

PRISONS ACT, 1903-1971.

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Approved for Reprint 1st April, 1976.

WESTERN AUSTRALIA.

PRISONS.

No. 14 of 1903.

(Affected by No. 113 of 1965.)

[As amended by Acts:

No. 6 of 1906, assented to 13th September, 1906;
No. 31 of 1918, assented to 16th December, 1918;
No. 73 of 1954,¹ assented to 14th January, 1955;
No. 36 of 1962,² assented to 29th October, 1962;
No. 22 of 1963,³ assented to 13th November, 1963;
No. 22 of 1964, assented to 28th October, 1964;
No. 74 of 1969, assented to 7th November, 1969;
No. 43 of 1971, assented to 10th December, 1971;

and reprinted pursuant to the Amendments Incorporation Act, 1938.]

AN ACT to consolidate and amend the Law relating to Prisons.

[Assented to 31st December, 1903.]

BE it enacted—

PART I.—PRELIMINARY.

1. This Act may be cited as the *Prisons Act, 1903-1971*, and shall come into operation on the first day of January, One thousand nine hundred and four.

Short title and commencement.
Amended by No. 43 of 1971, s. 1.

2. This Act is divided into Parts, as follows:—

PART I.—PRELIMINARY, ss. 1-6.

PART II.—PRISONS, ss. 7-16:—

- (1) *Establishment of Prisons*, ss. 7-10;
- (2) *The Director*, ss. 11-14;
- (3) *Officers*, ss. 15-16.

Division of Act.
Amended by No. 31 of 1918, s. 3;
No. 22 of 1963, s. 3;
No. 74 of 1969, s. 2;
No. 43 of 1971, s. 4.

¹ Proclaimed 1st March, 1955; see G.G., 18th February, 1955; p. 343.

² Proclaimed 25th January, 1963; see G.G., 25th January, 1963; p. 422.

³ Came into operation 1st October, 1964; see section 2 of Act No. 22 of 1963.

PART III.—VISITORS, ss. 17-20.

PART IV.—MANAGEMENT AND DISCIPLINE, ss. 21-44.

PART V.—THE LAW OF PRISONS, ss. 45-56.

PART VI.—OFFENCES IN RELATION TO PRISONERS,
ss. 57-64.

PART VIA.—REFORMATORY PRISONS, ss. 64A-64N.

PART VIB.—INSTITUTIONS FOR THE RECEPTION OF
CONVICTED INEBRIATES, ss. 64O-64Q.

PART VIC.—LEAVE OF ABSENCE TO CERTAIN
PRISONERS, 64R-64T.

PART VII.—GENERAL PROVISIONS, ss. 65-79.

Repeal.

3. The Acts specified in the First Schedule are hereby repealed, to the extent therein stated.

Interpre-
tation.

Amended by
No. 31 of
1918, s. 2;
No. 22 of
1963, s. 4;
No. 43 of
1971, s. 2.

4. (1) In the interpretation of this Act, unless the context otherwise indicates—

“Criminal Prisoner” means any person committed to prison under sentence of imprisonment for an indictable offence.

“Director” means the Director of the Department of Corrections appointed under this Act.

“Gaoler” includes the superintendent, keeper, or other officer in charge of a prison.

“Magistrate” means stipendiary magistrate.

“Medical Officer” means the medical officer of the prison, or, where there is no such officer, the medical officer of the district in which the prison in respect of which the term is used is situated.

“Minister” means the responsible Minister of the Crown charged for the time being with the administration of this Act.

"Police Gaol" means any police station or lock-up proclaimed as a police gaol under the provisions of this Act, or any Act repealed by this Act.

"Police Officer" includes any constable or officer of Police.

"Prescribed" means prescribed by regulations made under this Act.

"Prison" includes any gaol, police gaol, reformatory prison, or penal outstation.

"Prisoner" means and includes any person committed to prison for punishment, or on remand, or for trial, safe custody, or otherwise.

"Prison Officer" means any superintendent, deputy superintendent, gaoler, warder, or matron of any prison, and includes any person employed in or about a prison not being a prisoner.

"Sheriff" means the Sheriff of Western Australia, or any deputy or under sheriff, or other person for the time being appointed by the Governor to discharge the duties imposed upon the Sheriff.

"the Board" means the Parole Board established under the Offenders Probation and Parole Act, 1963.

(2) A reference, however expressed, in any other Act or in any regulation, notice, proclamation, or statutory instrument of any kind made, published or in force under this or any other Act to the Comptroller General of Prisons shall, unless the context requires otherwise, be read and construed as a reference to the Director of the Department of Corrections appointed under this Act.

Existing
rules and
regulations.

5. All rules and regulations made under the authority of any Act hereby repealed, and in force at the commencement of this Act, shall continue in force until revoked or altered by regulations made under the provisions of this Act, except so far as any such rules and regulations are inconsistent with the provisions of this Act.

Application
of Act to
prisoners
already in
custody.

6. All prisoners in custody at the commencement of this Act, under the provisions of any repealed Act, shall be deemed to be in custody under the provisions of this Act.

PART II.—PRISONS.

(1) *Establishment of Prisons.*

Existing
prisons
continued.

7. The gaols and police gaols and the penal outstation established before the commencement of this Act, and specified in the Second Schedule, are hereby declared to be gaols and police gaols and a penal outstation respectively within the meaning and for the purposes of this Act.

Prisons
may be
proclaimed.

8. (1) The Governor may, by proclamation in the *Government Gazette* declare—

- (a) any building, enclosure, or place to be a gaol;
- (b) any police station or lock-up to be a police gaol;
- (c) any place to be a penal outstation.

Every gaol, police gaol, or penal outstation so proclaimed shall thereupon be a prison within the meaning and for the purposes of this Act.

Prisons
may be
closed.

(2) The Governor may in like manner discontinue and close any gaol, police gaol, or penal outstation, and direct the removal of the prisoners confined therein to some other prison to be named in the proclamation.

(3) Any proclamation made under this section may be altered or revoked by the Governor.

9. Any Court having jurisdiction to commit any person to prison for imprisonment, with or without hard labour, may commit such person to, and direct his sentence to be served in a police gaol:

Committal to police gaols.
Amended by No. 43 of 1971, s. 4.

Provided that no person shall be committed to a police gaol whose sentence exceeds three months, except for detention pending his removal to a gaol:

Provided also that any person committed to a police gaol may, at any time, be removed to a gaol by order of the Director.

This section shall apply to any person committed for contempt of Court if the Court should so direct.

10. The boundaries of every penal outstation shall be declared in the proclamation thereof.

Penal outstations.

(2) *The Director.*

11. (1) The Governor may appoint an officer to be called the Director of the Department of Corrections.

Director.
Amended by No. 43 of 1971, s. 3.

(2) The person who was the Comptroller General of Prisons immediately before the coming into operation of the Prisons Act Amendment Act, 1971 shall be deemed to have been appointed Director of the Department of Corrections under subsection (1) of this section.

