

REPRINT

PRISONS ACT (CAP. 111)

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**AN ACT TO PROVIDE FOR THE BETTER SUPERVISION OF AND DISCIPLINE
IN PRISONS IN SOLOMON ISLANDS AND FOR PURPOSES ANCILLARY
THERE TO OR CONNECTED THEREWITH**

PRISONS ACT (CAP. 111)

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PART I PRELIMINARY

1 Short title

This Act may be cited as the *Prisons Act*.

2 Interpretation

In this Act, unless the context otherwise requires:

“civil prisoner” means any prisoner other than a criminal prisoner;

“convicted” means convicted by a court exercising criminal jurisdiction;

“criminal prisoner” means any prisoner duly committed to custody under a writ, warrant or order of a court exercising criminal jurisdiction;

“Inspector of Prisons” means the officer appointed to be the Inspector of Prisons pursuant to this Act;

“medical officer” means a person appointed pursuant to section 58 to be the medical officer for any prison;

“Officer in Charge” means the officer for the time being having charge of any prison;

“prison” means any building, enclosure or place or part thereof, declared to be a prison under section 3 and any temporary prison established under section 4;

“prisoner” means any person lawfully detained in any prison and also any person lawfully transferred from prison custody for treatment in any hospital;

“prison minister” means any minister of religion appointed to be a

prison minister pursuant to section 59;

“prison officer” includes the Superintendent of Prisons, the Inspector of Prisons, any Officer in Charge and any subordinate officer;

“prohibited article” means any article which is not issued to any prisoner by the authority of the Officer in Charge, with the approval of the Superintendent of Prisons, or an article the introduction or removal of which into or out of a prison is prohibited by this Act;

“the Service” means the Prison Service established under section 6;

“subordinate officer” means and includes any officer of the Service, whether male or female, notified to be such by the Police and Prisons Service Commission;

“Superintendent of Prisons” means the officer appointed to be the Superintendent of Prisons pursuant to this Act;

“visiting justice” means a visiting justice appointed under section 60.

PART II ESTABLISHMENT AND CONTROL OF PRISONS

3 Establishment of prisons

- (1) The Prime Minister may in his discretion by notice provide for:
 - (a) any place or building or any part of any building to be set apart for the purpose of a prison;
 - (b) the discontinuance of the use of any prison and the appropriation of the sites and buildings thereof for any other lawful purpose.
- (2) The prisons, together with the sites and buildings thereof, specified in the First Schedule shall be prisons duly set apart under subsection (1).

- (3) The Prime Minister may in his discretion amend the First Schedule from time to time by order.

4 Power to provide temporary accommodation for prisoners

- (1) Whenever:

- (a) it appears to the Superintendent of Prisons that the number of prisoners in any prison is greater than can be conveniently kept therein and that it is not convenient to transfer the excess number to some other prison; or
- (b) owing to the outbreak of epidemic disease within a prison or for any other reason, it is desirable to provide for the temporary shelter or safe custody of any prisoners,

the Superintendent of Prisons may, with the approval of the Prime Minister, establish a temporary prison in any building, enclosure or place, or part thereof.

- (2) The Superintendent of Prisons may at any time cancel the establishment of a temporary prison.

5 General control vested in Superintendent of Prisons

Prisoners shall be under the general control of the Superintendent of Prisons who may:

- (a) allocate prisoners to any prison; and
- (b) classify prisoners according to classifications specified by regulations made from time to time under section 61.

6 Establishment of Prison Service

- (1) There is hereby established a Prison Service to be known as the Solomon Islands Prison Service.
- (2) The provisions of this Act shall extend to all persons who at the commencement of this Act are serving as officers of the Prisons Department under the provisions of the *Prisons Act* repealed by this Act and service under that Act shall for the purposes of this Act be deemed to be service under this Act.

- (3) The Service shall consist of a Superintendent of Prisons, an Inspector of Prisons and such other ranks appointed by the Police and Prisons Service Commission.

7 General powers of Superintendent

- (1) The Superintendent of Prisons shall have the administrative command and direction of the Service and subject to the provisions of this Act may:
 - (a) make such appointments and promotions in respect of all subordinate officers below the rank of Assistant Prison Officer as he may see fit; and
 - (b) from time to time make orders for the general government of prison officers in relation to their enlistment, discharge, training, arms, clothing, equipment and other appointments and particular services as well as their distribution and inspection, and such other orders as he may deem expedient for preventing neglect and for promoting efficiency and discipline on the part of prison officers in the discharge of their duties.
- (2) Any act or thing which may be done, ordered or performed by the Superintendent of Prisons may, subject to the orders and directions of the Superintendent of Prisons, be done or performed by the Inspector of Prisons:

Provided that nothing in this subsection shall empower the Inspector of Prisons to hear any appeal under this Act relating to any offence against discipline or to impose upon a prison officer any punishment which includes reduction in rank or dismissal.

8 Employment of police officers as prison officers

- (1) In the absence of the appointment of an officer of the Service to be the Officer in Charge of any prison, the police officer for the time being in charge of the police district in which such prison is situated shall be, ex officio, the Officer in Charge of that prison.
- (2) Where in any prison the number of subordinate officers employed is insufficient to secure the good management and government thereof it shall be lawful for the Superintendent of Prisons to employ

temporarily such number of police officers, including special constables, of or below the rank of Inspector as he may consider necessary to perform the duties of subordinate officers in such prison.

