XV

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অসম ৰাজপত্ৰ
THE ASSAM GAZETTE

অসাধাৰণ
EXTRAORDINARY

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GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
LEGISLATIVE DEPARTMENT : : : LEGISLATIVE BRANCH

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NOTIFICATION

The 30th May, 2013

No. LGL.124/2011/5.– The following Act of the Assam Legislative Assembly which received the assent of the Governor is hereby published for general information.

ASSAM ACT NO. XV OF 2013

(Received the assent of the Governor on 20th May, 2013)

THE ASSAM PRISONS ACT, 2013

AN
ACT

to consolidate the laws relating to prisons and persons detained therein in the State of Assam.

Preamble Whereas it is expedient to consolidate the existing law relating to prisons and persons detained therein to ensure humane care and to protect the human rights of the offenders as well as other persons committed to prisons; and

to provide correctional treatment and guidance to the offenders committed to prisons so as to facilitate their rehabilitation as law-abiding, responsible and useful members of society; and

to provide statutory support and guidelines for pursuing the humanitarian, correctional and rehabilitative objectives of the prison organization in the State of Assam;

It is hereby enacted in the Sixty - fourth Year of the Republic of India as follows : ---

CHAPTER I
PRELIMINARY

Short title, extent and commencement

1. (1) This Act may be called the Assam Prisons Act, 2013.

(2) It extends to the whole of the State of Assam.

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Definitions

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

(1) "State" means the State of Assam;

(2) "State Government" means the Government of Assam;--

(3) "appropriate Government" in relation to suspension, remission or commutation of sentence means -

(a) in cases where the sentence is by a Court Martial, the Central Government or any officer of the Armed Forces of the Union empowered under any law in force to suspend, remit or commute a sentence passed by a Court Martial; and

(b) in cases where the sentence is by a Court other than a Court Martial, -

(i) if the sentence is of death or is for an offence against any law relating to a matter to which the executive power of the Union extends, the Central Government; and

(ii) if the sentence, whether of death or not, is for an offence against any law relating to a matter to which the executive power of the State extends, the Government of the State or Union Territory within which the sentence is passed;

(4) "court" includes any officer or authority empowered to commit a person to prison by any writ, warrant or order under any law in force including any law providing for preventive detention;

(5) "prison", which is synonymous with "jail", means an institution established and so declared under section 3 for the detention and correctional treatment of offenders and for the detention of such other persons as may be committed to custody under any law, but does not include -

(a) any place used or appointed for the detention of persons exclusively in the custody of the police;

(b) any place specially appointed by the State Government under section 417 of the Code of Criminal Procedure, 1973; Central Act 2 of 1974

(c) any institution established under the Assam Borstal Institution Act, 1968; Assam Act 1 of 1969

(d) any institution established or certified or recognized under the Juvenile Justice (Care & Protection of Children) Act, 2000. Central Act 56 of 2000

(6) "central jail" means a class of prison meant for centralised detention and correctional treatment of offenders sentenced to relatively long terms of imprisonment and also for detention of such other class or classes of persons as specified by rules made under this Act and orders made under such rules;

(7) "district jail" means a class of prison meant for detention of all classes of persons committed by the Courts of a district or a sub-division thereof;

(8) "sub-jail", which is synonymous with "subsidiary jail", means a class of prison meant for detention of undertrial persons committed by the Courts of a district or a sub-division thereof;

(9) "special jail" means a class of prison meant for detention of such class or classes of persons as specified by rules made under this Act and orders made under such rules;

(10) "open jail" means a class of prison with a demarcated periphery but without any high enclosure wall and meant for detention of offenders sentenced to relatively long terms of imprisonment, after satisfactorily serving a part of such imprisonment in closed prisons, with a view to developing their sense of responsibility, self-discipline and self-esteem prior to release from prison;

(11) "offence" means an act or omission punishable under any law in force;

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(12) "offender" means a person convicted of any offence;