12. In the case of illness, suspension, or absence of the Director, the Governor may appoint some person to act as his deputy during such illness, suspension, or absence, and until such appointment is terminated by notice in the *Government Gazette*.

Deputy Director.
Amended by No. 43 of 1971, s. 4.

Control of
prisons and
custody of
prisoners.
Amended by
No. 43 of
1971, s. 4.

13. (1) The Director shall, subject to the exemptions hereinafter contained, and to the control of the Minister, have the care and direction of all prisons, and the custody of all convicted prisoners.

(2) The custody of all persons committed to any prison before or after the commencement of this Act, not being prisoners under sentence for an indictable offence or under adjudication of imprisonment for an offence or breach of duty punishable on summary conviction, shall, together with all powers, rights, obligations, and liabilities in respect of such persons, whether under the provisions of any Act or at common law, continue to be vested in and incident to the Sheriff.

(3) The Director and all prison officers shall hold prisoners who have not been convicted and sentenced as aforesaid for and on behalf of the Sheriff, who shall have such access to, communication with, and all other powers and authorities over, or in reference to such prisoners as he would have had if this Act had not been passed.

Office of
Director and
Sheriff may
be held
jointly.
Amended by
No. 43 of
1971, s. 4.

14. The office of Director of the Department of Corrections and the office of Sheriff may, for such time as the Governor thinks fit, be held by the same person.

(3) Officers.

Appoint-
ment of
officers of
prisons.
Amended by
No. 43 of
1971, s. 4.

15. (1) The Governor may appoint to every prison a superintendent or gaoler, a medical officer, warders, trade instructors, and such other officers as may be necessary.

(2) Any police officer may be appointed to be the keeper of a police gaol.

(3) The Governor may delegate to the Director the appointment and dismissal of prison officers.

16. The several officers appointed under any Act hereby repealed shall be deemed to have been appointed to their respective offices under and for the purposes of this Act.

Status of officers appointed before commencement of Act.

PART III.—VISITORS.

17. The Governor may appoint for every prison visitors of whom two at least shall be Justices of the Peace, with such powers and duties as may be prescribed.

Visitors.

18. It shall be the duty of visitors—

Duty of visitors.

- (1) from time to time to visit the prison to which they are appointed;
- (2) to make such reports to the Minister as they may think fit or the Minister require.

19. Subject to the regulations, any Justice of the Peace may enter and examine any prison at prescribed times, and may record any observations in the Visitors' Book; and it shall be the duty of the gaoler to draw the attention of the visitors, at their next visit to the prison, to any entries made in such book:

Any Justice may visit prisons.

But such Justice of the Peace shall not be entitled, under this section, to visit any prisoner under sentence of death.

20. Any Judge of the Supreme Court may visit and examine any prison at any time he may think fit.

Judges of Supreme Court as visitors.

PART IV.—MANAGEMENT AND DISCIPLINE

21. The Governor may make regulations for all or any of the following purposes (that is to say):—

Regulations for the management of prisons and the discipline therein.
Amended by No. 6 of 1906, s. 2.

- (1) The appointment, duties, promotion, punishment and dismissal of officers;

- (2) the powers and duties of visitors;
- (3) the construction and description of cells for the confinement or punishment of persons confined in prisons and the certifying the same as fit for the purpose;
- (4) the safe custody, classification, separation, diet, instruction, treatment, and correction of prisoners;
- (5) the hours of labour and mode of employment of prisoners;
- (6) regulating what labour or employment shall be deemed hard labour, and for classifying such labour;
- (7) the gratuities to be credited to prisoners for approved work under trade instructors or at penal outstations;
- (8) providing for the ordinary remission of portions of sentences, and for extraordinary remission for special services, and for the forfeiture of remission for misconduct;
- (9) the general management and good government of prisons, and the discipline and safe custody of the prisoners therein, and while employed at labour beyond the limits of the prison;
- (10) for taking the photograph, fingerprints, measurements, and any particulars of any prisoner, and recording the same.

As to
unconvicted
prisoners.

22. Special regulations may be made for the treatment of prisoners unconvicted of crime during the period of their detention for safe custody only.

Such regulations may provide for all or any of the following matters:—

- (1) With respect to communications between such prisoners, their solicitors and friends, to secure to such prisoners as unrestricted

and private communication with their solicitors and friends as may be possible, having regard only to the necessity of preventing any tampering with evidence, and any plans for escape, or other like consideration;

- (2) with respect to arrangements whereby such prisoners may provide themselves with articles of diet, and may be protected from being called upon to perform any unaccustomed tasks or offices;
- (3) and generally regulating the confinement of such prisoners in such manner as to make it as little as possible oppressive, due regard only being had to their safe custody, to the necessity of preserving order and good government in the place in which they are confined, and to the physical and moral well-being of the prisoners themselves.

23. Special regulations shall be made with respect to the classifications and treatment of the following persons, and for separating them altogether from criminal prisoners:—

As to
prisoners
confined on
civil process.

- (1) Persons arrested upon any civil process under any law for the time being in force;
- (2) persons imprisoned for non-compliance with the order of any Court to pay a sum of money not being a fine or penalty for an offence;

But so that such regulations are in mitigation and not in increase of the effect of such imprisonment.

24. The Director may, with the approval of the Minister, make rules for the internal management of any prison with respect to any matters not provided for in the regulations.

Rules for
internal
manage-
ment.
Amended by
No. 43 of
1971, s. 4.

Separate
confinement.
Amended by
No. 43 of
1971, s. 4.

25. (1) In order to prevent contamination arising from the association of prisoners, any prisoner may, by order of the Director, be separately confined during the whole or any part of his imprisonment.

(2) Every cell used for the separate confinement of prisoners shall be of such a size and so ventilated and lighted that a prisoner may be confined therein without injury to health, and every prisoner so confined shall have the means of taking air and exercise at such times as the medical officer thinks necessary.

Female
prisoners
to be kept
separate.

26. In every prison containing both male and female prisoners the females shall be imprisoned in separate buildings or separate parts of the same building in such manner, in so far as practicable, as to prevent their seeing, conversing, or holding any intercourse with the males.

Division of
prisoners.

27. In every prison prisoners convicted of misdemeanour and not sentenced to hard labour shall be divided into two divisions, one of which shall be called the first division.

First
division not
criminal
prisoners.

A misdemeanant of the first division shall not be deemed to be a criminal prisoner within the meaning of this Act.

As to
prisoners
convicted
without
hard labour.

28. Whenever any person convicted of misdemeanour is sentenced to be imprisoned without hard labour, the Judge before whom such person has been tried may, if he thinks fit, order such person to be treated as a misdemeanant of the first division.

Persons
imprisoned
but not
sentenced
to hard
labour.
Amended by
No. 43 of
1971, s. 4.

29. (1) The Director may order all prisoners under sentence of imprisonment without hard labour, except such prisoners who maintain themselves, to be set to some work or labour, provided the same is not severe.

(2) No such prisoner who has the means or maintaining himself shall have any claim to be supplied at the public expense.