- (3) Every police officer or special constable appointed in pursuance of subsection (1) shall thereupon have all the powers and perform in such prison all the duties of a subordinate officer and for the purpose of the provisions of this Act shall be deemed to be a subordinate officer.
- (4) Where on the removal of any prisoner from any prison the staff of subordinate officers is insufficient to provide escort for such prisoner it shall be lawful for the Officer in Charge of the prison from which the prisoner is to be removed to deliver the prisoner to any police officer or special constable who may be detached for such duty and thereupon the police officer or special constable shall have the same powers and be subject to the same responsibilities, discipline and penalties and to the same authorities as a subordinate officer would have and be subject to in like circumstances.

9 Power to order prison enquiries

The Prime Minister may, whenever he considers it necessary or desirable, appoint a committee of two or more suitable persons, of whom at least one shall be a public servant, to enquire into and report to him upon the conduct, management or administration of any prison or any matter connected therewith or incidental thereto.

10 Enlistment

Every subordinate officer shall be enlisted in the Service for a period of two years on probation and shall, on the conclusion of such probationary period to the satisfaction of the Superintendent of Prisons, be confirmed by the Superintendent of Prisons in his appointment.

11 Declaration on enlistment

- (1) Every prison officer shall, on joining the Service or before entering on the duties of his office, make before the Superintendent or Inspector of Prisons a declaration on oath or affirmation in the form

specified in the Second Schedule.

- (2) Every prison officer required to make a declaration under subsection (1) shall, on joining the Service and before making such declaration, answer truly any question which may be put to him as to his previous service in any of Her Majesty's Forces, police or prison service and as to whether he has at any time been convicted of any offence.
- (3) Any person who wilfully makes a false statement in reply to any question put to him under the provisions of subsection (2) shall be guilty of an offence and liable to a fine of twenty dollars and to imprisonment for one month.

12 Liability for service

Every prison officer shall be deemed to be available for duty at all times and shall be bound to proceed to and serve at any place in Solomon Islands.

13 Prison officers not to engage in other employment or in political activities

No prison officer shall:

- (a) engage in any trade, business, employment or office whatsoever, or take part in any commercial undertaking, outside the scope of his duties under this Act, except with the authority of the Superintendent of Prisons; or
- (b) take any active part in any political organisation or electoral campaign or engage in any other activity which is likely to interfere with the impartial discharge of his duties under this Act.

14 Prison officer not to be member of trade union, etc.

- (1) For the purpose of enabling prison officers to consider and bring to the notice of the Government any matter affecting their welfare and efficiency, other than questions of discipline and promotion, the Prime Minister may in his discretion by order establish and provide for the regulation of one or more prison officers' associations which, including any branch or branches thereof, shall be entirely independent of, and unassociated with, any body or person outside

the Service, and shall be deemed not to be a trade union within the meaning of the Trade Unions Act.

- (2) Subject to the provisions of subsection (1), no prison officer shall become a member of any trade union, or of any association the object or one of the objects of which is to control or influence the pay, pensions or conditions of service of the Service or of the public service of Solomon Islands or any part thereof; and any prison officer who contravenes this provision shall be guilty of an offence and liable to a fine of eighty dollars and to imprisonment for two months.
- (3) Any question whether any body is a trade union or association to which subsection (2) applies shall be determined by the Prime Minister in his discretion, and such determination shall be final and conclusive and shall not be questioned in any proceedings whatsoever.
- (4) Notwithstanding the provisions of subsection (2), it shall be lawful for a prison officer, until such time as there is established under subsection (1), a prison officers' association of which he may be a member, to join and be a member of any association of civil servants for the time being approved by the Prime Minister in his discretion by notice.

15 Resignation

Any prison officer may resign from the Service at any time by giving not less than three months' notice of his intention to resign in writing to the Superintendent of Prisons:

Provided that in any case the Superintendent of Prisons may in his discretion waive the provisions of this section regarding the period of notice to be given.

16 Prolongation of service in event of hostilities, etc.

Any prison officer whose period of service expires during a state of war, insurrection or hostilities or whenever the Prime Minister is satisfied that a state of civil commotion which threatens the public safety exists or is likely to arise in Solomon Islands or in any part thereof, may be retained and his service prolonged for such further period, not exceeding six months after the cessation of such state of

war, insurrection, hostilities or civil commotion which-threatens the public safety, as the Prime Minister may in his discretion direct.

17 Discharge

The Superintendent of Prisons may at any time discharge from the Service a subordinate officer who has not been confirmed in his appointment if the Superintendent of Prisons considers that he is unlikely to become an efficient prison officer:

Provided that no subordinate officer shall be so discharged unless he has been given one month's notice of the intention to discharge him or, at the option of the Superintendent of Prisons, one month's pay in lieu of such notice.

18 Arms and equipment to be delivered up on ceasing to be a prison officer

- (1) When a prison officer ceases to be a member of the Service he shall forthwith deliver up to the person appointed by the Superintendent of Prisons for that purpose, or to the Officer in Charge at the place at which he was last stationed, all arms, ammunition, equipment, uniform and other appointments which have been supplied to him and which are the property of the Government.
- (2) Any prison officer who, having ceased to belong to the Service, fails without good cause to comply with the provisions of subsection (1) shall be guilty of an offence and liable to a fine of eighty dollars and to imprisonment for two months and, in addition thereto, shall be liable to pay the value of the property not delivered up, which value may be ascertained by the court in a summary manner and shall be recoverable as a fine.

19 Prison officers liable to same provisions as other public officers

Save as otherwise provided in this Act, every prison officer shall be subject to the same provisions as are applicable to other public officers of corresponding status.