(13) "prison offence" means such act or omission on the part of an inmate as specified in section 70 and made punishable under section 71 and sub-section (1) of section 74;

(14) "inmate" means a person detained in prison under the writ, warrant or order of any Court;

(15) "adult inmate" means an inmate who has attained the age of twenty-one years;

(16) "adolescent inmate" means an inmate who has attained the age of eighteen years, but has not attained the age of twenty-one years;

(17) "convicted inmate" means an inmate under a sentence of death or imprisonment imposed on conviction by a Court exercising criminal jurisdiction or by a Court Martial, and includes a person committed to prison in default of furnishing security to keep the peace or be of good behaviour under section 122 of Chapter VIII of the Code of Criminal Procedure, 1973, or in default of payment of maintenance under section 125 of Chapter IX of the said Code; Central Act 2 of 1974

(18) "undertrial inmate" means a person accused of an offence and committed to prison by a Court exercising criminal jurisdiction or by a Court Martial pending the investigation, inquiry or trial of such offence;

(19) "civil inmate" means a person committed to prison by a Court exercising civil jurisdiction or by an officer under any law relating to recovery of public demands;

(20) "detenu" means a person committed to prison under any law providing for preventive detention;

(21) "inmate of unsound mind" means –

(a) a person accused of an offence, who is alleged to be of unsound mind and is committed to prison under section 328 of the Code of Criminal Procedure, 1973 pending medical examination, or — Central Act 2 of 1974

(b) a person accused of an offence, who is found to be of unsound mind and consequently incapable of making his defence and is committed to prison under section 330 of the Code of Criminal Procedure, 1973 for safe custody, or — Central Act 2 of 1974

(c) a person acquitted of an offence on grounds of unsoundness of mind, who is committed to prison under section 335 of the Code of Criminal Procedure, 1973 for safe custody, or — Central Act 2 of 1974

(d) a convicted inmate who is found to be of unsound mind;

(22) "separate confinement" means such confinement as secludes an inmate from communication with, but not from the sight of, other inmates, and allows him not less than one hour's exercise per day and to have his meals in association with one or more other inmates;

(23) "imprisonment" includes imprisonment for life;

(24) "imprisonment for life" means imprisonment for the entire life of the person under sentence of imprisonment for life, unless such sentence is remitted earlier by the appropriate Government;

(25) "prohibited article" means an article, the introduction or removal of which into or out of a prison is prohibited by any rule made under this Act;

(26) "history ticket" means the ticket exhibiting such information in respect of an inmate as is specified under this Act or prescribed by rules made thereunder;

(27) "remission" means a concession granted under the provisions of section 65 to a convicted inmate, as a consequence of which the sentence of imprisonment, except where the sentence is one of imprisonment for life, of the inmate is shortened;

(28) "furlough" means the temporary conditional release of a convicted inmate on leave or on emergency grounds granted under the provisions of section 66;

(29) "parole" means the premature conditional release of a convicted inmate granted under the provisions of section 67;

(30) "day-release" means conditional release of a convicted inmate during the day time granted under the provisions of section 68;

(31) "Inspector General" means the Inspector General of Prisons, Assam;

(32) "Superintendent" means the Superintendent of a prison;

(33) "Medical Officer" means a Doctor appointed as Medical Officer of a prison;

(34) "officer of a prison" means an officer appointed under section 8;

(35) "prescribed" means prescribed by rules made under this Act;

(36) "section" means section of this Act.

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(37) the word "he" and its derivatives shall be construed to mean any person, whether male or female;

(38) words and expressions used in this Act and not defined herein but defined in the Indian Penal Code, 1860 and the Code of Criminal Procedure, 1973 shall have the same meanings as assigned to them in the said Codes.