30. Any person in custody under sentence of imprisonment with hard labour or penal servitude may be employed at hard labour beyond the precincts of the prison in which he is lodged, and every such person, notwithstanding such employment, shall, while so beyond the precincts of the prison, be deemed to be within the limits of the prison in which he is lodged.

Hard-labour prisoners may be employed outside the prison.

31. Every prisoner under sentence of penal servitude shall, during the term of his servitude, be kept at hard labour and may be confined in such prison as the Director may from time to time direct.

Prisoners under sentence of penal servitude to be kept at hard labour. Amended by No. 43 of 1971, s. 4.

32. The Director may direct any male prisoner sentenced to imprisonment with hard labour or to penal servitude to be taken to a penal outstation for the purpose of labour outside the walls of a prison.

Prisoners may be taken to labour outside walls of prison. Amended by No. 43 of 1971, s. 4.

33. Any visitor being a Justice of the Peace shall have power to hear complaints of prison offences committed by prisoners, and may examine any person touching any such offence upon oath or otherwise at his discretion.

Visitors may hear complaints against prisoners.

34. When any prisoner shall be found to have committed a minor prison offence as hereinafter defined, the visitor hearing the charge may punish such offence by ordering the offender—

Punishment for minor offences. Amended by No. 22 of 1963, s. 5; No. 22 of 1964, s. 2.

- (1) to be confined in a punishment cell on bread and water for any term not exceeding seven days; and
- (2) in addition to such punishment to forfeit remission of sentence earned under the regulations or regulations made under any other Act in respect of any period of imprisonment not exceeding fourteen days served by the prisoner.

Procedure
in case of
aggravated
prison
offences.

35. When any prisoner shall be found to have committed an aggravated prison offence as hereinafter defined, the visitor hearing the charge—

- (1) may direct a complaint of such aggravated offence to be made before a Magistrate or two Justices of the Peace; or
- (2) may deal with the case as a minor prison offence.

Punishment
for
aggravated
prison
offences.
Amended by
No. 22 of
1963, s. 6;
No. 22 of
1964, s. 3.

36. Upon complaint made before a Magistrate or any two Justices of the Peace against any prisoner charged with an aggravated prison offence, as hereinafter defined, such Magistrate or Justices shall inquire in a summary way into and determine the matter of the complaint, and the offender shall be liable on conviction—

- (1) to be confined in a punishment cell (and, if a male, either with or without irons) for any term not exceeding one calendar month, and to be fed upon bread and water only for any time not exceeding fourteen days; or
- (2) if a male offender, to receive corporal punishment as prescribed; or
- (3) to be removed to a lower class; or
- (4) to be suspended for a time without actual removal from the privileges of his class; or
- (5) to be kept at hard labour, if not already sentenced to hard labour; or
- (5a) to be sentenced to any term of imprisonment not exceeding six months, the term to be cumulative upon any term or terms of imprisonment that the offender is then undergoing, or liable to undergo; or

- (6) to forfeit, in addition to any such punishment, remission of sentence earned under the regulations or regulations made under any other Act in respect of any period of imprisonment not exceeding twelve months served by the prisoner.

37. The following shall be deemed to be minor Minor
prison
offences. prison offences:—

- (1) Disobedience of the rules of the prison or any lawful order of a prison officer;
- (2) idleness or negligence in work or mismanagement of work;
- (3) common assault by one person confined in a prison upon another;
- (4) committing a nuisance;
- (5) preferring frivolous complaints against officers;
- (6) profane cursing or swearing;
- (7) indecent or insulting language or behaviour;
- (8) irreverent behaviour at Divine service or prayer;
- (9) pretending illness;
- (10) any other misconduct subversive of the order and good government of the prison.

38. The following shall be deemed to be Aggravated
prison
offences
defined. aggravated prison offences:—

- (1) Mutiny or open incitement to mutiny in a prison;

- (2) personal violence to any officer of the prison;
- (3) escaping or attempting to escape;
- (4) aggravated or repeated assault on a fellow-prisoner;
- (5) repetition of any minor prison offence after having been twice punished for the same minor offence;
- (6) wilfully and maliciously breaking, damaging, or destroying the prison property;
- (7) making or attempting to make any wound or sore;
- (8) preferring a false complaint against an officer of the prison;
- (9) any other act of gross misconduct or insubordination.

Hearing of
complaints.

39. All complaints of prison offences shall be heard and determined in the presence of the prisoner charged, and in the prison where the offence was committed, or some other suitable place; but the Magistrate or Justices may, if he or they think fit, adjourn the hearing of an aggravated prison offence into open court.

Punishment
book to be
kept.
Amended by
No. 43 of
1971, s. 4.

40. Any visitor imposing punishment for a prison offence shall enter and sign, in a book to be called "the Punishment Book," a statement of the nature of any offence that he has punished, with the name of the offender, the date of the offence, and the amount of punishment. A copy of every such entry shall be forthwith sent by the gaoler to the Director.

Punishment
to be
reported by
gaoler.
Amended by
No. 43 of
1971, s. 4.

41. The gaoler shall forthwith report to the Director every punishment ordered under section thirty-six of this Act, and such report shall state the

name of the offender, the date of the offence, the nature of the offence, and the amount of punishment ordered.

42. All corporal punishments shall be attended by the gaoler and the medical officer.

Corporal punishments to be superintended by gaoler and medical officer.

The medical officer shall give such orders for preventing injury to health in the inflictions of such punishment as he may deem necessary, and it shall be the duty of the gaoler to carry them into effect in the presence of the medical officer.

The gaoler shall enter in the punishment-book the hour at which the punishment is inflicted, the particulars of the punishment, and any orders which the medical officer may have given on the occasion.

43. No prisoner shall be kept in irons for more than twenty-four hours without an order in writing from a visitor being a Justice of the Peace specifying the cause thereof and the time during which the prisoner is to be kept in irons, which order shall be preserved by the gaoler as his warrant.

Mechanical restraint.

44. No prisoner shall be put in irons by the gaoler of any prison without an order in writing from a visitor being a Justice of the Peace, except in case of necessity.

Duty of gaoler.

The particulars of every such case shall be forthwith entered in the gaoler's journal, and notice thereof given to one of the visiting Justices.

PART V.—THE LAW OF PRISONS.

45. Every prisoner confined in a prison shall be deemed to be in the custody of the gaoler, and the liability of the Sheriff or other person delivering such prisoner shall cease on such delivery to the gaoler.

Custody of prisoner.

Gaoler to
have charge
of prison.

46. Every gaoler shall have the charge and superintendence of the prison for which he is appointed, and the custody of all persons imprisoned within the same; and he shall be liable to answer for the escape of any such person from his custody whenever such escape shall happen by or through his neglect and default, but not otherwise.

Legal
custody of
prisoners.

47. Every prisoner shall be deemed to be in legal custody whenever he is being taken to or from any prison, or whenever he is working outside or is otherwise beyond the walls of any such prison in custody or under the control of a prison or police officer.

Any police or other officer acting under the order of any Justice having power to commit a prisoner to prison may convey a prisoner to or from any prison to or from which he may be committed or removed.

When term
of imprison-
ment
expires on
Sunday, etc.

