 of the States Reorganisation Act, 1956”, shall be added.¹

Chapter I

Preliminary

1. Title, extent and commencement. – (1) This Act may be called the Prisons Act, 1894.

²(2) It extends to the whole of India except ³[the territories which, immediately before the 1st November, 1956, were comprised in Part B States]; and

(3) It shall come into force on the first day of July, 1894.

(4) Nothing in this Act shall apply to civil jails in the ⁴[State] of Bombay as it existed immediately before the 1st November, 1956 outside the City of Bombay, and those jails shall continue to be administered under the provisions of Sections 9 and 16 (both inclusive) of Bombay Act 2 of 1874, as amended by subsequent enactments.⁵

State Amendment

Andhra Pradesh

In sub-section (2) of Section 1, after the expression “except the territories which immediately before the 1st November, 1956, were comprised in Part B State”, the expression “other than the territories specified in sub-section (1) of Sec. 3 of the States Reorganisation Act, 1956”, shall be added.

2. Repeal. – Repealed by the Repealing Act, 1938 (1 of 1938), s. 2 and Schedule.

¹ *Vide* A.P. Act 23 of 1958, Schedule.

² Substituted by A.L.O., 1950 (with effect from [w.e.f.] 26th January, 1950).

³ Substituted by A.L.O. (No. 2) 1956, for “Part B States” (w.e.f. 1st November, 1956).

⁴ Substituted by A.L.O., 1950 for “Province” (w.e.f. 1st November, 1956).

⁵ The Civil Jails Act, 1874.

3. Definitions. – In this Act–

"Prison" means any jail or place used permanently or temporarily under the general or special orders of a State Government for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include –

- Any place for the confinement of prisoners who are exclusively in the custody of the police;
- Any place specially appointed by the State Government under section 541 of the Code of Criminal Procedure, 1882; or
- Any place, which has been declared by the State Government, by general or special order, to be a subsidiary jail;

"Criminal prisoner" means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial;

"Convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the ⁶Code of Criminal Procedure, 1882, or under the Prisoners Act, 1871⁷;

"Civil prisoner" means any prisoner who is not a criminal prisoner;

"Remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jails;

"History-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder;

"Inspector General" means the Inspector General of Prisons;

"Medical Subordinate" means an Assistant Surgeon, Apothecary or qualified Hospital Assistant: and

"Prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

State Amendments

Andhra Pradesh

In Section 3, after clause (4), the following clause shall be inserted, namely: –

“(4-A) ‘furlough system’ means the system of releasing prisoners in jails on furlough in accordance with the rules for the time being in force.”⁸

⁶ See now the Code of Criminal Procedure, 1973 (2 of 1974).

⁷ See now the Prisoners Act, 1900.

⁸ *Vide* A.P. Act 23 of 1958, Schedule.

Bombay

Amendment of Section 3 of Act IX of 1891 – In Section 3 of the Prisons Act, 1894, hereinafter referred to as the said Act, for clause (5), the following clauses shall be substituted, namely: –

“(5) ‘Remission system’ means the system of regulating the award of marks to, and the consequent shortening of sentences of, prisoners in jail in accordance with the rules for the item being in force.

(5-A) ‘Furlough system’ means the system of releasing prisoners in jail on furlough in accordance with the rules for the time being in force.”⁹

Chapter II

Maintenance and officers of prisons

4. Accommodation for prisoners. – The State Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

5. Inspector General. – An Inspector General shall be appointed for the territories subject to each State Government, and shall exercise, subject to the orders of the State Government, the general control and superintendence of all prisons situated in the territories under such Government.

6. Officers of prisons. – For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailer and such other officers as the State Government thinks necessary:

Provided that the State Government of Bombay may declare by order in writing that in any prison specified in the order the office of Jailer shall be held by the person appointed to be Superintendent.

7. Temporary accommodation for prisoners. – Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison, or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners, provision shall be made, by such officer and in such manner as the State Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

⁹ *Vide* Bombay Act 27 of 1953, Sec. 2.

Chapter III

Duties of Officers

Generally

8. Control and duties of officers of prisons. – All officers of a prison shall obey the directions of the Superintendent; all officers subordinate to the Jailer shall perform such duties as may be imposed on them by the Jailer with the sanction of the Superintendent or be prescribed by rules under Section 59.