Central Act 45 of 1860 and Central Act 2 of 1974

CHAPTER – II
ESTABLISHMENT OF PRISON

Establishment of Prison

3. (1) The State Government shall establish as many prisons, constructed in such manner as to comply with the requirements of this Act and rules made thereunder, as may be necessary for detention and correctional treatment of offenders and for detention of such other persons as may be committed to custody under any law, and shall declare each of the prisons so established as Central Jail, District Jail, Sub-Jail (which is synonymous with Subsidiary Jail), Special Jail, Open Jail or such other class of prison as may be considered necessary, each class of prisons being meant for detention of such class or classes of persons as prescribed by rules made under this Act and orders made under such rules.

(2) Whenever it appears to the Inspector General that –

(a) there is likelihood of arrest of persons at any place within the State in connection with any agitation, demonstration or satyagraha and in such large number as cannot conveniently or safely be kept in the prison situated within or near such place, or

(b) the number of inmates in any prison is greater than can conveniently or safely be kept therein and it is not convenient or safe to transfer the excess number to any other prison, or

(c) due to the outbreak of any epidemic disease within any prison, or for any other reason, it is desirable to temporarily provide for some alternative accommodation for any inmates,

temporary prison shall be established and so declared by such officer and in such manner as the State Government may by rules made under this Act prescribe or by general or special orders direct, to provide for accommodation of so many of the persons or inmates as cannot conveniently or safely be kept in the prison established under sub-section (1)

CHAPTER-III
RIGHTS AND DUTIES OF INMATES

Rights of inmates

4. (1) Subject to the provisions of any law for the time being in force and conditions which may be prescribed, all inmates shall, ---

(a) have the right to live with human dignity;

(b) be entitled to adequate diet, health and medical care, clean hygienic living conditions and proper clothing;

(c) have the right of communication which includes contact with his family members and other persons;

(d) have the right of access to any court of law for fair and speedy justice.

(2) No inmate shall be deprived by the State of any fundamental rights conferred on him under Part III of the Constitution except in accordance with the provision of any law for the time being in force.

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Duties of inmates

5. It shall be the duty of every inmate, ---

(a) to obey lawful orders and instructions of any officer of a prison and other competent authority;

(b) to abide by the prison rules and regulations applicable to him;

(c) to maintain the standard of cleanliness, hygiene and personal discipline required to be maintained under any law or lawful instructions;

(d) to respect human dignity of fellow inmates, prison staff and others;

(e) to refrain from making false or exaggerated allegations;

(f) to abstain from hurting religious feelings, beliefs and faith of others;

(g) to use Government property with care and not to damage or destroy,
negligently or willingly, such property;

(h) to assist the prison authorities in performance of their duties;

(i) to maintain discipline and order; and

(j) to preserve and promote correctional and reformative environment and be responsive to it.

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CHAPTER- IV
ORGANISATIONAL STRUCTURE

Inspector General, etc.

6. (1) The State Government shall appoint an Inspector General of Prisons who shall be the head of the prison organization and operate from the prison headquarters. He shall, subject to the direction and control of the State Government, ----

(a) exercise general superintendence and control of all the prisons in the State;

(b) plan, organize, direct, co-ordinate and control the various programmes and activities relating to the prisons in the State and the inmates thereof; and

(c) exercise such other powers and perform such other functions as may be prescribed.

(2) The State Government shall appoint such number of Administrative Officer-cum-Law Officer as may be considered necessary, who shall assist the Inspector General at the prison headquarters and shall, subject to the control of the Inspector General, exercise such powers and perform such functions of the Inspector General as the State Government may, by rules made under this Act prescribe or by general or special orders direct, or the Inspector General may, subject to the orders of the State Government, delegate.

(3) The State Government shall appoint or provide for appointment of such other officers as may be necessary to assist the Inspector General, the Additional Inspectors General, the Deputy Inspectors General and the Assistant Inspectors General of Prisons at the prison headquarters.

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Prison Ranges

7. (1) The State Government shall divide the entire geographical area of the State into as many prison ranges as may be considered necessary, specifying their territorial jurisdictions. Each prison range shall be headed by a Deputy Inspector General of Prisons, supported by such other officers as may be necessary.

