



**THE FOLLOWING LEGISLATION
HAS BEEN REPEALED
BY**

ACT NO. 8 OF 2014

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SCHEDULE

CHAPTER 208

PRISONS

An Act to provide for the establishment and government of prisons and for other purposes connected therewith.*[Assent 21st June, 1943]**[Commencement 10th August, 1943]*

22 *cf* 1943
 37 *cf* 1945
 22 *cf* 1948
 14 *cf* 1950
 30 *cf* 1953
 45 *cf* 1954
 46 *cf* 1954
 7 *cf* 1956
 14 *cf* 1956
 15 *cf* 1956
 1 *cf* 1957
 10 *cf* 1960
 15 *cf* 1961
 3 *cf* 1962
 21 *cf* 1964
 G.N. 172/1964
 43 *cf* 1964
 84 *cf* 1965
 38 *cf* 1968
 9 *cf* 1969
 S.I. 54/1969
 9 *cf* 1972
 E.L.A.O., 1974
 15 *cf* 1977
cf 1981
 5 *cf* 1987
 9 *cf* 1997

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

Short title

2. In this Act, unless the context otherwise requires —

Interpretation

“medical officer” means any qualified medical practitioner appointed to the medical charge of any prison;

“Minister” means the Minister responsible for Prisons;

E.L.A.O., 1974.

“prison” means and includes any place or premises declared to be a prison under this Act, and shall be taken to comprise every gaol, hospital, asylum and every other place however called which is or shall be used for the confinement of prisoners charged with or convicted of any offence;

“prisoner” includes every inmate of any prison detained therein under remand pending trial or under conviction of or sentence for any offence;

“rules” means the rules made by the Minister under the authority of this Act.

E.L.A.O., 1974.

“subordinate officer” means any officer of the Prison Department holding an office specified in the Schedule to this Act;

9 cf 1972, s. 2.

Schedule

E.L.A.O., 1974.

“visiting committee” means any committee appointed by the Minister under the rules in connection with any prison.

Prisons of The Bahamas.
E.L.A.O., 1974.

- 3.** The prisons of The Bahamas shall consist of —
- (a) the prison in New Providence;
 - (b) the several places in The Bahamas now used as prisons;
 - (c) prisons declared to be such by the Minister under section 4 of this Act.

District prisons.
E.L.A.O., 1974.

4. (1) It shall be lawful for the Minister to declare any police station or part of any such police station or any other suitable premises to be a prison.

E.L.A.O., 1974.

(2) A declaration made under subsection (1) shall be published in the *Gazette* as soon as may be after the making thereof.

43 cf 1964, Third Sch.

(3) Any person sentenced on summary conviction to imprisonment with or without hard labour for any term not exceeding twenty-eight days or such other period as may be prescribed by rules under section 5 of this Act and any person detained on suspicion or while awaiting trial may be imprisoned at the nearest prison or at the prison in New Providence.

Rules.
15 cf 1977, s. 2.

- 5.** The Minister may make rules —
- (a) for the government of the prisons and for the conduct and duties of the officers thereof;
 - (b) for the discipline of officers, including the definition of disciplinary offences and the procedure to be followed in hearing and determining disciplinary offences against officers;
 - (c) for the award of medals, badges or other awards to officers, for such services or acts as may be prescribed, and for the wearing of such medals, badges or awards;
 - (d) for the prevention of abuses in the wearing of medals, badges or awards;
 - (e) for the diet, clothing, maintenance, employment, discipline and punishment of the prisoners;
 - (f) for regulating the discharge from prison and return to his residence of any prisoner who resides in an island other than New Providence and who wishes to return thereto and for paying any reasonable expenses in connection therewith;

(g) for regulating the carrying out of the execution of the judgment of death, and for guarding against abuse in such execution, and also for giving greater solemnity to the same, and for making known throughout the prison walls the fact that such execution is taking place.

6. The Governor-General may from time to time by order amend or revoke and replace the Schedule to this Act.

Power to amend Schedule.
9 cf 1972, s. 3.

7. In the case of the death of an officer in the prison service as the direct result of an injury received during the course of his employment, it shall be lawful for the Governor-General, acting in accordance with the advice of the Public Service Commission, to award to the dependants of the deceased officer, in such proportions as advised, a sum equal to one year's salary which such deceased officer was receiving at the date of his death.