9. Officers not to have business dealings with prisoners. – No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings, directly or indirectly, with any prisoner.

10. Officers not to be interested in prison-contracts. – No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of the prison; nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

Superintendent

11. Superintendent. – (1) Subject to the orders of the Inspector General, the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special directions as may be given by the State Government, the Superintendent of a prison other than a central prison or a prison situated in a Presidency-town shall obey all orders not inconsistent with this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon.

State Amendment

Andhra Pradesh

In sub-section (2) of Section 11 for the words “the District Magistrate”, the words “District Collector” shall be substituted.

12. Records to be kept by Superintendent. – The Superintendent shall keep, or cause to be kept, the following records:

1. A register of prisoners admitted;
2. A book showing when each prisoner is to be released;
3. A punishment-book for the entry of the punishments inflicted on prisoners for prison-offences;
4. A visitors' book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison ;
5. A record of the money and other articles taken from prisoners ; and all such other records as may be prescribed by rules under section 59.

Medical Officer

13. Duties of Medical Officer. – Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the State Government under section 59.

14. Medical Officer to report in certain cases. – Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper. This report, with the orders of the Superintendent thereon, shall forthwith be sent to the Inspector General for information.

15. Report on death of prisoner. – On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely:

1. The day on which the deceased first complained of illness or was observed to be ill,
2. The labour, if any, on which he was engaged on that day,
3. The scale of his diet on that day,
4. The day on which he was admitted to hospital,
5. The day on which the medical officer was first informed of the illness,
6. The nature of the disease,
7. When the deceased was last seen before his death by the medical officer or medical subordinate,
8. When the prisoner died, and
9. (In cases where a postmortem examination is made) an account of the appearances after death, together with any special remarks that appear to the medical officer to be required to be made.

Jailer

16. Jailer. – (1) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

(2) The Jailer shall not, without the Inspector General's sanction in writing, be concerned in any other employment.

17. Jailer to give notice of death of prisoner. – Upon the death of a prisoner, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

18. Responsibility of Jailer. – The Jailer shall be responsible for the safe custody of the records to be kept under Section 12 for the commitment warrants and all other documents confined to his care and for the money and other articles taken from prisoners.

19. Jailer to be present at night. – The Jailer shall not be absent from prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

20. Power of Deputy and Assistant Jailers. – Where a Deputy Jailer or Assistant Jailer is appointed to a prison, he shall subject to the orders of the Superintendent, be competent to perform

any of the duties, and be subject to all the responsibilities, of a Jailer under this Act or any rule thereunder.

Subordinate Officers

21. Duties of gate-keeper. – The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article in or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Jailer.

22. Subordinate officers not to be absent without leave. – Officers subordinate to the Superintendent shall not be absent from the prison without leave from the Superintendent or the Jailer.

23. Convict officers. – Prisoners who have been appointed as officers shall be deemed to be public servants within the meaning of the Indian Penal Code, 1860 (45 of 1860).

Chapter IV

Admission, Removal and Discharge of Prisoners

24. Prisoners to be examined on admission. – (1) Whenever a person is admitted into prison, he shall be searched and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailer, a record of that state of the prisoner's health and of any wounds or marks on his person, the class of labour he is fit for, if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

(3) In the case of female prisoners the search and examination shall be carried out by the Matron under the general or special order of the Medical Officer.

25. Effects of prisoners. – All money or other articles in respect whereof no order of a competent Court has been made, and may with proper authority be brought into the prison by any criminal prisoner or to the prison for his use, shall be placed in custody of the Jailer.

26. Removal and discharge of prisoners. – (1) All prisoners, previously being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison, if labouring under any acute or dangerous distemper, not until, in the opinion of the Medical Officer, such discharge is safe.

Chapter V

Discipline of Prisoners

27. Separation of prisoners. – The requisitions of this Act with respect to the separation of prisoners are as follows:

- (1) In a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings or separate parts of the same building, in such a manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners;
- (2) In a prison where male prisoners under the age of twenty-one¹⁰ are confined, means shall be provided for separating them altogether from the other prisoners and for separating those of them who have arrived at the age of puberty from those who have not;
- (3) Unconvicted criminal prisoners shall be kept apart from convicted prisoners; and
- (4) Civil prisoners shall be kept apart from criminal prisoners.