(2) The Deputy Inspector General of Prisons in charge of a prison range shall supervise the administration of the prisons falling within his territorial jurisdiction and report directly to the Inspector General of Prisons.

Superintendent and other Officers of Prisons

8. (1) For every prison, the State Government shall appoint or provide for appointment of a Superintendent, one or more Medical Officers, a Jailer (one or more Jailers for a Central Jail), a Welfare Officer, two or more Deputy Jailers, a Chief Head Warder (except for a sub-Jail), one or more Chief Head Warders for a Central Jail, one or more Pharmacists and such numbers of Head Warders, Warders, vocational instructors, educational instructors, physical instructor with yoga instructor, for male and female, ministerial officers, nurses and such other officers as may be considered necessary :

Provided that in case of a Sub-Jail located at a district headquarter or a sub-divisional headquarter, --

(a) the District Magistrate concerned or the Sub-Divisional Magistrate, as the case may be, shall be the ex-officio Superintendent of the Sub-Jail or he may entrust an Executive Magistrate to act as the Superintendent of the said Sub-Jail; and

(b) the Joint Director of Health Services concerned or the Sub-divisional Medical and Health Officer, as the case may be, shall be the ex-officio Medical Officer of the Sub-Jail or he may entrust a Medical and Health Officer to act as the Medical Officer of the said Sub-Jail :

Provided that the State Government may not provide for appointment of a Jailer for a Sub-Jail, in which case the senior most Deputy Jailer of the Sub-Jail shall be deemed to be the Jailer for the purposes of this Act.

(2) The State Government shall also appoint such numbers of (i) Psychologist or Psychoanalyst and (ii) Psychiatrist as may be deemed necessary for the prisons of the State.

Functions of Superintendent

9. (1) The Superintendent shall be the officer in charge of the prison, and shall, subject to the direction and control of the Inspector General, --

(a) manage the prison in all matters connected therewith;

(b) implement the various programmes and activities relating to the prison and the inmates thereof;

(c) keep or cause to be kept such records and registers in such manner and in such forms as may be prescribed;

(d) exercise such powers and perform such other functions as may be prescribed.

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

Functions of Medical Officer

10. (1) The Medical Officer shall be the officer in charge of sanitary and health administration of the prison, and shall, subject to the control of the Superintendent except as regards medical treatment of the sick, perform such functions as may be prescribed.

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(2) The Medical Officer shall report in writing to the Superintendent any matter of importance connected with the sanitation in the prison or health and hygiene of the inmates, together with such observations and recommendations as he may think proper.

(3) Whenever the Medical Officer has reason to believe that the physical or mental health of an inmate is, or is likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations and recommendations as he may think proper.

Functions of Jailer

11. (1) The Jailer shall be the immediate subordinate officer to assist the Superintendent in the management of the prison, and shall, subject to the orders and control of the Superintendent, perform such functions as may be prescribed.

(2) The Jailer shall take temporary charge of the prison during the absence of the Superintendent on tour or otherwise, and while holding such temporary charge he may be allowed, by order of the Inspector General, to exercise all the powers vested in the Superintendent :

Provided that in case of a Central Jail having more than one Jailer, the Jailer in this sub-section shall mean the seniormost Jailer.

(3) The Jailer shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere. He shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if he remains absent without leave for a night from the prison due to unavoidable reasons, he shall immediately report the fact and the cause of it to the Superintendent.

(4) The Jailer shall visit every part of the prison and see every inmate at least once a day.

(5) On the death of an inmate, the Jailer shall give immediate notice thereof to the Superintendent and the Medical Officer.

(6) The Jailer shall report every day in writing to the Superintendent all matters of importance connected with the day-to-day administration of the prison.

(7) The Jailer shall be responsible for the safe custody of the records and registers to be kept under this Act or rules made thereunder, the writs, warrants and orders of the Courts and all other documents confided to his care, and the money and other articles taken from the inmates.

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Functions of Deputy Jailer

12. The Deputy Jailers shall, subject to the control of the Superintendent and the Jailer, perform such functions of the Deputy Jailer as the Superintendent may by order entrust.