Gratuity in respect of officer killed in the course of duty.
8 cf 1981, s. 2.

8. (1) Every officer in the prison service other than a subordinate prison officer or other contract officer shall be deemed to be serving in a pensionable office.

Pensionable status of certain officers.
8 cf 1981, s. 2.

(2) The whole continuous service of every such officer in the prison service as is referred to in subsection (1) other than leave without salary and any previous service during which such officer has received both salary and pension or gratuity under section 13 of the Public Service Act, or the provisions of the Pensions Act, as the case may be, shall be deemed to be pensionable service for the purposes of the Pensions Act whether the whole or any of such service was pensionable or otherwise.

Ch. 39.
Ch. 43.

9. (1) A subordinate officer on first appointment shall be not less than eighteen years of age, and no person shall be eligible for appointment who cannot read, write, produce satisfactory evidence of good character and be passed by a medical officer as physically fit for the duties of his office.

Conditions or service and appointment of subordinate officers.
9 cf 1969, s. 21.; 9 cf 1972, s. 4.

(2) Subject to the provisions of this Act, a subordinate officer shall be appointed for one year.

9 cf 1997, s. 2

(3) Subject as aforesaid, a subordinate officer may be re-appointed for successive periods of five years until the completion of thirty years of service or the attainment of the age of fifty years, whichever event shall first occur.

9 cf 1997, s. 2.

9 cf 1997, s. 2.

(4) Nothing in subsection (3) shall prevent the re-appointment of any officer mentioned in that subsection successively from year to year for a period not exceeding a total of ten years after the completion of thirty years of service or the attainment of the age of fifty years as aforesaid:

Provided that at every re-appointment the person applying to be re-appointed shall be found physically fit and be recommended by the Superintendent of Prisons for re-appointment.

9 cf 1997, s. 2.

(5) A subordinate officer wishing to be re-appointed pursuant to subsection (4), shall apply in writing to the Superintendent of Prisons not less than three months before the date on which the subordinate officer is to retire.

Offence of
desertion.
30 cf 1953, s. 2;
45 cf 1954, s. 2.

10. (1) Any subordinate officer who after having signed an engagement to serve in the prison service for a specified period, deserts or leaves the service without lawful permission before his term of engagement has expired shall be guilty of an offence and shall be liable on summary conviction to a fine of eighty dollars or to four months imprisonment or to both such fine and imprisonment. Any term of imprisonment awarded under this subsection shall be served in the New Providence prison.

5 cf 1987, s. 2.

(2) Any subordinate officer who is absent without leave for any period exceeding forty-eight hours or who withdraws from duty before he has been lawfully discharged from the prison service shall be deemed a deserter and liable to be punished accordingly.

Prison officer to
be peace officer.

11. Every male prison officer while acting as such shall, by virtue of his appointment and without being sworn in, be deemed to be a peace officer and shall have all the powers and privileges of a peace officer.

Certain fines to
be credited to
Deposits Fund.
3 cf 1962, s. 3..
5 cf 1987, Sch.

12. (1) All fines imposed under the provisions of this Act or any rule made thereunder for any offence against discipline shall be paid to the Consolidated Fund to be placed to the credit of the Deposits Fund.

*43 cf 1969, Thurd
Sch.*
5 cf 1987, Sch.

(2) No payment shall be made from the Deposits Fund except upon the authority of the Minister on the recommendation of the Superintendent of Prisons in whose discretion payments may be sanctioned for the following purposes —

-
- (a) assistance to the widows or families of deceased subordinate officers or to any subordinate officer discharged from the Prison Service as medically unfit, if such widows, families or subordinate officers are in destitute or necessitous circumstances;
 - (b) assistance in case of long continued illness of a subordinate officer involving loss or suspension of pay;
 - (c) assistance in case of illness of a subordinate officer's family or those dependant upon him or in any similar case of unusual expense caused by illness which the officer is called upon to bear;
 - (d) payments to subordinate officers as rewards for meritorious acts of service in the execution of duty, if such payments are not met from the revenue of The Bahamas;
 - (e) contributions towards prizes to be given at athletic meetings and similar events organised by or for the benefit of the Prison Service;
 - (f) expenditure for the benefit and advancement of authorised recreation and sport and other branches of welfare activity organised within the Prison Service.