20 Use of force by prison officer

- (1) Any prison officer may use such force against a prisoner as is reasonably necessary in order to make him obey lawful orders which he refuses to obey or in order to maintain discipline in a prison.
- (2) Any prison officer may use any weapons which have been issued to him, including firearms:
 - (a) against a prisoner if:
 - (i) he is escaping or attempting to escape and refuses or fails, when called upon, to return; or
 - (ii) he is engaged with other persons in breaking out or attempting to break out of any part of a prison and continues to break out or attempt to break out when called upon to desist; or
 - (iii) he is engaged with others in riotous behaviour in a prison and refuses to desist when called upon; or
 - (iv) he is endangering the life of, or is likely to inflict grave injury to, the prison officer or to any other prison officer or person and the use of weapons, including firearms, is the only practicable way of controlling the prisoner:

Provided that weapons shall not be used as authorised in subparagraphs (i), (ii) and (iii) unless the prison officer has reasonable cause to believe that he cannot otherwise prevent the escape, breaking out or riotous behaviour, as the case may be;

- (b) against any person who:
 - (i) is engaged in assisting a prisoner to escape and refuses or fails, when called upon, to desist; or
 - (ii) is engaged with other persons in breaking into or attempting to break into any part of a prison and continues to break in or attempt to break in when called upon to desist:

Provided that weapons shall not be used as authorised in sub-

paragraphs (i) and (ii) unless the prison officer has reasonable cause to believe that he cannot otherwise prevent the escape or break in, as the case may be.

- (3) No prison officer shall, in the presence of a prison officer of a higher rank than himself, use weapons as authorised by subsection (2), except on the orders of such prison officer of higher rank.
- (4) As far as possible weapons shall be used to disable and not to kill.

21 Non-liability for act done under authority of a warrant

- (1) 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 court or other competent authority, the court shall, upon production of the warrant and upon proof that the act complained of was done in obedience to such warrant, enter judgment in favour of such prison officer.
- (2) No proof of the signature on a warrant shall be required unless the court has reason to doubt the genuineness thereof; and where it shall be proved that such signature is not genuine, judgment shall nevertheless be given in favour of a prison officer if it is proved that, at the time the act complained of was committed, he believed on reasonable grounds that the signature was genuine.

22 Prison officers to have powers of police officers when acting as such; powers of arrest, examination, stoppage and search

- (1) Every prison officer while acting as such shall have all the powers, authority, protection and privileges of a police officer.
- (2) Every prison officer may without warrant examine anything within, or being brought into or taken out of, a prison, and may stop and search or cause to be stopped and searched any vehicle or person within a prison, or going into or out of a prison, or, whether within or without a prison, any person who, or any vehicle which, is without authority close to a prisoner or prisoners if he has reason to suspect that such person or vehicle is carrying a prohibited article or any property belonging to the Government in use in a prison.
- (3) The senior officer on duty in a prison may refuse admission to the

prison to any person who is not willing to be searched.

- (4) The senior officer on duty in a prison may order any person within a prison who refuses to be searched to leave the prison and, if such person refuses to leave, may cause him to be removed from the prison and for that purpose may use such force as may be necessary.
- (5) If on the stopping and searching of any vehicle or person under the provisions of subsection (1) a prison officer finds any prohibited article or any property belonging to the Government in use in a prison he may arrest that person or the person on the vehicle who appears to have charge of the article or property and shall as soon as practicable cause any such person to be made over to a police officer, or, in the absence of a police officer, to be taken to the nearest police station.
- (6) Any search of a woman under this section shall be made by another woman officer and with due regard to decency.

PART III OFFENCES BY AND IN RELATION TO PRISON OFFICERS AND PRISONERS

23 Mutiny, sedition, striking superior officer, etc.

Any prison officer who:

- (a) begins, excites, causes or joins in any mutiny or sedition amongst the Service or in any prison, or does not use his utmost endeavours to suppress such mutiny or sedition, or conspires with any other person to cause any mutiny or sedition, or being cognisant of any mutiny or sedition, or intended mutiny or sedition, does not without delay give information thereof to his superior officer; or
- (b) strikes or offers violence to his superior officer, such superior officer acting in the execution of his duty,

shall be guilty of an offence and liable to imprisonment for three years.

24 Desertion

- (1) Any prison officer who:
- (a) deserts;
 - (b) persuades, procures or assists any prison officer to desert, or being cognisant of any such desertion, or intended desertion, does not without delay give information thereof to his superior officer; or
 - (c) knowing that any prison officer has deserted or intends to desert, does not without delay give information to his superior officer,

shall be guilty of an offence and liable to a fine of two hundred dollars and to imprisonment for six months.

- (2) No prison officer shall be found guilty of the offence of desertion unless the court is satisfied that there was an intention on the part of the prison officer not to return to the Service.
- (3) Any prison officer who absents himself from duty without leave or reasonable cause for a period exceeding twenty-eight days, shall, unless the contrary is proved, be deemed to have had the intention not to return to the Service.
- (4) Any prison officer or any police officer may without warrant apprehend any person whom he has reason to believe is a deserter from the Service and convey him, or cause him to be conveyed, to a police station.

25 Inciting prison officers or prisoners to mutiny

Any 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 wilfully attempts to seduce any prison officer from his allegiance or duty, shall be guilty of an offence and liable to imprisonment for three years.

26 Procuring desertion and harbouring deserters

Any person who by any means, directly or indirectly, procures or persuades, or attempts to procure or persuade, any prison officer to desert, or who aids, abets, or is accessory to the desertion of any prison officer, or who knowingly harbours such deserter or aids him in concealing himself or assists in his rescue, shall be guilty of an offence, and liable to a fine of two hundred dollars and to imprisonment for six months.