Functions of other officers of prisons

13. Every other officer of a prison, not mentioned in sections 9 to 12, shall obey the chain of command as fixed by rules made under this Act or by the Inspector General, and shall, —

(a) if he is not subordinate to the Jailer, be subject to the control of the Superintendent, and perform such functions as may be prescribed by rules made under this Act or entrusted by the Superintendent;

(b) if he is subordinate to the Jailer, be subject to the control of the Superintendent and also of the Jailer, and perform such functions as may be prescribed by rules made this Act or entrusted by the Superintendent or entrusted by the Jailer subject to the general or special orders of the Superintendent.

Search at main gate

14 Subject to rules made under this Act, the officer in charge of the main gate of a prison or any other officer of the prison, may examine anything carried into or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if such article or property be found, shall give immediate notice thereof to the Jailer :

Provided that the search of a female person shall be carried out by a female officer.

Conditions as to residence of officers of prisons

15. (1) Residential accommodation shall be provided on the premises of a prison for all or as many of the officers of the prison as possible, and the accommodation so provided shall be free of rent.

(2) Every officer of a prison for whom free residential accommodation is provided on the premises of the prison shall reside therein.

(3) The Superintendent of a prison residing on the premises of the prison shall not be absent from the said premises for a night except on leave or on tour or from any unavoidable necessity.

(4) Every other officer of a prison residing on the premises of the prison shall not be absent from the said premises for a night without permission in writing from the Superintendent or, in case of an officer subordinate to the Jailer, from the Jailer, but if he remains absent without permission for a night from the said premises due to any unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent or, in case of an officer subordinate to the Jailer, to the Jailer.

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Officers not to engage in trade, etc. or be interested in prison contracts or have unauthorized dealings with inmates

16. (1) No officer appointed under section 6 or 8 shall engage, directly or indirectly, in any trade or business or in any other employment.

(2) No officer appointed under section 6 or 8 shall have any interest, direct or indirect, in any contract for the supply of any prison; nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of any prison or belonging to any inmate of a prison.

(3) No officer appointed under section 6 or 8 shall sell or let, or derive any benefit from selling or letting, any article to any inmate of a prison or have any monetary or other business dealings of an unauthorised nature, directly or indirectly, with any inmate of a prison.

Officers of prisons not to use force with inmates

17. (1) No officer of a prison shall, in his dealing with the inmates, use force except in self-defence or in the repression of disturbances or in cases of attempted escape by any inmate from the prison or physical resistance to any lawful order.

(2) Any officer having recourse to force in the event of any of the contingencies mentioned in sub-section (1), shall use no more force than is strictly necessary, and shall immediately report the fact and the cause of it to the Superintendent or, in case of an officer subordinate to the Jailer, to the Jailer.

Convict officers

18. (1) The State Government may by rules made under this Act provide for appointment of such convicted inmate and in such manner to be an officer of the prison and to perform in that capacity such functions and subject to such regulations as may be prescribed.

(2) An inmate who is appointed as an officer of the prison under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, 1860. Central Act 45 of 1860

Offences by officers of prisons

19. (1) Every officer of a prison, who shall be guilty of any violation, breach or neglect of any rule, regulation or lawful orders shall, --

(a) in cases where such violation, breach or neglect constitutes an offence punishable under section 75 or 76 of this Act or under any other law for the time being in force, be liable on conviction before a Court of law, to be so punished;

(b) in other cases, be liable to such punishment and in such manner as may be prescribed.

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

CHAPTER – V
BOARDS

State Advisory Board on Correctional Administration

20. The State Government shall constitute a State Advisory Board on Correctional Administration with the following objectives : ---

(a) to advise regarding well-being and welfare of all inmates of the prisons;

(b) to advise regarding correctional treatment and guidance of the convicted inmates with a view to their rehabilitation as law-abiding, responsible and useful members of the society;

(c) to suggest ways of improving the levels of co-ordination between Administration of Justice, Police Administration and Prison Administration;

(d) to suggest measures for creating social consciousness for the rehabilitation of offenders.