Employment of Prisoners

13. (1) Prisoners sentenced to penal servitude or to imprisonment with hard labour may be employed at hard labour within or without the walls of a prison subject to the rules.

Employment of prisoners.

(2) Hard labour or penal servitude when performed within a prison shall consist of such work as may be prescribed by the rules.

(3) Hard labour or penal servitude when performed without the walls of a prison shall consist of the employment of the prisoner subject to the rules at any place on any work of public utility.

(4) No prisoner shall be employed at hard labour on Sunday, or Good Friday, or Christmas Day.

E.L.A.O. 1974

(5) The Minister shall make provision for the employment subject to the rules of all convicted criminal prisoners not sentenced to penal servitude or to hard labour, but no prisoner not sentenced to penal servitude or to hard labour shall be punished for neglect of work except by such alteration in the scale of diet as may be provided by the rules in the case of neglect of work by such prisoners.

¹*Corporal Punishment for Prison Offences*

Corporal
punishment

14. (1) Corporal punishment may be inflicted on male prisoners for such prison offences as may be prescribed by the rules.

*43 cf 1964, Third
Sch.*

(2) Every infliction of corporal punishment with the cat shall be attended by the Superintendent of Prisons or such other prison officer as may be delegated by him and the medical officer.

(3) The medical officer shall give such orders for preventing injury to the health of a prisoner on whom corporal punishment is inflicted as he may deem necessary and it shall be the duty of the Superintendent to carry them into effect and the Superintendent shall enter in the punishment book the hour at which the punishment is inflicted, the number of lashes and any order which the medical officer may have given on the occasion.

Instrument to be
used

²**15.** (1) Corporal punishment for a prison offence in the case of a male prisoner of or over sixteen years of age shall be inflicted with a cat or rod and in the case of a male prisoner under that age with a rod.

E.L.A.O., 1974.

(2) The cat and rod shall be of patterns approved by the Minister.

Number of
lashes

³**16.** The number of lashes inflicted for a prison offence on a prisoner of or over sixteen years of age shall not exceed twenty-four and on a prisoner under that age, eighteen.

¹ But see now Penal Code (Ch 84) s 118, Abolition of corporal punishment

² See note in footnote 1

³ See note in footnote 1

Miscellaneous

17. The Superintendent of Prisons may, on the certificate of the medical officer, by instrument in writing direct that any sick, diseased or insane prisoner be taken from prison to any hospital or other suitable place for medical treatment for so long as may be necessary, and the time during which the prisoner is in such hospital or place shall be counted as part of the term for which he was sentenced:

Removal of sick person to hospital.
9 cf 1972, s. 5.

Provided that, in the case of a prisoner detained in an Out Island prison who, in the opinion of the Commissioner, is seriously ill and requires immediate medical attention, the Commissioner may by warrant direct that such prisoner be taken from prison to any hospital or other suitable place for medical treatment for so long as may be necessary, and shall forthwith report the fact to the Minister responsible for Local Government for confirmation of such warrant by the Superintendent of Prisons by instrument in writing. The time during which the prisoner is in such hospital or place shall be counted as part of the term for which he was sentenced.

18. (1) Any prisoner may by instrument under the hand and official seal of the Minister be confined in any prison in any part of The Bahamas or may be removed from one prison to another prison for the purpose of enabling the prison to be altered, enlarged or rebuilt, or in the case of contagious or infectious disease breaking out in the prison in which he is then confined, or for other reasonable cause; and any prisoner removed from a prison in pursuance of this section may by instrument under the hand and official seal of the Minister be taken back to the prison or be removed to any other prison. In default of and until any such instrument shall be given and subject to the provisions of this Act prisoners shall be confined to the prison in New Providence.

Removal of prisoners in certain cases.
9 cf 1972, s. 5.

(2) Any such instrument of the Minister shall protect all persons acting thereunder to the same extent as persons are now by law protected for acting under the authority of warrants of arrest or warrants of commitment in criminal cases.