48. Any prisoner confined in a prison whose term of imprisonment would, according to his sentence or the regulations relating to remission of sentences, expire on a Sunday, Christmas Day, or Good Friday, may claim his discharge on the Saturday next preceding such Sunday, or on the day next preceding Christmas Day or Good Friday.

Every gaoler having the custody of any such prisoner is hereby authorised to discharge such prisoner accordingly.

Prisoners
may be
discharged
seven days
before
expiration
of
sentences.
Amended by
No. 43 of
1971, s. 4.

49. The Director may permit the discharge of any prisoner at any time during the seven days next preceding the day on which his sentence would lawfully expire.

Description
of prison
in writ.

50. Any writ, warrant, or other instrument addressed to the gaoler of a particular prison, describing the prison by its situation or other definite description, shall be valid by whatever title such prison is usually known or whatever be the description of the prison.

51. The gaoler shall give notice to the Director of the death of every prisoner who may die within a prison, and an inquest shall be held by a Justice of the Peace on the body of every such prisoner.

Notice of death and inquest. Amended by No. 43 of 1971, s. 4.

In no case shall any officer of the prison or any prisoner confined in the prison be a juror on such inquest.

The provisions of this section shall not apply to the case of a prisoner upon whom judgment of death is executed.

52. When a prisoner is charged with an offence, not being the offence or cause for which he is in custody, the Director or any Court or Justice may, by order in writing, direct the gaoler to bring up such prisoner before such Court or such Justices as shall then be present, to be dealt with according to law, and the gaoler shall obey such order and bring up such prisoner accordingly, and after he shall have been so dealt with he shall be restored to his former custody, without any further process or authority, and without prejudice to any cause or matter for which he was originally in custody.

Prisoners may be brought before Courts without writ of habeas corpus. Amended by No. 43 of 1971, s. 4.

53. Prisoners may be removed from one prison to another prison by order of the Director—

Removal of prisoners. Amended by No. 43 of 1971, s. 4.

- (1) for the purpose of enabling any prison to be repaired, altered, enlarged or rebuilt;
- (2) in case of contagious or infectious disease breaking out in any prison;
- (3) when any prison has been closed by order of the Governor;
- (4) when any prison is overcrowded; or
- (5) for any other cause, to be specified in such order.

Any prisoners removed from any prison in pursuance of this section may, by order of the Director, be taken back by the gaoler to the prison from which they were removed, or be removed to any other place in which they can legally be imprisoned.

Removal to
hospital.
Amended by
No. 36 of
1962, s. 3;
No. 43 of
1971, s. 4.

54. Any prisoner may, by order of the Director or medical officer, be removed from a prison to a hospital for medical treatment, and for the purposes of this section the expression hospital shall be taken to include an approved hospital, under the Mental Health Act, 1962.

Any prisoner so removed shall, during his treatment in the hospital, be deemed to be in the legal custody of the gaoler of the prison from which he was removed, and the Director may, if he thinks fit, appoint any prison officer to take charge of any prisoner while he is under treatment in a hospital.

On the certificate of the officer in charge of the hospital (which such officer is hereby required to give when the circumstances justify it) that a prisoner under treatment in the hospital may be discharged therefrom, such prisoner shall forthwith be returned to prison to complete the period of his sentence or to be otherwise dealt with according to law.

Any prisoner escaping or attempting to escape from any hospital shall be deemed to have escaped or attempted to escape from a prison, as the case may be, and shall be dealt with accordingly.

Temporary
removal of
prisoner.

55. Any prisoner may be taken temporarily, by authority of a warrant under the hand of the Minister, from any prison or place of detention to any place in the State for any purpose in aid of the administration of justice or other purpose which, in the opinion of the Minister, requires that such temporary removal should, in the ends of justice, be authorised.

56. When a prisoner is received into a prison by removal from another prison, he may be punished under the regulations in force in the prison into which he is so received for any misconduct which he may have committed in the course of such removal, or within forty-eight hours before the commencement of the same, as if such misconduct had been committed by him within the prison into which he is so received.

Punishment of prisoners for misconduct during removal from one prison to another.

PART VI.—OFFENCES IN RELATION TO PRISONERS.

57. Any person who, by force, rescues or attempts to rescue from lawful custody an offender under sentence of death, or a person committed to prison on a charge of a crime punishable with death, is guilty of a crime, and is liable to imprisonment with hard labour for life.

Forcibly rescuing capital offenders.

58. Any person who—

Aiding prisoner to escape.

- (1) aids a prisoner in escaping or attempting to escape from lawful custody; or
- (2) conveys anything or causes anything to be conveyed into a prison with intent to facilitate the escape of a prisoner,

is guilty of a crime, and is liable to imprisonment, with or without hard labour, for any term not exceeding seven years.

59. Any person who, being a prisoner in lawful custody under sentence after conviction for an offence, escapes or attempts to escape from such custody, is guilty of a crime, and is liable to imprisonment, with or without hard labour, for any term not exceeding three years.

Escape by prisoner. Amended by No. 6 of 1906, s. 3.

The offender may be tried, convicted, and punished, notwithstanding that at the time of his apprehension or trial the term of his original sentence has expired.

Permitting
escape.

60. Any person who, being an officer of a prison or police officer, and having for the time being, the custody of a prisoner or a person under arrest upon a charge of an offence, wilfully permits him to escape from custody, is guilty of a misdemeanour, and is liable to imprisonment, with or without hard labour, for any term not exceeding three years.

Harbouring
escaped
prisoners.
Amended by
No. 113 of
1895, s. 8.

61. Any person who harbours, maintains, or employs a person who is, to his knowledge, under sentence of such a kind as to involve deprivation of liberty, and illegally at large, is guilty of a misdemeanour, and is liable to imprisonment for any term not exceeding two years, or to a fine not exceeding four hundred dollars.

Bringing
spirituous
liquors or
tobacco
into a
prison.
Amended by
No. 113 of
1895, s. 8.

62. Every person who, contrary to the prison regulations—

- (1) brings or attempts by any means whatever to introduce into any prison any spirituous or fermented liquor, or tobacco, opium, or other prohibited article;

and every prison officer who, contrary to the prison regulations—

- (2) suffers any spirituous or fermented liquor, or tobacco, opium, or other prohibited article to be sold or used therein;

shall, on summary conviction, be liable, in the discretion of the Justices, to imprisonment for any period not exceeding six months, or to a penalty not exceeding one hundred dollars, or to both such punishments:

And, if a prison officer, he shall, in addition to any other punishment, be liable to forfeiture of his office and all arrears of pay due to him.

Offences
against
prison
regulations.
Amended by
No. 113 of
1895, s. 8.