27 Unlawfully supplying prisoners with prohibited articles

Any prison officer who without lawful authority:

- (a) knowingly suffers any intoxicating liquor, tobacco, drug, opiate, money, clothing, provisions, letters, papers, books or other article to be delivered to or received from or used by or on behalf of any prisoner;
- (b) delivers to any prisoner any intoxicating liquor, tobacco, drug, opiate, money, clothing, provisions, letters, papers, books or other article;
- (c) knowingly suffers any article to be brought out of any prison or to be conveyed from any prisoner,

shall be guilty of an offence and liable to a fine of two hundred dollars and to imprisonment for six months.

28 Dealings with prisoners and prison contracts

Any prison officer or other person (not being a prison officer) charged with any duty relating to prisoners which gives rise to personal contact with prisoners who directly or indirectly:

- (a) sells or supplies or has any interest in or derives any pecuniary benefit or other advantage from the sale or supply of any article to or for the use of any prisoner or to or for the use of any prison; or
- (b) has any pecuniary interest in the purchase of any supplies for the use of any prison or receives any discount, gift or other

consideration from any contractor for or any seller of any such supplies; or

- (c) has any pecuniary dealings with any prisoner or with any friend of any prisoner with regard to such prisoner or on behalf of any prisoner holds any unauthorised communication with any person,

shall be guilty of an offence and liable to a fine of two hundred dollars and to imprisonment for six months.

PART IV DISCIPLINE OF STAFF

29 Interdiction of subordinate officers

- (1) The Superintendent of Prisons subject in this Part of this Act to the provisions of section 124 of the *Constitution* may interdict from duty any subordinate officer pending any investigation or inquiry into, or trial of, any offence against discipline under this Act or any offence against any written law, and pending the determination of any appeal.
- (2) A prison officer interdicted from duty under this section shall not by reason of such interdiction cease to be a prison officer:

Provided that the powers, privileges and benefits vested in him as a prison officer shall during his interdiction be in abeyance but he shall remain subject to the same responsibilities, discipline and penalties and to the same authority as if he had not been interdicted.

- (3) A prison officer interdicted from duty under this section shall not, save as is hereinafter provided, be entitled to receive any pay in respect of the period of such interdiction:

Provided that:

- (a) he shall be allowed to receive such portion of his pay not being less than one half as the Superintendent of Prisons may think fit; and
- (b) if the proceedings against any such prison officer do not result in the dismissal of the prison officer, he shall be entitled to the full amount of the emoluments which he would have received if

he had not been interdicted.

30 Offences against discipline

Any subordinate officer who commits any offence against discipline as may be prescribed under this Act shall be liable to suffer punishment in accordance with the provisions of this Act:

Provided that:

- (a) nothing in this connection shall be construed to exempt any such officer from being proceeded against for any offence by any other process of law;
- (b) no such officer shall be punished twice for the same offence.

31 Power of arrest

- (1) Any prison officer may arrest without warrant any prison officer not being an officer of his own or of a higher rank who is accused of any offence against discipline under this Act.
- (2) A prison officer, other than an Officer in Charge, effecting an arrest under this section shall forthwith bring the accused person before an Officer in Charge or in the absence of such an officer before the most senior prison officer readily accessible.

32 Trial and punishment of offences against discipline

- (1) Any offence against discipline under this Act may be inquired into and dealt with by the Superintendent of Prisons and by any Officer in Charge.
- (2) The Superintendent of Prisons shall have the power subject to section 124 of the *Constitution* to impose any one or more of the following punishments:
 - (i) reprimand;
 - (ii) severe reprimand;
 - (iii) fine not exceeding ten days' pay;

- (iv) reduction in rank;
 - (v) dismissal;
 - (vi) confinement to quarters for any period not exceeding fourteen days with or without extra duties.
- (3) An Officer in Charge shall have power to impose any one or more of the following punishments on any subordinate officer:
- (i) reprimand;
 - (ii) confinement to quarters for any period not exceeding seven days with or without extra duties;
 - (iii) fine not exceeding five days' pay.
- (4) No prison officer shall be convicted of an offence against discipline unless the charge has been read and inquired into in his presence and he has been given sufficient opportunity to make his defence thereto.
- (5) Any prison officer upon whom a punishment is inflicted which entitles him to appeal to the Police and Prisons Service Commission under section 34 shall, at the time when such punishment is imposed, be informed of his right of appeal.

33 Review by Superintendent of Prisons

- (1) The Superintendent of Prisons shall have power to review all disciplinary proceedings under this Act, other than proceedings conducted by himself.
- (2) Upon review, the Superintendent of Prisons, if he thinks that such proceedings ought to be revised, shall have power:
- (a) to quash the finding;
 - (b) to alter the finding and find the accused guilty of another offence;
 - (c) with or without altering the finding:

- (i) to reduce or increase the punishment;
- (ii) with or without such reduction or increase, to alter the nature of the punishment; or
- (d) to remit the proceedings to the officer who heard them or to another officer for rehearing:

Provided that the Superintendent of Prisons shall not:

- (i) impose any punishment which the officer who conducted the proceedings was not empowered to impose;
- (ii) increase any punishment without giving the accused an opportunity of making representations either orally or in writing as the accused may decide.

34 Appeal

- (1) Any prison officer upon whom the Superintendent of Prisons has imposed any punishment which includes:
 - (a) reduction in rank; or
 - (b) dismissal,

may appeal in the manner hereinafter provided to the Police and Prisons Service Commission against either the finding or the punishment or both, and the Police and Prisons Service Commission may confirm, set aside or vary the finding and confirm, set aside, reduce, suspend or otherwise vary the punishment:

Provided that nothing in this subsection shall be construed as empowering the award of any greater punishment than could have been awarded by the officer inflicting the punishment.