28. Association and segregation of prisoners. – Subject to the requirements of the last foregoing section, convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

29. Solitary confinement. – No cell shall be used for solitary confinement unless it is furnished with the means enabling the prisoner to communicate at any time with an officer of the prison, and ever prisoner so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

30. Prisoners under sentence of death. – (1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by the order of, the Jailer and all articles shall be taken from him, which the Jailer deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners, and shall be places by day and by night under the charge of a guard.

Chapter VI

Food, Clothing and Bedding of Civil and Unconvicted Criminal Prisoners

31. Maintenance of certain prisoners from private sources. – A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector General.

32. Restriction on transfer of food and clothing between certain prisoners. – No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner; and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

¹⁰ Substituted by Act VI of 1930, for the word “eighteen”

33. Supply of clothing and bedding to civil and unconvicted criminal prisoners. – (1) Every civil and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative shall, within forty-eight hours after the receipt by him of a demand in writing, pay to the Superintendent the cost of clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

State Amendment

Andhra Pradesh

In Section 33 of the Prisons Act, 1894 for sub-section (2), the following sub-section shall be substituted, namely:

“(2) When a civil prisoner has been committed to prison by a Court in execution of any decree or order in favour of a private person, such person shall immediately deposit or cause to be deposited in Court, to meet the cost of the prisoner’s clothing and bedding, such amount as may be fixed by the Court in accordance with the rules if any, made by the State Government in that behalf; and in default of such deposit, the prisoner may be released.”¹¹

Chapter VII

Employment of Prisoners

34. Employment of civil prisoners. – (1) Civil prisoners may, with the Superintendent’s permission, work and follow any trade and profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and cost of maintenance.

35. Employment of criminal prisoners. – (1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of the opinion that the health of any prisoner suffers from employment of any kind or class of labour, such prisoner shall not be employed on that labour but

¹¹ *Vide* A.P. Act 19 of 1947, Sec. 2.

shall be placed on such other kind or class of labour as the Medical Officer may consider suited for him.

State Amendment

Andhra Pradesh

In sub-section (1) of Section 35, for the words “nine hours” the words “eight hours” shall be substituted.¹²

36. Employment of criminal prisoners sentenced to simple imprisonment. – Provisions shall be made by the Superintendent for the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment; but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such prisoner.

Chapter VIII

Health of Prisoners

37. Sick prisoners. – (1) The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such persons to the Jailer.

(2) The Jailer shall, without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him, or who is ill, or whose state of mind and body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

38. Record of directions of Medical Officer. – All directions given by the Medical Officer or the Medical Subordinate in relation to any prisoner, with exception of orders for supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner’s history-ticket or in such other record as the State Government may by rule direct, and the Jailer shall make an entry in its proper place stating in respect of each direction the facts of its having been or not having been complied with, accompanied by observations, if any, as the Jailer thinks fit to make, and the date of the entry.

39. Hospital. – In every prison a hospital or proper place for the reception of sick prisoners shall be provided.

State Amendment

Andhra Pradesh

After Section 39 of the Prisons Act, 1894, the following section shall be inserted, namely:

¹² *Vide* A.P. Act 23 of 1958, Schedule.

“39-A. Power of Superintendent to send a prisoner to hospital or asylum for special treatment. – The Superintendent may, if in his opinion, a prisoner requires special treatment in a hospital outside the prison in an asylum as defined in Indian Lunacy Act, 1912, send him to such hospital or asylum subject to the prisoner executing such bond and abiding by such other conditions, if any, as the State Government may by rule or order prescribe. Any period during which the prisoner is undergoing treatment in such hospital or asylum or spent by him in going thereto or returning therefrom shall be deemed to be part of the period of his detention in prison.

Explanation – Nothing contained in this section shall be deemed to affect the operation of Section 30 of the Prisoners Act, 1900, in cases to which that section applies.¹³

A.P. Amendment of Section 39-A, Central Act 9 of 1894 – In Section 39-A of the Prisons Act, 1894 (hereinafter referred to as the said Act), the explanation shall be renumbered as Explanation I and the following shall be added as Explanation II, namely: –

A.P. Insertion of new Sections 39-B and 39-C in Central Act 9 of 1894

“Explanation II – In this section, “prisoner means a convicted criminal prisoner.”