63. Every person who, contrary to the regulations—

- (1) enters or attempts to enter any prison;

- (2) communicates, or attempts to communicate with any prisoner;
- (3) conveys or delivers, or in any manner whatsoever attempts to convey or deliver, or to cause to be conveyed or delivered to any prisoner, or introduces or attempts to introduce into any prison, any money, letter, or other document, clothing, or other article or thing;
- (4) conveys or receives, or attempts to convey or receive, any letter or other document, or any article out of any prison;
- (5) loiters about or near any prison, or other place where prisoners are employed; or
- (6) secretes or leaves at any place any letter, article, or thing for the purpose of being found or received by any prisoner;

shall be liable to be apprehended without warrant by any police or prison officer, or other person in whose charge or custody any such prisoner may then be, and detained and kept in safe custody until he can be brought before two or more Justices of the Peace, who shall have power to hear and determine such offence.

Upon conviction any such offender shall, for any such offence, be liable to a penalty not exceeding one hundred dollars, or, in the discretion of such Justices, to imprisonment with hard labour for any period not exceeding six months.

64. Any person found in or about or near any prison, or other place where prisoners are confined or employed, who, upon being duly warned by any prison officer or police officer to depart therefrom, refuses or neglects so to do, shall be deemed to be loitering for any of the purposes aforesaid, and may be forthwith apprehended without warrant and kept in safe custody until he can be brought before the Justices.

Unlawful
purposes
presumed.

Added by
No. 31 of
1918, s. 3.

Establish-
ment of
Reformatory
Prisons.

Added by
No. 31 of
1918, s. 3.

PART VIA.—REFORMATORY PRISONS.

64A. (1) The Governor may by proclamation—

- (a) set apart any suitable place to be a reformatory prison for the reception and detention of persons sentenced to be detained in or ordered to be transferred to a reformatory prison;
- (b) set apart any reformatory prison or any part thereof for the detention of habitual criminals or persons of any prescribed class.

(2) Subject to the provisions of this Act and the Criminal Code every person detained in a reformatory prison shall be detained during the Governor's pleasure.

Power to
transfer
persons
from gaol to
reformatory
prison.

Added by
No. 31 of
1918, s. 3.

Amended by
No. 22 of
1963, s. 7;
No. 43 of
1971, s. 4.

64B. (1) When any person apparently of the age of eighteen years or upwards, and not being a person on whom a subsisting indeterminate sentence has been imposed, is confined in any prison under sentence of imprisonment, it shall be the duty of the Director to consult with the Board as to whether it is desirable that such person should be transferred to a reformatory prison.

(2) If the Director and the Board agree that such person ought to be so transferred the Director may make a recommendation to that effect to the Minister, specifying in the recommendation the reformatory prison to which such person should be transferred, and transmitting therewith a statement setting forth such person's record and the reasons for the recommendation.

(3) The Minister shall lay such recommendation and statement before the Governor who may, by Order in Council, direct that the recommendation be carried into effect, and it shall be carried into effect accordingly, and unless such person is re-transferred under the provisions hereinafter contained such order shall operate as a remission of the residue of his sentence of imprisonment.

(4) No person so transferred shall be detained in the reformatory prison for any period longer than the residue of his sentence unexpired immediately prior to the making of the Order in Council.

64C. (1) Where the behaviour of any person so transferred as aforesaid is in the opinion of the Board such as to be injurious to the discipline of the reformatory prison, the Director may report to the Minister to that effect.

Power to re-transfer such person to gaol.
Added by No. 31 of 1918, s. 3.
Amended by No. 22 of 1963, s. 8; No. 43 of 1971, s. 4.

(2) The Minister shall lay such report before the Governor who may, by Order in Council, direct such person to be re-transferred either to the prison from which he was transferred or to some other specified prison to serve the unexpired residue of his sentence.

(3) Thereupon such person shall be removed to the prison named in the Order in Council, and shall, pursuant to the original authority under which he was imprisoned, serve the unexpired residue of his sentence, and the time spent on probation shall not be reckoned as part thereof, unless so stated in the Order in Council.

64D. When an Order in Council has been made under either of the last two preceding sections directing that any person be transferred from a prison to a reformatory prison or from a reformatory prison to a prison, no authority other than such Order in Council or a copy thereof purporting to be signed and certified as a true copy by the officer to whose custody the original is intrusted shall be necessary to warrant such transfer or the detention of such person.

Effect of Order in Council as to transfer and detention.
Added by No. 31 of 1918, s. 3.

64E. [*Added by No. 31 of 1918. Repealed by No. 22 of 1963.*]

64F. (1) Every person detained in a reformatory prison shall, subject to the regulations, work at some trade or vocation or be employed in some labour.

Persons detained to be required to work.
Added by No. 31 of 1918, s. 3.
Amended by No. 22 of 1963, s. 10.

(2) Any such person may be required to work outside the prison, as may be prescribed by regulation, and shall, whilst outside such prison for the purpose of so working or of going to or coming from such work, be deemed in the lawful custody of the Superintendent, and, subject to any regulations made under this Part, shall be subject to the same liabilities and obligations and governed by the same laws and rules as if he were within the prison.

Products of
work.

(3) The products of his work shall be sold or otherwise disposed of.

Disposal of
net proceeds
and of
wages.

(4) Of the net proceeds arising from the sale or disposal of the products of his work such portion as may be prescribed shall be credited to him; or such portion as may be prescribed of the wages earned by him according to the scale prescribed for the class of labour in which he is employed shall be credited to him.

(5) The manner of dealing with the remainder of such net proceeds or wages shall be as prescribed; and such amounts thereof as may be prescribed shall, in the discretion of the Minister, be applied from time to time towards the maintenance during the period of his detention of his wife and family (if any) or of any person dependent upon him.

Account to
be kept.
Balance to
be handed
over to
Board.

(6) An account of the same shall be kept in each reformatory prison and any sum standing to his credit on his release on parole shall be handed over to the Minister, who shall disburse it in such manner as the Board considers conducive to his welfare; but if during his period of parole he is sentenced to imprisonment he shall, if the Minister so directs, forfeit the said sum or so much thereof as is in the hands of the Minister (as the case may be), and the same shall be paid into the Consolidated Revenue.

64G. [Added by No. 31 of 1918. Repealed by No. 22 of 1963.]

64H. [Added by No. 31 of 1918. Repealed by No. 22 of 1963.]

64I. (1) Where a person detained in a reformatory prison is sentenced to a term of imprisonment in a prison, such person on the expiry of such term of imprisonment—

- (a) shall be removed to a reformatory prison; and
- (b) shall continue to be detained in a reformatory prison pursuant to the sentence or order by which he had previously been detained therein.

Person in reformatory prison sent to gaol by visiting justice to be returned to reformatory prison on expiry of sentence. Added by No. 31 of 1918, s. 3.

(2) Any visiting justice may issue any warrant necessary for the purpose of this section.

64J. (1) The Board may, by order in writing signed by any two members thereof, and with the concurrence of the Director, direct that any person detained in any reformatory prison or part thereof may be transferred therefrom to any other reformatory prison or part thereof.

Transfers from one reformatory prison to another. Added by No. 31 of 1918, s. 3. Amended by No. 22 of 1963, s. 13; No. 43 of 1971, s. 4.

(2) Where any such order is made no authority other than such order or a copy thereof purporting to be signed and certified as a true copy by the officer to whose custody the original is intrusted shall be necessary to warrant such transfer or the detention of such person.