- (2) An appeal under subsection (1) may be made by lodging with the Secretary of the Police and Prisons Service Commission within seven days after the imposition of the punishment a written statement of the intention to appeal and of the grounds thereof:

Provided that the Chairman of the Police and Prisons Service Commission may in his discretion extend the time within which an

appeal may be so lodged.

- (3) Any prison officer upon whom any Officer in Charge has imposed any punishment for the commission of an offence against discipline may within seven days of the imposition of the punishment, or such further time as the Superintendent of Prisons may allow, appeal to the Superintendent of Prisons, who, for the purpose of disposing of such appeal, shall have all the powers provided in section 33(2).

35 Power to summon witnesses

- (1) The Superintendent of Prisons and any Officer in Charge shall, for the purpose of inquiring into any offence against discipline, or in the case of the Superintendent of Prisons for the purpose of disposing of any appeal under section 34(3), have power to summon and examine witnesses on oath or affirmation and to require the production of all documents relevant to the inquiry or appeal, and to adjourn such proceedings from time to time.
- (2) Any person summoned as a witness under subsection (1) who fails to attend at the time and place mentioned in the summons, or on adjournment, or refuses to answer any question that is lawfully put to him, shall be guilty of an offence and liable to a fine of twenty dollars and to imprisonment for one month:

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

36 Procedure in cases of grave or repeated offences

In any case where a subordinate officer has upon inquiry been found to have committed an offence against discipline and where it appears to the officer conducting the inquiry that, by reason of the gravity of the offence or by reason of previous offences or for any other reason, the offender would not be adequately punished by any of the punishments he is empowered to impose, such officer shall record any statement which the offender wishes to make in mitigation and shall stay the proceedings and transmit them to the Superintendent of Prisons, and the Superintendent of Prisons may impose such punishment as he deems to be warranted or he may direct that the case be dealt with by the officer who transmitted it:

Provided that when no statement in mitigation has been recorded, the Superintendent of Prisons shall give the offender an opportunity of making representations to him either orally or in writing as the Superintendent of Prisons in his discretion shall direct.

37 Dismissal and reduction in rank of subordinate officers convicted by court

- (1) The Superintendent of Prisons may by order reduce in rank, or may dismiss from the Service, any subordinate officer who has been convicted by any court in respect of any offence, whether against this Act or otherwise, unless such officer has successfully appealed from such conviction.
- (2) Any prison officer who is aggrieved by an order of the Superintendent of Prisons made under subsection (1) may appeal to the Police and Prisons Service Commission under section 34(1).

38 Summary admonishment and reprimand

Notwithstanding anything to the contrary contained in this Act, or the General Orders of Solomon Islands, the Superintendent of Prisons may summarily administer admonishment or reprimand to any prison officer in the case of minor misconduct.

39 Fines to be recovered by stoppage of pay

- (1) All fines imposed on a prison officer in respect of offences against discipline under this Act may be recovered by stoppage of such officer's pay.
- (2) The amount of stoppage in respect of any fine or for any other cause authorised by this Act shall be in the discretion of the officer by whom the fine was imposed or the cause dealt with, as the case may be, but shall in no case exceed one-third of the offender's monthly pay; and whenever more than one order of stoppage is in force against the same person so much only of his pay shall be stopped as shall leave him a residue of at least two-thirds of his monthly pay.
- (3) Where more than one order of stoppage is made upon the same person, the orders later in date shall, if necessary, be postponed as to their enforcement until the earlier orders have been discharged.

**40 Loss or damage to arms and equipment to be made good by
stoppage of pay**

If any prison officer pawns, sells, loses by neglect, makes away with or wilfully or by neglect damages any arms, ammunition, equipment, clothing or other appointments supplied to him or any Government property committed to his charge he may, in addition to or in lieu of any other punishment, be ordered to make good either partially or wholly the amount of such loss or damage, and such amount may be recovered by stoppage from his pay, subject to subsections (2) and (3) of section 39:

Provided that no such amount shall be ordered to be made good if it exceeds one-third of the officer's monthly pay unless the officer admits liability to make good that amount.

**41 Pay not to accrue during absence without leave or
imprisonment**

Subject to the General Orders of Solomon Islands, no pay shall accrue to any prison officer in respect of any period exceeding twenty-four hours during which he is absent from duty without leave, or is undergoing any sentence of imprisonment, either for any offence against discipline or for any other offence whatsoever:

Provided that in any case the Superintendent of Prisons may in his discretion authorise the payment of such proportion of pay, not being more than two-thirds, as he may think fit.

PART V PRISON SERVICE FUND

42 Prison Service Fund

- (1) There shall be established a fund to be known as the Prison Service Fund.
- (2) Such fund shall consist of:
 - (a) fines inflicted on prison officers under the powers conferred by this Act;
 - (b) donations offered to the fund and accepted by the

Superintendent of Prisons; and

- (c) such sums as may be voted by the National Parliament
- (3) Subject to any regulations made under this Act, the Prison Service Fund shall be administered by the Superintendent of Prisons, and shall be applied for the purpose of:
 - (a) assistance to the wives or families of deceased prison officers or to any prison officer discharged from the Service as medically unfit for further service;
 - (b) contributions towards prizes to be given at athletic meetings and similar events organised by or for the benefit of the Service;
 - (c) purchase of ammunition for the encouragement of range practice amongst prison officers;
 - (d) payments to subordinate officers as rewards for meritorious acts or service in the execution of duty, if such payments are not met from public funds;
 - (e) expenditure for the benefit and advancement of authorised recreation and sport and other branches of prison activity organised within the Service;
 - (f) any other purpose which the Superintendent of Prisons considers to be for the general welfare of prison officers.
- (4) Upon the coming into force of this Act all moneys comprised in the Prisons Rewards and Fines Fund constituted by the Prisons Act repealed by this Act shall be deemed to be transferred to and shall form part of the Prison Service Fund constituted by this Act.