After Section 39-A of the said Act, the following sections shall be inserted, namely: –

“39-B. Punishment for escape or attempt to escape from hospital or asylum. – If any prisoner dealt with under Section 39-A escapes or attempts to escape from the hospital or asylum to which he has been sent or when going thereto or returning therefrom, he shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both.

The punishment under this section shall be in addition to the punishment for which the prisoner was liable for the offence of which he was already convicted.

39-C. Provisions applicable to bonds referred to in Section 39-A. – The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall so far as may be, apply to the bonds referred to in Section 39-A.”¹⁴

Chapter IX

Visits to Prisoners

40. Visits to civil and unconvicted prisoners. – Due provision shall be made for the admission, at proper times and under proper restrictions into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that so far as may be consistent with the interests of justice, prisoners under-trial may see their duly qualified legal advisers without the presence of any other person.

¹³ *Vide* A.P. Act 14 of 1938, Sec.2.

¹⁴ *Vide* A.P. Act 5 of 1940, Sections 2 and 3.

41. Search of visitors. – (1) The Jailer may demand the name and address of any visitor to a prisoner, and when the Jailer has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any visitor refusing to permit himself to be searched the Jailer may deny him admission; and grounds of such proceeding, with the particulars thereof, shall be entered in such record as the State Government may direct.

Chapter X

Offences in relations to Prisons

42. Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners. – Whoever, contrary to any rule under Section 59 introduces or removes or attempts by any means whatsoever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner, outside the limits of a prison any prohibited article, and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison, and whoever, contrary to any such rule, communicates or attempt to communicate with any prisoner, and whoever abets any offence made punishable by this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding six months, or to fine not exceeding two hundred rupees, or to both.

43. Power to arrest for offence under Section 42. – When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a police officer, and thereupon such police officer shall proceed as if the offence has been committed in his presence.

44. Publications of penalties. – The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in English and the vernacular setting forth the acts prohibited under Section 42 and the penalties incurred by their commission.

Chapter XI

Prison Offences

45. Prison offences. – The following acts are declared to be prison offences when committed by a prisoner:

1. Such willful disobedience to any regulation of the prison as shall have been declared by rules made under Section 59 to be a prison offence;
2. Any assault or use of criminal force;
3. The use of insulting or threatening language;
4. Immoral or indecent or disorderly behaviour;
5. Willfully disabling himself from labour;

6. Contumaciously refusing to work;
7. Filing, cutting, altering or removing handcuffs, fetters or bars without due authority;
8. Willful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;
9. Willful mismanagement of work by any prisoner sentenced to rigorous imprisonment;
10. Willful damage to prison property;
11. Tampering with or defacing history-tickets, records or documents;
12. Receiving, possessing or transferring any prohibited article;
13. Feigning illness;
14. Willfully bringing a false accusation against any officer or prisoner;
15. Omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, and any attack or preparation for attack upon any prisoner or prison official;
16. Conspiring to escape, or assist in escaping, or to commit any other of the offences aforesaid.

46. Punishment of such offences. – The Superintendent may examine any person touching any offence, and determine thereupon, and punish such offence by –

1. A formal warning

Explanation – A formal warning shall mean a warning personally addressed to a prisoner by a Superintendent and recorded in the punishment-book and on the prisoner's history-ticket;

2. Change of labour to some irksome or severe form [for such period as may be prescribed by rules made by the State Government]¹⁵;
3. Hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;
4. Such loss of privileges admissible under the remission system for the time being in force as may be by the State Government;
5. The substitution of gunny or other coarse fabric for clothing of other material, not being swollen, for a period which shall not exceed three months;
6. Imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the State Government;
7. Imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the State Government;
8. Separate confinement for any period not exceeding three months.

Explanation – Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of, other prisoners, and allows him not less than one hour's exercise per diem and to have meals in association with one or more other prisoners;

9. Penal diet, that is, restriction of diet in such a manner and subject to such conditions regarding labour as may be prescribed by the State Government:

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until an interval of one week;

10. Cellular confinement for any period not exceeding fourteen days:

Provided that after each period of cellular confinement an interval of not less duration than such period must elapse before the prisoner is again sentenced to cellular or solitary confinement.

Explanation – Cellular confinement means such confinement with or without labour as entirely secludes a prisoner from communications with but not from sight of other prisoners;

¹⁵ Inserted by Act 17 of 1925, Sec.2.

11. Penal diet as defined in Clause (9) combined with ¹⁶cellular confinement;
12. ¹⁷Whipping provided that the number of strips shall not exceed thirty:
Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters, or to whipping.