(3) Any person transferred as aforesaid shall be subject to the regulations applying to the reformatory prison to which he is so transferred.

64K. (1) If the Board reports that it is desirable that any person detained in a reformatory prison should be permitted to leave such prison temporarily—

- (a) for the purpose of being treated at any hospital; or

Provision for permitting prisoners to leave reformatory prisons for certain purposes. Added by No. 31 of 1918, s. 3. Amended by No. 22 of 1963, s. 14; No. 43 of 1971, s. 4.

- (b) for the purpose of visiting a relative believed to be dying; or
- (c) for any other reason which appears to the Board to be sufficient,

the Director may by writing under his hand make an order that such person may, subject to any conditions set forth in the order, be permitted to leave the prison for the purpose and for the period specified in the order.

Custody
during
absence.

(2) The Director may in the order direct that such person shall during the said period be in the custody of any member of the police force, gaoler, or officer named in the order, who shall in due course return him into the custody from which he was removed pursuant to the order; and until such return he shall be deemed to be in the legal custody of the member of the police force, gaoler, or officer named in the order and acting thereunder.

(3) If in any case the Director is of opinion that it is impracticable to require such person to be in the custody of any member of the police force, gaoler, or officer during the period of such absence from the prison, the Director may make the order without naming any police constable, gaoler, or officer therein; and in every such case such person shall be deemed to be in the legal custody of the superintendent of the prison.

Penalties.

(4) Any person permitted to leave a reformatory prison under this section who—

- (a) escapes or attempts to escape from the custody of any police constable, gaoler, or officer;
- (b) does not return to the said prison immediately on the expiration of the period mentioned in the order; or
- (c) is guilty of a breach of any of the conditions of the order,

may, without any warrant other than this Act, be arrested by any member of the police force or by any person thereto authorised in writing by the

Director and be returned to the reformatory prison; and shall, within the meaning of section fifty-nine of this Act, be deemed to have escaped or attempted to escape from custody and shall be liable to be imprisoned accordingly; and after the expiration of any such term of imprisonment (if any) shall, subject to this Part of this Act, be returned to and continue to be detained in the reformatory prison under the sentence or order by which he had previously been detained therein; or if no such term of imprisonment is imposed he shall be returned to the reformatory prison and continue to be detained as aforesaid; and any warrant necessary for the purposes of this section may be issued accordingly.

64L. (1) This Part of this Act shall apply to persons undergoing preventive detention immediately prior to the commencement thereof.

Application to persons heretofore sentenced. Added by No. 31 of 1918, s. 3.

(2) Any such person shall be placed in such class or position as the Indeterminate Sentences Board shall decide.

64M. The Governor may make regulations not inconsistent with this Part—

Power of Governor to make regulations. Added by No. 31 of 1918, s. 3. Amended by No. 22 of 1963, s. 15.

- (a) for the conduct, management, control, inspection and supervision of reformatory prisons generally or of any reformatory prison or part thereof set apart for habitual criminals or persons of any prescribed class;
- (b) for the good order, discipline, employment, and health of persons detained therein, and for the classification of such persons and their promotion from class to class;
- (c) prescribing the trades, vocations, or classes of work at which persons detained therein are to be employed;

- (d) prescribing the mode of sale and disposal of the products of the work of persons so detained;
- (e) prescribing the disposal of the proceeds of such sale;
- (f) prescribing scale of wages for the several classes of labour in which persons so detained may be employed; and the disposal of such wages;
- (g) prescribing the punishments which may be imposed by a visitor (being a Justice) for any breach of prison discipline or idleness or misconduct on the part of any person so detained, and empowering such visitor to direct the deduction of the amount of any fine from any sum at any time standing to the credit of such person in the account kept under section 64F, and enacting that any punishment so prescribed shall be in addition or as an alternative to or in substitution for any other punishment which a visitor or a magistrate or two Justices may be empowered to inflict under this Act;
- (h) classifying the persons who are detained under the provisions of this Act, or The Criminal Code, in a reformatory prison, or who are liable to be so detained.
- (i) [*Repealed by No. 22 of 1963, s. 15.*]
- (j) prescribing forms to be used under this Part; and
- (k) prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Part.

64N. The other parts of this Act, including any regulations made under any such part shall apply (so far as applicable) to reformatory prisons and to the persons detained therein as if such persons were under sentence of imprisonment for a term after conviction for an offence, subject, however, to the provisions of this Part and any regulations made under this Part.

Application of other parts of this Act to reformatory prisons. Added by No. 31 of 1918, s. 3.

PART VIB.—INSTITUTIONS FOR THE RECEPTION OF CONVICTED INEBRIATES.

Added by No. 36 of 1962, s. 4.

64O. The Governor may by proclamation, set apart any suitable place, whether part of a prison or not, to be an institution for the reception of convicted inebriates.

Establishment of institutions for convicted inebriates. Added by No. 36 of 1962, s. 4.

64P. The provisions of sections sixty-four F, sixty-four I, sixty-four M and sixty-four N of this Act apply *mutatis mutandis* to institutions for the reception of convicted inebriates and to persons placed in those institutions, as though re-enacted in this Part; except that—

Other sections of this Act to apply. Added by No. 36 of 1962, s. 4. Amended by No. 43 of 1971, s. 4.

- (a) the reference, in subsection (6) of section sixty-four F, to the Board shall be read as a reference to the Director; and
- (b) paragraph (i) of section sixty-four M shall not apply.

64Q. (1) If the officer in charge of the institution reports that it is desirable that any person placed in an institution for the reception of convicted inebriates should be permitted to leave the institution temporarily—

Provision for permitting persons to leave institutions for certain purposes. Added by No. 36 of 1962, s. 4. Amended by No. 43 of 1971, s. 4.

- (a) for the purpose of being treated at any hospital; or
- (b) for the purpose of visiting a relative believed to be dying; or

- (c) for any other reason which appears to the officer in charge to be sufficient,

the Director may by writing under his hand make an order that the person may, subject to any conditions set forth in the order, be permitted to leave the institution for the purpose and for the period specified in the order.

Custody
during
absence.

(2) The Director may in the order direct that the person shall during the period specified in the order be in the custody of any member of the police force, gaoler, or officer named in the order, who shall in due course return him into the custody from which he was removed pursuant to the order; and until the person's return he shall be deemed to be in the legal custody of the member of the police force, gaoler, or officer named in the order and acting thereunder.

(3) Where in any case the Director is of opinion that it is impracticable to require the person to be in the custody of any member of the police force, gaoler, or officer during the period of such absence from the institution, the Director may make the order without naming any police constable, gaoler, or officer therein; and in every such case the person shall be deemed to be in the legal custody of the officer in charge of the institution.

Penalties.