PART VI ADMISSION, CUSTODY AND CONTROL OF PRISONERS AND OFFENCES IN RELATION TO PRISONS

43 Admission of prisoners

- (1) No prisoner shall be admitted into a prison unless accompanied by a remand warrant, order of detention, warrant of conviction or of

committal purporting to be signed by a person having authority to sign the same.

- (2) The Officer in Charge shall, before the admission of any prisoner, satisfy himself that such prisoner is the person named in the warrant or order of detention accompanying him:

Provided that he shall not refuse to accept any prisoner merely on the ground that there is an error on the face of any such warrant or order, but shall take steps as soon as practicable to have such error corrected.

- (3) Subject to such conditions as may be specified by the Superintendent of Prisons, the infant child of a woman prisoner may be received into the prison with its mother and may be supplied with clothing and necessaries at the public expense:

Provided that, when the 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 the child to be handed over to the relatives or friends, or, if he is not so satisfied, shall, subject to any other written law, hand the child over to the care of such welfare authority as may be approved for the purpose by the Superintendent of Prisons.

44 Custody and conveyance of prisoners

- (1) A person shall be deemed to be a prisoner and in lawful custody whenever he is being taken to and from, or is confined in, any prison in which he may be lawfully confined, whether under criminal or civil process, or whenever he is working outside or is otherwise outside any prison in the custody or under the control of any prison officer.
- (2) Any police officer or other officer acting under the order of any Judge or Magistrate or other person having power to commit a prisoner to prison may convey a prisoner to or from any prison to or from which he may be lawfully committed or removed.

45 Separation of male and female prisoners

- (1) In any prison used for both male and female prisoners separate buildings or parts of a building shall be used for the men and for the

women respectively so as to prevent as far as practicable the one from seeing or communicating with the other.

- (2) Male prisoners shall be supervised only by male prison officers and female prisoners only by female prison officers.
- (3) Where any female prisoner is confined in any prison to which for the time being a subordinate woman prison officer has not been appointed, the Officer in Charge shall arrange for the temporary employment of such suitable women as may be necessary for the superintendence of such female prisoner for so long as may be required.
- (4) The employment of any woman pursuant to the power conferred by subsection (3) shall forthwith be reported to the Superintendent of Prisons.

46 Prisoner to be brought before a court or other authority

- (1) If the presence of any prisoner is required in any court, or by any person empowered by law to summon witnesses, either for the purpose of his being examined as a witness in any cause or matter, civil or criminal, or for the purpose of a criminal charge being preferred against him, it shall be lawful for such court or person, if he considers the presence of such prisoner necessary for the ends of justice, to issue an order to the Officer in Charge of the prison where such a prisoner is confined, requiring him to bring such prisoner, in proper custody, at a time to be named in the order, before such court or person.
- (2) On receipt of any order issued under subsection (1) or of any other Act, requiring him to bring any prisoner before any court or person, the Officer in Charge of any prison in which such prisoner is confined shall act in accordance with such order and shall provide for the custody of such prisoner during his absence from the prison.
- (3) The court before which any person is produced in accordance with an order issued under subsection (1) for the purpose of any civil proceedings in such court may give such directions as to the costs of compliance with the order as the court may deem fit.

47 Removal of prisoners for mental treatment

- (1) No prisoner of unsound mind shall be detained in any prison longer than is necessary for his committal and transfer to a mental hospital in accordance with the provisions of the *Mental Treatment Act*.
- (2) Any prisoner adjudged according to law to be of unsound mind shall remain in the place named in the order providing for his detention as such until he has been discharged from that place according to law, whereupon, if the prisoner has not completed the sentence in respect of which he was committed, the Governor-General shall order that he be delivered into the custody of the Officer in Charge of a prison for the completion of such sentence or, if the prisoner has completed the sentence in respect of which he was committed, he shall forthwith be released.
- (3) Any prisoner while detained in any mental hospital shall be deemed during such detention to be in lawful custody and serving sentence.

48 Removal of prisoners for medical treatment

- (1) The Superintendent of Prisons or any Officer in Charge on being satisfied that a prisoner is suffering from a disease or other illness and cannot properly be treated in a prison or that a female prisoner is pregnant and that a birth may be imminent, may order that the prisoner be taken to a Government hospital or other suitable place for the purpose of treatment or such birth, as the case may be, and while absent from a prison in pursuance of such order the prisoner shall be deemed to be in lawful custody and serving sentence.
- (2) When, in the opinion of the medical authority in charge of a hospital, it is no longer necessary that a prisoner should remain therein, he shall notify the Officer in Charge of the prison whence the prisoner was removed, and thereupon, if the prisoner has not completed the sentence in respect of which he was committed, the Officer in Charge shall forthwith cause him to be returned to the prison.
- (3) Every reasonable precaution shall be taken to prevent the escape of a prisoner at any time under treatment therein, and it shall be lawful to take such measures for preventing the escape of a prisoner as are reasonably necessary:

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

- (4) Where, on account of the gravity of the offence for which a 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 that prisoner while he is undergoing treatment in hospital, it shall be lawful for him to give that prisoner into the custody of fit and proper persons, being not less than two in number, one of whom at least shall always be with such prisoner by day and night, and those persons are hereby vested with authority to do all things reasonably necessary to prevent that 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.

49 Transfer of prisoners to another prison

The Superintendent of Prisons 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.