State Amendments

In Section 46 –

- (a) In Clause (4), after the words “the remission system”, the words “or furlough system” shall be inserted;
- (b) Clause (5) shall be omitted;
- (c) In Clause (8), for the words “three months”, the words “two months” shall be substituted;
- (d) Clause (12) shall be omitted;
- (e) In the proviso, the words “or to whipping or render any prisoner on hunger strike liable to whipping” shall be omitted.

Assam

Amendment of Section 46 of Act IX of 1894 – (1) In Section 46 of the Principal Act, Clause (12) and the words “or to whipping” appearing in the proviso to the said section shall be omitted and a full stop shall be substituted for the comma appearing after the word “fetter” in the said proviso.

(2) In Section 46 of the Principal Act, add the following clauses after Clause (11), namely: –

- (12) Forfeiture of class, grade, or prison privileges for a period not exceeding three months;
- (13) Permanent or temporary reduction from a higher to a lower class or grade.”¹⁸

Bombay

Amendment of Section 46 of Act IX of 1894 – In Section 46 of the said Act, in Clause (4), for the words “the remission system” the words “the remission or furlough system” shall be substituted.¹⁹

47. Plurality of punishment under Section 46. – (1) Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely:

1. Formal warning shall not be combined with any other punishment except loss of privileges under Clause (4) of that section;
2. Penal diet shall not be combined with change of labour under Clause (2) of that section, nor shall any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with ²⁰cellular confinement;
3. Cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;

¹⁶ Substituted for “solitary”

¹⁷ Now abolished *vide* Act 44 of 1955.

¹⁸ *Vide* Assam Act 12 of 1956, Sec. 2.

¹⁹ *Vide* Bombay Act 27 of 1953, Sec. 3.

²⁰ Substituted by Act 17 of 1925 for “solitary”

4. Whipping shall not be combined with any other form of punishment except cellular²¹ and separate confinement and loss of privileges admissible under the remission system;
5. No punishment shall be combined with any other punishment in contravention of rules made by State Government

(2) No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other offence, two of the punishments, which may not be awarded in combination for any such offence.²²

State Amendments

Andhra Pradesh

In sub-section (1) of Section 47, Clause (4) shall be omitted.²³

Assam

Amendment of Section 47 of Act IX of 1894 – In Section 47 of the said Act, in Clause (4) of sub-section (1), for the words “the remission system” the words “the remission or furlough system” shall be substituted.

48. Award of punishment under Sections 46 and 47. – (1) The Superintendent shall have the power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

State Amendments

Andhra Pradesh

After Section 48, the following section shall be inserted namely:

“48-A – Punishment for breach of conditions of suspension or remission of sentence or of grant of furlough. – If any prisoner fails without sufficient cause to observe any of the conditions on which his sentence was suspended or remitted or furlough was suspended or remitted or furlough was granted to him, he shall be deemed to have committed a prison offence and the Superintendent may, after obtaining his explanation, punish such offence by –

1. A formal warning as provided in Clause (1) of Section 46;
2. Reduction in grade if such prisoner has been appointed an officer of prison;
3. Loss of privileges admissible under the remission of furlough system;
4. Loss of such other privileges as the State Government may by general or special order, direct²⁴.”

²¹ Substituted by Act 10 of 1914 for the word “or”

²² Inserted by Act 17 of 1925.

²³ *Vide* A.P. Act 23 of 1958, Schedule.

Bombay

Insertion of new section 48-A in Act IX of 1894 – After Section 48 of the said Act, the following section shall be inserted, namely:

“48-A – *Punishment for breach of conditions of suspension of sentence, etc.* – If any prisoner fails without sufficient cause to observe any of the conditions on which his sentence was suspended or remitted or furlough was granted to him, he shall have deemed to have committed a prison offence and the Superintendent may, after obtaining his explanation, punish such offence by –

1. A formal warning as provided in Clause (1) of Section 46;
2. Reduction in grade if such prisoner has been appointed an officer of prison;
3. Loss of privileges admissible under the remission of furlough system;
4. Loss of such other privileges as the State Government may by general or special order, direct²⁵.”