Board of Visitors

21. The State Government shall, by notification in the Official Gazette, constitute a Board of Visitors, for each prison, in the case of prisons in district headquarters consisting of the District Magistrate as Chairman, the Chief Judicial Magistrate and four non-official members and in the case of prisons at sub-divisional headquarters consisting of the Sub-divisional Magistrate as Chairman, the Sub-divisional Judicial Magistrate and two non-official members, in the manner and procedure as may be prescribed.

Review Board

22. The State Government shall constitute a Review Board in the manner as may be prescribed to review the cases of inmates under sentence of imprisonment and recommend their premature release under any law, including parole and day-release under sections 67 and 68 of this Act.

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CHAPTER – VI
ADMISSION, DETENTION AND CLASSIFICATION

Admission and detention of persons duly committed to prison

23. (1) Subject to the provisions of section 24, any person duly committed to prison by any writ, warrant or order issued or made by a Court shall be admitted and detained in prison according to the exigency of such writ, warrant or order, or until such person is removed or discharged in due course of law.

(2) Every such writ, warrant or order as aforesaid shall, forthwith after the execution thereof or after the discharge of the person committed thereby, be returned to the Court by which the same was issued or made, together with a certificate endorsed thereon and signed by the Superintendent of the prison, showing how the same has been executed or why the person committed thereby has been discharged from prison before execution thereof.

Ban on admission and detention of persons of certain categories

24. (1) Persons of unsound mind who are not accused or convicted of any offence shall not be admitted and detained in a prison.

(2) No person shall be admitted and detained in a prison by way of protective custody or safe custody or on the ground of being required for giving evidence or being a victim of offence :

Provided that a person of unsound mind committed to prison for safe custody under section 330 or section 335 of the Code of Criminal Procedure, 1973 shall be admitted in prison and dealt with in accordance with law.

Central Act 2 of 1974

(3) Juveniles, that is, persons who have not attained the age of eighteen years shall not be admitted and detained in a prison :

Provided that a child under six years of age shall be admitted and kept in prison with its mother or, in exceptional cases, with its father or in absence of its parents with its legal guardians till attainment of the age of six years if it cannot be placed with relatives or otherwise properly kept elsewhere.

(4) Persons required to give security for keeping the peace or for good behaviour in accordance with the provisions of the Chapter VIII of the Code of Criminal Procedure, 1973 shall not be admitted and detained in prison except under section 122 of the said Code.

Central Act 2 of 1974

Particulars to be recorded on admission

25. At the time of admission of a person in prison, the following and such other particulars shall be entered in such register as may be prescribed : --

(a) particulars concerning his identity, including height, complexion, personal peculiarities, if any, and marks of identification;

(b) reasons and authority of his commitment to prison;

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(c) date and hour of his admission in prison; and

(d) name and address of nearest relative to be notified in case of emergency.

Search on admission

26. (1) Every inmate shall on admission be required to declare the money and other articles in his possession and also be searched by, or by order of, the Jailer in a manner consistent with decency and reasonable privacy:

Provided that the search of a female inmate shall be carried out by a female officer by order of the Jailer.

(2) All money, jewellery and other valuables, prohibited articles, weapons and other articles found in the possession of the inmate on admission which the Jailer finds it contrary to the rules as may be prescribed, or deems it dangerous or inexpedient, to leave in the possession of the inmate shall be taken from him and placed in the custody of the Jailer to be dealt with in the manner prescribed.

Medical examination on admission

27. Every newly admitted inmate shall, as soon as possible after admission, be examined by the Medical Officer, who shall enter in the prescribed register a record of the inmate's health and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add :

Provided that the examination of a female inmate shall be carried out in the presence of a female officer.

Taking of photograph etc.

28. As soon as may be after the admission of an inmate, his photograph, thumb impression and signature in full shall be taken and preserved in such manner as may be prescribed.