(4) Every person permitted to leave an institution under this section who—

- (a) escapes or attempts to escape from the custody of any police constable, gaoler, or officer;
- (b) does not return to the institution immediately on the expiration of the period mentioned in the order; or
- (c) is guilty of a breach of any of the conditions of the order,

may, without any warrant other than this Act, be arrested by any member of the police force or by any person thereto authorised in writing by the

Director and be returned to the institution; and shall, within the meaning of section fifty-nine of this Act, be deemed to have escaped or attempted to escape from custody and shall be liable to be imprisoned accordingly; and after the expiration of any such term of imprisonment (if any) shall subject to this Part of this Act, be returned to and continue to be detained in the institution under the order by which he had previously been placed therein; or if no such term of imprisonment is imposed, he shall be returned to the institution and continue to be detained there; and any warrant necessary for the purposes of this section may be issued accordingly.

PART VIC.—LEAVE OF ABSENCE TO CERTAIN PRISONERS.

Added by
No. 74 of
1969, s. 3.

64R. With the approval of the Minister, the Director may grant leave of absence for a prescribed purpose and on prescribed conditions to a prisoner of a prescribed class.

Power of
Director to
grant leave
of absence.
Added by
No. 74 of
1969, s. 3;
amended by
No. 43 of
1971, s. 4.

64S. Where a prisoner is in any employment during his leave of absence the terms and conditions, including the amount payable, in respect of the employment shall be the terms and conditions, including the amount payable, provided pursuant to any award or agreement in force under the Industrial Arbitration Act, 1912 that applies to the employment or, where there is not such an award or agreement, shall be such terms and conditions, including the amount payable, as are fixed in accordance with the regulations.

Terms and
conditions of
employment.
Added by
No. 74 of
1969, s. 3.

64T. (1) The Governor may make regulations which appear to him necessary or convenient for effectually carrying out the objects of this Part and may in the regulations confer a discretion on a person, a body of persons, or a class of persons specified in them.

Regulations.
Added by
No. 74 of
1969, s. 3.

(2) In particular, but without limiting the generality of subsection (1) of this section, the regulations may make provision for any of the following matters—

- (a) the period of leave of absence;
- (b) variation of the period of, or the conditions of, leave of absence;
- (c) termination of leave of absence;
- (d) custody during leave of absence;
- (e) supervision during leave of absence;
- (f) reduction of the sentence of a prisoner by the period during which he is on leave of absence and complies with the conditions of the leave;
- (g) apprehension of a prisoner where he has not complied with the conditions of his leave of absence or where it has been terminated;
- (h) the terms and conditions, including the amount payable, in respect of any employment of a prisoner during his leave of absence, subject to any award or agreement in force under the Industrial Arbitration Act, 1912 that applies to the employment;
- (i) the manner of payment in respect of any employment of a prisoner during his leave of absence;
- (j) the records to be kept by an employer of a prisoner on leave of absence;
- (k) the application of moneys paid in respect of employment of a prisoner during his leave of absence including payment of part of those moneys towards the costs and expenses of his detention;

- (l) the accounts to be kept in respect of moneys paid for the employment of a prisoner during his leave of absence and the audits to be made in respect of those accounts; and
- (m) forms to be used for the purposes of this Part.

PART VII.—GENERAL PROVISIONS.

65. Offences under this Act, with the exception of crimes and of offences for the mode of trial of which express provision is made by this Act, may be prosecuted summarily before two or more Justices of the Peace, and in manner directed by the Justices Act, 1902.

Recovery of penalties.

66. Notwithstanding that any lock-up or place used for the reception or detention of accused persons before trial is declared a police gaol, the same shall continue to be and to be used as a lock-up for any purpose for which the same might have been or was used before such declaration; and in relation to all accused persons from time to time in custody therein awaiting trial, the same shall for all purposes be deemed a lock-up only.

Police gaols still to remain lock-ups.

67. (1) Nothing in this Act shall affect the control of the Commissioner of Police over lock-ups which are declared to be police gaols, and over the management of the same and the officers employed thereat, so far as such control and management and officers relate to accused persons before trial, and the use and management of the police gaol as a lock-up.

Commissioner of Police to retain immediate control of lock-ups.

(2) Any question arising out of any conflict or apparent conflict of the respective powers and authorities of the Director of the Department of Corrections and the Commissioner of Police in relation to any lock-up or police gaol, or in relation to any person employed thereat or confined therein, shall be decided by the Minister.

Any question between Director and Commissioner to be decided by Minister.

Time during
which
prisoner
unlawfully
at large
excluded in
computing
sentence.

68. A prisoner who escapes from lawful custody while undergoing a sentence of imprisonment shall, unless the Governor otherwise directs, on recapture, undergo imprisonment for a term equal to that during which he has been absent from prison after the escape and before the expiration of the term of his original sentence, whether at the time of recapture the term of that sentence has or has not expired.

Prisoners
sentenced
for breaches
of prison
regulations
to undergo
punishment
not-with-
standing
expiry of
original
sentence.

69. (1) All laws, regulations, and rules affecting the discipline and conduct of persons sentenced to imprisonment or penal servitude, and all penalties for breaches of or offences against such laws and regulations, shall bind and affect such persons until *de facto* released from custody.

(2) Any person who, before being actually released as aforesaid, does any act or thing which would, if committed by a prisoner whose sentence was unexpired, render such prisoner liable to any punishment whatsoever, under any such law or regulation, shall be liable to receive and undergo, within the prison in which such person is confined, the same punishment as if his sentence or sentences had remained unexpired at the time he did such act or thing.

(3) A prisoner who is charged with any breach of or offence against any such law or regulation, and whose sentence expires within seven days of such charge and before the same can be heard, shall continue in custody until the same has been heard and the punishment awarded (if any) undergone.

(4) A prisoner who is sentenced to or undergoing any punishment for a breach of any such law or regulation at the time the sentence on which he was imprisoned expires shall nevertheless undergo or complete such punishment as the case may be.

(5) A prisoner within the operation of this section shall, until entitled to be released, be treated as if his original term of imprisonment were unexpired.

70. When a prisoner is discharged from prison, the Director may provide such prisoner, out of any moneys under his control and applicable to the purpose, with means of returning to his home or usual place of residence by causing his fare to be paid by railway or in any other convenient manner.

Discharged prisoners may be provided with means of returning home.
Amended by No. 43 of 1971, s. 4.

71. Commitments under the provisions of the Debtors Act, 1871, or any amendment thereof, may be made to any prison or police gaol established under this Act:

Commitments under Debtors Act.

But the Judges of the Supreme Court may make such rules and regulations for the custody of debtors as they may think fit.

72. When any person is detained in any prison under sentence or awaiting trial, or on remand for any offence, or for any other cause, and a trial, inquiry, inquest, or inquisition is pending at which it is deemed necessary that such prisoner should be present, any Judge or Commissioner of the Supreme Court, a Judge of the District Court of Western Australia, or Justice of the Peace may make an order under his hand directing any gaoler to produce such person, and such order shall be sufficient warrant or authority to any gaoler for producing such prisoner.

Persons in custody required to give evidence may be brought up on order.