(3) In the case of an infectious or contagious disease occurring in an Out Island prison, or in the event of the destruction of any such prison by fire, or in any other

emergency, the Commissioner may take such steps and issue such directions as he may deem necessary for the segregation or confinement of prisoners. He shall forthwith report the circumstances to the Minister responsible for Local Government and pending any instrument issued under subsection (1) of this section any directions issued by the Commissioner shall protect all persons acting thereunder to the same extent as persons are now by law protected if acting under the authority of warrants of arrest or warrants of commitment in criminal cases; and any building temporarily used for the confinement of any such prisoners shall be deemed to be a prison within the meaning of subsection (1) of section 4 of this Act.

Attendance of prisoner in accordance with directions of court.
38 cf 1968, s. 3, s. 63 and 4th Sch.

19. The officer in charge of any prison shall comply with any direction given by the Supreme Court or any magistrate's court, in accordance with sections 65, 130 or 144 of the Criminal Procedure Code, for the attendance of any prisoner required for trial in respect of any offence, to give evidence or to be present at the taking of any deposition.

Discharge when term expires on Sunday or public holiday.

20. A prisoner whose sentence expires on a Sunday or on a public holiday shall be discharged on the previous day.

Prison committee may administer oaths.

21. In every case of alleged breach of prison discipline the persons who by the rules are authorised to investigate and decide on such alleged offence shall have full power and authority to summon witnesses and to take evidence on oath from any witness appearing before them, and if any person having taken oath shall wilfully and corruptly give any false evidence on any matter or question material to the subject then under investigation every person so offending shall be deemed and be taken to be guilty of perjury and shall and may be criminally proceeded against for such offence in the same manner as if the proceeding in which the false evidence was given had been a judicial proceeding in a court of law.

Release of Prisoners on Licence

Power to Governor-General to grant licence to prisoner to be at large.

22. (1) The Governor-General may grant to any prisoner a licence to be at large within The Bahamas, or in such part thereof as is in such licence expressed, during such portion of his term of imprisonment and upon such

conditions as the Governor-General may deem fit. The Governor-General may at any time revoke or alter such licence.

(2) In the exercise of the powers conferred upon him by this section the Governor-General shall act in accordance with the advice of the Minister for the time being designated under paragraph (2) of Article 90 of the Constitution.

23. So long as such licence continues in force and unrevoked, such prisoner shall not be liable to imprisonment by reason of his sentence, but shall be allowed to go and remain at large, according to the terms of such licence.

Holder of licence to be allowed to go at large.

24. In the case of the revocation of any such licence as aforesaid the Governor-General may by order in writing signify to the magistrate or justice of the peace that such licence has been revoked, and require him to issue a warrant for the apprehension of the prisoner to whom such licence was granted, and such magistrate or justice of the peace shall issue his warrant accordingly.

Apprehension of prisoner where licence revoked.

25. Such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of The Bahamas, and shall have the same force in any place within The Bahamas as if it had been originally issued, or subsequently endorsed, by the magistrate or justice of the peace or other authority having jurisdiction in the place where the same is executed.

Execution of warrant.

26. The prisoner, when apprehended under such warrant, shall be brought, as soon as conveniently may be, before the magistrate or justice of the peace by whom it had been issued, or before some other magistrate or justice of the peace of the same place, or before a magistrate or justice of the peace having jurisdiction in the district in which the prisoner is apprehended. Such magistrate or justice of the peace shall thereupon make out his warrant under his hand and seal for the recommitment of the prisoner to the prison from which he was released by virtue of the said licence.

Apprehended prisoner to be brought up for recommitment.

27. Such prisoner shall be recommitted accordingly, and shall thereupon be liable to be imprisoned for such

Recommitment.

further period as, with the time during which he may have been imprisoned under the original sentence, and the time during which he may have been at large under an unrevoked licence, is equal to the period mentioned in the original sentence.

Penalty for breach of conditions of licence.

28. If a licence be granted under section 23 of this Act upon any condition specified therein, and the prisoner to whom the licence is granted violates any such condition, or goes beyond the limits specified in the licence, or, knowing of the revocation of such licence, neglects forthwith to surrender himself, or conceals himself, or endeavours to avoid being apprehended, he shall be liable upon conviction to be sentenced to imprisonment for a period not exceeding the full period of imprisonment mentioned in the original sentence.