Quarantine on admission

29. Every newly admitted inmate shall be subjected to such period of quarantine as may be prescribed or directed by the Superintendent on the advice of the Medical Officer.

Orientation on admission

30. As soon as possible after the admission of a person in prison, the Welfare Officer shall, --

(a) inform him about his rights and duties, and explain to him the institutional rules, regulations, routine, discipline, amenities and facilities;

(b) enquire about his individual problems and help him find a solution;

(c) prepare him for a positive adjustment with the institutional environment; and, if the person is a convicted person, ----

(d) study him to assess his personality, background, needs, aptitudes and capacities;

(e) inform him about the correctional and rehabilitative facilities available to him and encourage him to make a constructive use of the same;

(f) plan a suitable institutional programme for him.

Classification for correctional treatment and training

31. (1) As soon as possible after the orientation of a convicted person, whose sentence of imprisonment after setting off the period of detention pending investigation, inquiry or trial of the offence, is not less than such period as may be prescribed by rules made under this Act, a Classification Committee consisting of the Superintendent as Chairman, the Medical Officer, the Jailer and the Welfare Officer as members, shall decide upon a suitable programme of correctional treatment and training for him in the light of his individual needs, aptitudes and capacities and with a view to his social rehabilitation.

(2) All such inmates shall be classified by the Classification Committee into homogenous groups in terms of sex, age, type and frequency of offence committed, and health, both physical and mental, for the purpose of such treatment and training as aforesaid.

(3) The Classification Committee shall at suitable intervals review the response of such inmates to such treatment and training, and, if found necessary, shall reclassify any of such inmates by suitably adjusting the programme of such treatment and training for him.

Property of inmates

32. (1) An entry specifying the money and other articles taken from an inmate on admission shall be made in the prescribed register, which the inmate shall be required to sign or mark.

(2) Any money or other articles received from outside the prison with proper authority on behalf of an inmate shall also be dealt with as aforesaid.

(3) All money and other articles taken from an inmate as aforesaid shall, except in so far as he has been authorised to spend any such money or use any such article or send any such money or article out of the prison, or in so far as any prohibited or other article has in the manner prescribed been destroyed, be returned to him at the time of discharge from prison, and he shall be required to sign or mark the prescribed register in token of receipt of the money and other articles so returned to him.

Intimation of admission, transfer, illness and death

33. (1) As soon as possible after the admission of a person in prison, the Superintendent shall send intimation to his family or nearest relative about his admission in the prison, unless the period for which the person is committed to prison is so short that such intimation cannot be reasonably expected to reach his family or nearest relative before the date on which he is due to be discharged from prison.

(2) The Superintendent shall send immediate intimation to the family or nearest relative of an inmate upon transfer of the inmate from the prison or upon serious illness, serious injury or death of the inmate in the prison.

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Accommodation of inmates

34. Subject to the following requirements, the inmates may be accommodated either in association or individually in cells or rooms or partly in one way and partly in the other :-----

(a) female and male inmates shall be kept in separate enclosures, or, where it is not possible, be kept in separate buildings or separate parts of the same building in such a manner as to seclude the female inmates from communication with, and sight of, the male inmates;

(b) adolescent male inmates shall be kept apart from adult male inmates;

(c) undertrial inmates shall be kept apart from convicted inmates;

(d) detenus and civil inmates shall be kept apart from convicted and undertrial inmates;

(e) inmates of unsound mind shall be kept apart from other inmates.

(f) inmates belongs to extremist, terrorist and the criminals dangerous in nature and unsoundmind shall be kept apart from other inmates.

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Inmate under sentence of death

35. An inmate whose sentence of death becomes final, conclusive and executable without any further scope of annulment by any judicial or constitutional procedure shall be confined in a cell or room apart from other inmates and shall be placed by day and night under the watch of an officer of the prison, but shall not be secluded from communication with, and sight of, other inmates, or, unless special circumstances exist, be debarred from having his meals in association of one or more other inmates.