49. Punishments to be in accordance with foregoing sections. – Except by order of a Court of justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

50. Medical Officer to certify to fitness of prisoner for punishment. – (1) No punishment of penal diet, either singly or in combination, or of ²⁶whipping or of change of labour under Section 46 (2), shall be executed until the prisoner to whom such punishment has been awarded, has been examined by the Medical Officer, who if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment-book prescribed in Section 12.

(2) If he considers the prisoner unfit to undergo the punishment he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

State Amendments

Andhra Pradesh

In sub-section (1) of Section 50, the words “or of whipping” shall be omitted.²⁷

Assam

Amendment of Section 50 of Act IX of 1894. –In sub-section (1) of Section 50 of the Principal Act the words and comma “or of whipping” shall be omitted.²⁸

²⁴ *Vide* A.P. Act 23 of 1958, Schedule.

²⁵ *Vide* Bombay Act 27 of 1953.

²⁶ Now abolished, *vide* Act 44 of 1953.

²⁷ *Vide* A.P. Act 23 of 1958, Schedule.

51. Entries in punishment-books. – (1) In the punishment-book prescribed in Section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register No. and the class (whether habitual or not) to which he belongs, the prison offence of which he was guilty, the date on which such prison offence was committed, the number of previous prison offences recorded against the prisoner and the date of his last prison offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which ²⁹whipping is awarded, the Superintendent shall record the substance of the evidence of the witnesses, the defense of the prisoner, and the finding with the reasons therefore.

(3) Against the entries relating to each punishment the Jailer and Superintendent shall affix their initials as evidence of the correctness of the entries.

State Amendments

Andhra Pradesh

For sub-section (2) of Section 51, the following sub-section shall be substituted, namely:

“(2) In the case of every serious prison offence, the names of the witnesses proving the offence shall be recorded.”³⁰

Assam

Amendment of Section 51 of Act IX of 1894. – In sub-section (2) of Section 51 of the Principal Act the words “in cases of offences for which whipping is awarded” and commas before these words and thereafter shall be omitted.³¹

52. Procedure on committal of heinous offence. – If any prisoner is guilty of any offence against prison discipline which by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class or [Presidency Magistrate]³² having jurisdiction, together with a statement of the circumstances and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in Section 46.

²⁸ *Vide* Assam Act 12 of 1956, Sec. 4.

²⁹ Now abolished, *vide* Act 44 of 1955.

³⁰ *Vide* A.P. Act 23 of 1958, Schedule.

³¹ *Vide* Assam Act 12 of 1956, Sec.5.

³² Inserted by Act 13 of 1910.

³³Provided that any such case may be transferred for inquiry and trial by the District Magistrate to any Magistrate of the first class and by a Chief Presidency Magistrate to any other Presidency Magistrate; and:

Provided also that no person shall be punished twice for the same offence.

State Amendments

Andhra Pradesh

In Section 52, for the words and figures “sentence him to any of the punishments enumerated in Section 46,” the words and figures “sentence him to any of the punishments to which he is liable under Section 46” shall be substituted.³⁴

53. ³⁵Whipping. – (1) No punishment of whipping shall be inflicted in installments, or except under the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light *ratan* not less than half an inch in diameter on the buttock, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline with a lighter *ratan*.

State Amendments

Andhra Pradesh

Section 53 shall be omitted.³⁶

Assam

Amendment of Section 53 of Act IX of 1894. – Section 53 of the Principal Act shall be omitted.³⁷

54. Offences by prison subordinates. – (1) Every Jailer or officer of a prison subordinate to him shall be guilty of any violation of duty or willful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two months, or who shall willfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months or both.

(2) No person shall under this section be punished twice for the same offence.

³³ Substituted by Act 13 of 1910.

³⁴ Substituted by A.P. Act 18 of 1947, Sec. 2.

³⁵ Now abolished, *vide* Act 44 of 1955.

³⁶ *Vide* A.P. Act 23 of 1958, Schedule.

³⁷ *Vide* Assam Act 12 of 1956, Sec.6.

Chapter XII

Miscellaneous

55. Extramural custody, control and employment of prisoners. – A prisoner when being taken to or from any prison in which he may be lawfully confined or whenever he is working outside or is otherwise beyond the limits of any prison in or under the lawful custody or control of a prison officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

56. Confinement in irons. – Whenever the Superintendent considers it necessary (with reference either to the state of the prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons, he may, subject to such rules and instructions as may be laid down by the Inspector General with the sanction of the State Government, so confine them.