Extra-mural employment of prisoners.
84 cf 1965, s. 2.

29. (1) For the purpose of this section —

“prisoner” means a prisoner who —

- (i) is serving a sentence of imprisonment for a term of two years or more, or consecutive terms of imprisonment amounting in the aggregate to two years or more, with or without hard labour, and
- (ii) having been selected by the Superintendent and, having been interviewed by the Visiting Committee, has been approved by the Visiting Committee as a person suitable for employment under the provisions of subsection (2) of this section;

“Superintendent” means the Superintendent or other officer in charge of a prison.

(2) Notwithstanding the provisions of subsections (1), (2) and (3) of section 13 of this Act, the Superintendent may grant a licence, subject to the conditions and in the form prescribed by rules made under subsection (7) of this section to a prisoner permitting him to be outside such prison between such hours in the forenoon and such hours in the afternoon as may be approved by the Chairman of the Visiting Committee and the Superintendent, other than upon Sundays or Public Holidays, for the purpose of being gainfully employed by an employer approved by the Visiting Committee, but such prisoner shall be deemed to

remain at all times under the supervision of the said Superintendent, who may at any time revoke such licence without incurring liability for any loss or damage suffered by the employer.

(3) A prisoner employed outside a prison under the provisions of subsection (2) of this section shall, whilst outside a prison for the purpose of being so employed or for the purpose of going to and from the place of such employment, be deemed to be in lawful custody under sentence of imprisonment and if he fails to go to such place of employment, or if he fails to remain at such place of employment during the hours of such employment and return to such prison, in accordance with the conditions of the licence granted to him under the provisions of subsection (2) of this section, he shall be deemed to have escaped under the provisions of section 444 of the Penal Code.

Ch 84

(4) An employer employing a prisoner under the provisions of subsection (2) of this section shall not be deemed to have the custody of such prisoner within the meaning of section 442 of the Penal Code.

Ch 84

(5) A person employing a prisoner under the provisions of subsection (2) of this section shall if requested by the Superintendent render weekly to the Superintendent a report on the conduct of such prisoner in accordance with the conditions and in the form prescribed by rules made under subsection (7) of this section.

(6) The earnings of a prisoner employed under the provisions of subsection (2) of this section shall be paid by the employer to the Superintendent or other officer deputed by the Superintendent, who shall —

- (i) deduct therefrom, from time to time, and pay to such prisoner such sums as may be deemed necessary by the Superintendent for the expenses, including clothing, of such prisoner when outside the prison in the course of his employment;
- (ii) deduct therefrom, from time to time, and pay to public funds such sums as may be approved by the Superintendent for the rental of a bicycle, or for other means of conveyance approved by the Superintendent, if any, provided from public funds for the purpose of enabling a prisoner to travel to and from his place of employment;

- (iii) deduct therefrom, from time to time, and pay to public funds such sums as may be approved by the Visiting Committee for the daily cost of board and accommodation of such prisoner in the prison; and
- (iv) deduct therefrom from time to time and pay to public funds such sums as may be approved by the Superintendent for the purchase of a bicycle and all necessary tools for such prisoner;
- (v) from time to time at the request of the prisoner pay to his dependants such sums as may be approved by the Visiting Committee;
- (vi) from time to time invest the balance of such earnings in trust for such prisoner in such manner and upon such conditions as may be prescribed by rules made under subsection (7) of this section and upon release of such prisoner make such balance available to him in such amount or amounts and at such time or times, not later than six months after his release, as may be approved by the Visiting Committee.

E.L.A.O., 1974.

(7) The Visiting Committee may, with the approval of the Minister make rules —

- (i) prescribing the manner and conditions of investment of the balances of moneys earned by prisoners engaged in employment under the provisions of this section;
- (ii) prescribing the conditions and form of licences granted to prisoners under subsection (2) of this section;
- (iii) prescribing the conditions and form of reports to be rendered under subsection (5) of this section.

9 of 1972, s. 6.

SCHEDULE

Sergeant.
Corporal.
Prison Officer.