50 Privileges of unconvicted prisoners

- (1) Any unconvicted prisoner may be permitted to maintain himself and to purchase or receive from private sources food, clothing, bedding or other requirements.
- (2) No food, clothing, bedding or other luxuries belonging to any unconvicted prisoner shall be given, hired, loaned or sold to any other prisoner; and any prisoner failing to comply with the provisions of this section shall be liable to lose the privilege of purchasing or receiving his food, clothing, bedding or other requirements from private sources for such time as the Officer in Charge may think proper.
- (3) If an unconvicted prisoner does not provide himself with food, clothing or bedding, or if such food, clothing or bedding is, in the opinion of the Officer in Charge unsatisfactory, such prisoner shall receive the standard food, clothing and bedding issued for the use of convicted criminal prisoners.

51 Introduction of prohibited articles into prisons and interference with prisoners

- (1) Any person who:
- (a) brings, throws or in any other manner introduces or conveys into any prison, or conveys to any prisoner while in custody outside any prison, or deposits in any place outside any prison with intent that it shall come into the possession of any prisoner, or carries out of a prison any arms, ammunition, weapon, instrument, intoxicating liquor, tobacco, drug, money, clothing, provisions, letters, papers, books or any other article whatsoever, unless so authorised by regulations made under this Act or by the Superintendent of Prisons; or
 - (b) is found loitering within one hundred yards of any prison, or other place where prisoners may be, and who fails to depart therefrom when requested so to do by any prison officer or police officer, or who in any manner wilfully interferes with or endeavours to interfere with or communicate with any prisoner or gang of prisoners,

shall be guilty of an offence and liable to a fine of two hundred dollars and to imprisonment for six months.

- (2) Any prison officer may arrest without warrant any person whom he reasonably suspects of committing or attempting to commit any offence specified in subsection (1), and shall deliver such person as soon as may be into the custody of a police officer.

52 Correspondence by prisoners

- (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 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 authorised; 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 the provisions of subsection (1) shall report that fact as soon as possible to the Superintendent of Prisons or the Officer in Charge of the nearest prison and shall deliver the letter or document or cause it to be delivered to the Superintendent of Prisons or such Officer in Charge.
- (3) No person shall, without the authority of the Governor-General, 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 the provisions of subsection (1).
- (4) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine of one hundred dollars and to imprisonment for three months.

53 Escaping or aiding escape from prison or lawful custody

Any person who:

- (a) escapes or attempts to escape from any prison or from lawful custody;
- (b) aids any prisoner in escaping or attempting to escape from any prison or from lawful custody;
- (c) with intent to facilitate the escape of any prisoner, conveys or causes to be conveyed anything into a prison or to a prisoner or places anything anywhere outside a prison or other place where a prisoner may be with a view to its coming into the possession of a prisoner; or
- (d) harbours, employs or otherwise assists any prisoner whom he knows or has reason to believe to be unlawfully at large,

shall be guilty of an offence and liable to a fine of two hundred dollars and to imprisonment for six months.

54 Unauthorised possession of prison property

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 guilty of an offence and liable to a fine of one hundred dollars and to imprisonment for three months.

55 Unauthorised use of uniform or insignia

Any person who without lawful authority:

- (a) wears or uses any uniform, insignia or other emblem supplied to or authorised for use by prison officers or any uniform, insignia or other emblem so nearly resembling the same as to be calculated to deceive; or
- (b) falsely represents himself to be a person who is or has been entitled to wear or use such uniform, insignia or other emblem,

shall be guilty of an offence and liable to a fine of one hundred dollars and to imprisonment for three months.

56 Notice of sections 51–54 to be displayed outside prisons

The Superintendent of Prisons shall cause notices to be affixed in a conspicuous place outside every prison setting forth the substance of sections 51, 52, 53 and 54 and the penalties which may be incurred in respect of any breach thereof.

PART VII EMPLOYMENT OF PRISONERS

57 Employment of prisoners

- (1) Subject to the provisions of this Act every criminal prisoner shall be

engaged in such work within or without the precincts of any prison as the Officer in Charge may direct, and as far as practicable such work shall take place in association with other convicted criminal prisoners.

- (2) Notwithstanding the provisions of subsection (1), no prisoner shall be required to do compulsory work:
 - (a) as a means of political coercion or education or as a punishment for holding or expressing political or views ideologically opposed to the established political, social or economic system;
 - (b) as a means of labour discipline;
 - (c) as a punishment for having participated in strikes;
 - (d) as a means of racial, social, national or religious discrimination.
- (3) Convicted criminal prisoners who by virtue of the provisions of subsection (2) are not required to do compulsory work and all prisoners other than convicted criminal prisoners shall be required to keep their cells, the precincts thereof and the furniture, clothing and utensils therein, clean, but shall not be required to be employed in other work or duties without their consent.

PART VIII MEDICAL OFFICERS, PRISON MINISTERS AND VISITING JUSTICES

58 Appointment of medical officer

- (1) In each prison the medical officer shall be a medical practitioner appointed by the Minister of Health and Medical Services.
- (2) A medical officer appointed under subsection (1) shall perform such duties as may be prescribed and, subject to the control of the Officer in Charge, shall have the general care of the health of prisoners in the prison to which he is appointed.

59 Appointment of prison ministers

- (1) The Governor-General may, from time to time, appoint ministers or

priests of any religious faith to be prison ministers; and the Superintendent of Prisons may frame standing orders for the guidance of such prison ministers.

- (2) In every prison reasonable facilities shall be provided for prison ministers to conduct religious services and to give religious instruction and advice to prisoners of their respective denominations.