57. Confinement of prisoners under sentence of ³⁸transportation in irons. – (1) Prisoner under sentence of transportation may, subject to any rules made under Section 59, be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector General for sanction to their retention for the period for which he considers their retention necessary, and the Inspector General may sanction such retention accordingly.

58. Prisoners not to be ironed by Jailer except under necessity. – No prisoner shall be put in irons or under mechanical restraint by the Jailer of his own authority, except in cases of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

State Amendment

Andhra Pradesh

After Section 58, the following section shall be inserted, namely: –

“58-A. *Power to release a prisoner on furlough.* –The State Government or any authority empowered by it may release a prisoner on furlough in accordance with rules for the time being in force.”

(xiii) For Clause (5) of Section 59, the following clause shall be substituted, namely: –

(5) for the award of marks, granting remission or furlough, determining the conditions on which and the authority by which such remission or furlough shall be granted and the consequent shortening of the sentence.”³⁹

³⁸ Now imprisonment for life, *vide* Sect. 53-A, IPC.

³⁹ *Vide* A.P. Act 23 of 1958, Schedule.

59. Power to make rules. – The State Government may make rules consistent with this Act–

1. Defining the acts which constitute prison offences;
2. Determining the classification of prison offences into serious and minor offences;
3. Fixing the punishments admissible under this Act which shall be awardable for the commission of prison offences or classes thereof;
4. Declaring the circumstances in which acts constituting both a prison offence and an offence under the Indian Penal Code, 1860 (45 of 1860), may or may not be dealt with as a prison offence;
5. For the award of marks and the shortening of sentences;
6. Regulating the use of arms against any prisoner or body of prisoners in the case of an outbreak or attempt to escape;
7. Defining the circumstances and regulating the conditions under which prisoners in danger of death may be released;
8. For the classification of prisons, and description and construction of wards, cells and other places of detention;
9. For the regulation by numbers, length or character of sentences, or otherwise of the prisoners to be confined in each class of prisons;
10. For the government of prisons and for the appointment of all officers appointed under this Act;
11. As to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost;
12. For the employment, instruction and control of convicts within or without prisons;
13. For defining articles the introduction or removal of which into or out of prisons without due authority is prohibited;
14. For classifying and prescribing the forms of labour and regulating the period of rest and labour;
15. For regulating the disposal of the proceeds of the employment of prisoners
16. For regulating the confinement in fetters of prisoners sentenced to transportation;⁴⁰
17. For the classification and separation of prisoners;
18. For regulating the confinement of convicted criminal prisoners under Section 28;
19. For the preparation and maintenance of history-tickets;
20. For the selection and appointment of prisoners as officers of prisons;
21. For rewards for good conduct;
22. For regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire subject, however, to the consent of the State Government of any other State to which a prisoner is to be transferred;
23. For the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;
24. For regulating the transmission of appeals and petitions from prisoners and their communications with their friends;
25. For the appointment and guidance of visitors of prisons;
26. For extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointed under Section 541 of the Code of Criminal Procedure, 1882 (10 of 1882)⁴¹, and to the officers employed and the prisoners confined, therein;
27. In regard to the admission, custody, employment, dieting, treatment and release of prisoners; and
28. Generally for carrying into effect the purposes of this Act.

⁴⁰ Now imprisonment for life, *vide* Sect. 53-A, IPC.

⁴¹ See now the Code of Criminal Procedure, 1973 (Act 2 of 1974).

State Amendment

Bombay

In Section 59 of the said Act, for clause (5), the following clause shall be substituted, namely:—

“(5) for the award of marks, granting remission or furlough, determining the conditions on which and the authority by which such remission or furlough shall be granted and the consequent shortening of the sentence.”⁴²

60. Power of local government to make rules. – *Repealed by the Government of India (Adaptation of Indian Laws) Order, 1937).*

61. Exhibition of copies of rules. – Copies of rules under Section 59 so far as they affect the government of prisons, shall be exhibited both in English and in the vernacular, in some place to which all persons employed within a prison have access.

62. Exercise of powers of Superintendent and Medical Officer. – All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the State Government may appoint in this behalf wither by name or by his official designation.

The Schedule— Enactments repealed. – *Repealed by the Repealing Act, 1938 (1 of 1938), Section 2 and Schedule.*

⁴² *Vide* Bombay Act 27 of 1953, Sec.5.