72A. (1) When it is necessary to bring a convicted appellant or other person who is in custody in any prison to any place at which he is entitled to be present for the purpose of Chapter sixty-nine of The Criminal Code, or to any place to which the Court of Criminal Appeal or any Judge thereof may have ordered him to be taken for the purpose of any proceedings of that Court, or rendered necessary by or in consequence of any order of that Court, the Director or the Registrar of the Supreme Court, or any Justice of the Peace, may by order in writing direct the gaoler to bring up such appellant or person to such place as aforesaid, and the gaoler shall obey such order and bring up or cause to be brought up such appellant or person accordingly to such place, there to be dealt with according to law.

Persons in custody required to attend on criminal appeal, etc.
Added by No. 31 of 1918, s. 4.
Amended by No. 43 of 1971, s. 4.

(2) The gaoler may charge any warder, police constable, or other officer with the execution of such order.

(3) Every appellant or person brought up under any order issued under this section shall, whilst he is absent from the prison for the purpose aforesaid, be kept in the custody of the police officer, warder, gaoler, or other officer acting under or in execution of such order, who shall in due course, subject to any lawful order to the contrary, return the prisoner to the custody from which he shall have so been brought up.

(4) If the proceeding which such appellant or person is required to attend is adjourned, the appellant or person may during the adjournment be returned to the prison or kept at any place in the custody of the officer acting under or in execution of the order, and may be brought up from day to day and time to time to the place at which his attendance is required as often as necessary.

Prisoners brought up as aforesaid to be returned to custody. Amended by No. 31 of 1918, s. 5.

73. Every prisoner brought up under any order issued under sections fifty-two or seventy-two or seventy-two A shall be deemed to be in legal custody of the police officer, gaoler, or other officer having the temporary custody of such person and acting under such order, who shall in due course return the prisoner into the custody from which he shall have been so brought up.

Guard, etc., may fire on prisoner in certain cases.

74. Any guard, gaoler, warder, police officer or other person lawfully charged with the custody of any prisoner under sentence of death or penal servitude or imprisonment for any term, may fire upon any such prisoner while attempting to escape from any prison or other place, or while attempting to assault any guard, gaoler, warder, police officer, or other person as aforesaid, or any other prisoner:

Provided that such firing shall appear to be necessary to prevent the escape of such prisoner, or the assault committed or attempted by such prisoner was of a character apparently dangerous to the life or likely to cause bodily harm to the person assaulted or threatened.

75. No action or claim for damages shall lie against any person for or on account of anything done or commanded to be done by him, and purporting to be done for the purpose of carrying out the provisions of this Act, unless it is proved that such act was done or commanded to be done maliciously and without reasonable and probable cause.

No action to lie against person who has acted without malice.

76. [Repealed by No. 73 of 1954, s. 5.]

77. All regulations made under this Act shall be published in the *Government Gazette*, and thereupon shall have the force of law; and shall be laid before both Houses of Parliament within fourteen days after such publication, if Parliament is then in session, and if not, within fourteen days after the commencement of the next ensuing session.

Publication of regulations.

All or any of such regulations may be made to apply generally to all prisons, or to any one or more prisons to be specified.

Regulations may be of general or local application.

78. Nothing in this Act shall affect any regulation in force at the commencement of this Act, relating to the issue of tickets-of-leave to prisoners under sentence of penal servitude, and such regulations are hereby declared to be valid.

Saving of regulations as to tickets-of-leave.

79. The Director shall, as soon as practicable after the close of each year, make and deliver to the Minister a report upon the state and condition of all prisons throughout the State, and upon all matters affecting their management, and shall include therein such observations and recommendations as he may think fit to make.

Annual report of Director. Amended by No. 43 of 1971, s. 4.

THE FIRST SCHEDULE.

Section 3.

Date of Act	Title or Short Title	Extent of Repeal
6 & 7 Will. IV., c. 30	An Act to repeal so much of two Acts of the ninth and tenth years of King George IV., as directs the period of Execution and the Prison Discipline of persons convicted of the crime of Murder	The whole
4 & 5 Vict., No. 21	An Act to constitute the Island of Rottnest a Legal Prison	The whole
12 Vict., No. 7	An Ordinance for the Regulation of Gaols, Prisons, and Houses of Correction in the Colony of Western Australia, and for other purposes relating thereto	So much as is not already repealed
14 Vict., No. 6	An Ordinance to provide for the due Custody and Discipline of Offenders transported to Western Australia, and of Offenders sentenced therein to transportation	So much as is not already repealed
16 Vict., No. 18	An Ordinance to make further provision for the due Custody and Discipline of Offenders transported to Western Australia, and Offenders sentenced therein to transportation	The whole
17 Vict., No. 5	An Ordinance to amend the Ordinance No. 18, of 1853	The whole
17 Vict., No. 7	An Ordinance for the Suppression of Violent Crimes committed by Convicts illegally at large	The whole
19 Vict., No. 8	An Ordinance to substitute other Punishment in lieu of Transportation	So much as is not already repealed
21 Vict., No. 1	An Ordinance to make additional provisions for Convict Discipline in Western Australia	So much as is not already repealed
21 Vict., No. 12	An Ordinance to extend and enlarge the provisions of an Ordinance passed in the twelfth year of the reign of Her Majesty Queen Victoria, intituled "An Ordinance for the Regulation of Gaols, Prisons, and Houses of Correction in the Colony of Western Australia, and for other purposes relating thereto"	The whole

THE FIRST SCHEDULE—continued.

Date of Act	Title or Short Title	Extent of Repeal
24 Vict., No. 1	An Ordinance to amend the Ordinance 19th Victoria, No. 8, of 1856, to substitute in certain cases other punishment in lieu of Transportation	The whole
32 Vict., No. 9	An Ordinance to make better provision for the Suppression of Violent Crimes committed by Convicts	The whole
41 Vict., No. 2	The Road Parties Discipline Act, 1877	The whole
43 Vict., No. 4	An Act to make additional provisions for Prison Discipline in Western Australia	The whole
51 Vict., No. 5	The Prisoners Employment Act, 1887	The whole
58 Vict., No. 10	The Colonial Prisoners Removal Act, 1894	The whole
1 & 2 Edw. VII., No. 3	The Gaols Act Amendment Act, 1902	The whole

Section 7.

THE SECOND SCHEDULE.

The Gaol at Albany.
 The Gaol at Bunbury.
 The Gaol at Busselton.
 The Gaol at Broome.
 The Gaol at Carnarvon.
 The Gaol at Fremantle.
 The Gaol at Geraldton.
 The Gaol at Newcastle.
 The Gaol at Roebourne.
 The Gaol at Wyndham.
 The Gaol at York.
 The Police Gaol at Bridgetown.
 The Police Gaol at Collie.
 The Police Gaol at Cue.
 The Police Gaol at Coolgardie.
 The Police Gaol at Derby.
 The Police Gaol at Kalgoorlie.
 The Police Gaol at Leonora.
 The Police Gaol at Marble Bar.
 The Police Gaol at Menzies.
 The Police Gaol at Mount Malcolm.
 The Police Gaol at Mount Morgans.
 The Police Gaol at Perth.
 The Police Gaol at Southern Cross.
 The Penal Outstation at Hamel.