60 Appointment, powers and duties of visiting justices

- (1) The Governor-General may, from time to time, appoint fit and proper persons to be visiting justices to prisons in Solomon Islands.
- (2) Judges of the High Court shall be *ex officio* visiting justices.
- (3) Every Magistrate shall be a visiting justice to any prison situated in the district in which he is stationed or which he may visit in the course of his duty.
- (4) A visiting justice may at any time visit a prison in respect of which he is appointed 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; and
 - (d) ascertain as far as possible that the regulations, rules and standing orders relating to the prison are adhered to.
- (5) Any visiting justice shall hear any complaint made to him by any prisoner and shall make such recommendations thereon as may be necessary to the Superintendent of Prisons or the Officer in Charge, as may be appropriate.
- (6) On the completion of the visit every visiting justice shall enter in a book to be kept for the purpose such remarks, suggestions or recommendations as he may deem fit to make.

PART IX MISCELLANEOUS

61 Regulations

- (1) The Prime Minister may make regulations for the better carrying into effect of the provisions and purposes of this Act and, without prejudice to the generality of the foregoing, may make regulations providing for:
- (i) the powers, duties and responsibilities of prison officers and other persons employed in prisons;
 - (ii) the maintenance and enforcement of discipline in the Service and among prisoners;
 - (iii) the conditions of service, rates of pay and gratuities, training and discipline of subordinate officers;
 - (iv) the powers and duties of medical officers; the medical inspection of prisons and prisoners, and the prevention of contagious diseases in prison;
 - (v) the powers and duties of visiting justices, prison ministers and prisoners' aid societies;
 - (vi) the construction, description, equipment and supervision of cells for separate confinement and wards;
 - (vii) the classification of prisons and prisoners into categories and their separation accordingly;
 - (viii) the admission, discharge, safe custody, management, organisation, hours, mode and kind of labour and employment, clothing, bedding, maintenance, instruction, discipline, segregation, treatment, restraint, correction and training of prisoners;
 - (ix) visits to and communications with prisoners;
 - (x) the introduction of a progressive stage system;
 - (xi) the disposal of the products of prison labour;

- (xii) the establishment of staff welfare funds and the method of administration of such funds;
- (xiii) the appointment and duties of officers responsible for the after care and rehabilitation of prisoners;
- (xiv) the responsibility, accounting and safe keeping of all stores, equipment and accoutrements issued to prisons;
- (xv) accounts and accounting procedure;
- (xvi) prohibiting prison officers, medical officers, ministers or visiting justices, or other persons who have access to prisons from divulging to any unauthorised person any information concerning the administration of prisons or the condition, treatment and affairs of prisoners;
- (xvii) the establishment, constitution, functions, and procedure of a prison officers' staff association and for matters incidental thereto;
- (xviii) the custody and maintenance, including charges to be paid by a judgment creditor, of persons who may be committed to a prison under the provisions of any law relating to imprisonment for non-payment of debts;
- (xix) the carrying out of any sentence of confinement in a separate cell, or penal or reduced diet, awarded under the provisions of any law;
- (xx) the establishment of such boards as the Prime Minister may deem 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;
- (xxi) the medical examination, measuring, photographing and taking of fingerprints, impressions, footprints and casts thereof, palm prints or other records of prisoners detained in any prison or otherwise detained in custody, including detailed personal statistics and histories and for requiring full and truthful answers to all questions put to such persons with the object of obtaining such statistics and histories, and the disposal of such

measurements, photographs, fingerprint impressions, footprints and casts thereof, palm prints or other records;

(xxii) the release on licence or parole and the remission of a portion of prison sentences for good conduct by prisoners;

(xxiii) the manner in which petitions by prisoners may be submitted;

(xxiv) the provision of suitable diets and dietary scales, including penal diets for prisoners, and prescribing the conditions under which such diets and scales may be varied;

(xxv) the establishment and operation of a wage-earning system for prisoners;

(xxvi) prescribing anything to be prescribed under the provisions of this Act; and

(xxvii) 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 the provisions of subsection (1) may prescribe penalties for contravention thereof not exceeding a fine of two hundred dollars and imprisonment for six months.
- (3) In exercising the powers conferred upon him by subsection (1) the Prime 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.
- (4) Different regulations may be made under the provisions of subsection (1)(i) for different classes of prison officers and other persons employed in prisons.
- (5) For the avoidance of doubt, it is hereby declared that regulations may be made under the provisions of subsection (1)(i) in relation to persons who, immediately before the commencement of this Act, were prison officers or other persons employed in prisons.

FIRST SCHEDULE

(Section 3(2))

Prisons

Central Prison, Honiara, Central District

Auki Prison, Malaita District

Gizo Prison, Western District

Kira Kira Prison, Eastern District

Santa Cruz Prison, Eastern District

SECOND SCHEDULE

(Section 11 (1))

FORM OF DECLARATION ON ENLISTMENT

I,.....

swear by Almighty God

do solemnly and sincerely affirm

that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors, and that I will faithfully serve Her and Her Heirs and Successors, during my service in the Solomon Islands Prison Service and will obey all orders of the officers placed over me and will subject myself to all Acts, Orders and Regulations relating to the Solomon Islands Prison Service now in force or which may from time to time be enforced.

Signature of officer of the Prison Service

Sworn (or affirmed) atthisday of

19

Before me.....

(Signature of Superintendent or
Inspector of Prisons)

ENDNOTES

1

KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 111 of the Revised Edition of the Laws of Solomon Islands.

2

LIST OF LEGISLATION

Prisons Act (Cap. 111)

Constituent legislation: 20 of 1972 (Commenced 1 May 1973)
LN 46A of 1978
LN 88 of 1978

3

LIST OF AMENDMENTS