Inmate under separate confine-ment

36. The cell or room used for keeping an inmate under separate confinement as a punishment for prison offence or for any other reason shall be furnished with the means of enabling the inmate to communicate at any time with an officer of the prison and the inmate shall be visited at least once a day by the Medical Officer.

Measure of restraint

37. (1) No inmate shall be subjected to any measure of restraint to curtail substantially his limited liberty within the prison, or while in transit, except as provided in this Act or rules made thereunder.

(2) Under exceptional circumstances where, with reference to the state of the prison or the character of any inmate or both, the Superintendent considers it necessary for the safe custody of such inmate, or for the safety of the inmate himself or of any other inmate, that such inmate should be subjected to physical restraint, he may, for reasons to be recorded in writing and subject to rules made under this Act in this behalf, ----

(a) confine the inmate in a cell or room apart from other inmates subject to the conditions that he shall not be secluded from communication with, and sight of, other inmates, or, unless special circumstances exist, be debarred from having his meals in association of one or more other inmates; or

(b) confine the inmate in chain fetters of such description as may be prescribed by rules made under this Act :

Provided that ---

(i) no inmate shall be confined in chain fetters under this sub-section unless prior permission of a Court having jurisdiction is obtained for confining the inmate in chain fetters for reasons as aforesaid;

(ii) no chain fetters shall be imposed on any female inmate, civil inmate or detenu;

(iii) no kind of fetters other than chain fetters shall be imposed on any inmate under this sub-section;

(iv) both the measures of restraint mentioned at clauses (a) and (b) of this sub-section shall not be imposed on any inmate at the same time.

(3) The Superintendent shall review his order under sub-section (2) at intervals of not more than one month, and shall by order withdraw the measure of restraint whenever he is of opinion that this can be done with safety or on the recommendation of the Medical Officer at any time on the grounds that its continuance is injurious to the health of the inmate :

Provided that the continuance of any measure of restraint imposed under sub-section (2) for a period exceeding three months shall be subject to prior approval of the Inspector General.

(4) While escorting an inmate from one prison to another, or from a prison to court or hospital or any other place and back, no handcuff shall be imposed on him unless prior permission of a Court having jurisdiction is obtained for imposing handcuffs on him while being escorted as aforesaid.

Extramural custody and control of inmates

38. An inmate when being taken to or from any prison in which he may be lawfully detained, or when he is working outside or is otherwise beyond the limits of any such prison, in or under the lawful custody or control of an officer of such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

Discharge of inmates

39. (1) No inmate shall be discharged from prison against his will if labouring under any acute or dangerous distemper until, in the opinion of the Medical Officer, such discharge is safe.

(2) The Superintendent shall forthwith report the case of any inmate whose discharge is not effected on grounds as aforesaid to the Court under whose writ, warrant or order the inmate is committed to prison as well as to the Court or authority, if different from the Court aforesaid, making the order for discharge of the inmate.

CHAPTER – VII
LEGAL DEFENCE AND AID

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Legal Aid at State expense in certain cases

40. (1) Where an undertrial inmate is not represented by a pleader in the case or cases in which he is detained and, on submission of application by the undertrial inmate expressing his inability to engage a pleader, where it appears to the Superintendent of the prison that the inmate is, for good reason, unable to engage a pleader to exercise his right to be released on bail or on his own bond under the relevant provisions of law or to be defended in the trial of such case or cases, the Superintendent shall refer the name and particulars of such undertrial inmate to the Secretary of the District Legal Services Authority constituted under section 9 of the Legal Services Authorities Act, 1987 for providing legal services at the expense of the State.

Central Act 39 of 1987

(2) Where a convicted inmate makes an appeal or an application for revision, and where it appears to the Superintendent of the prison that the inmate is, for good reason, unable to engage a pleader to represent him in the appellate or revisional court, the Superintendent shall cause a prayer to be made by such inmate for assigning a pleader for him at the expense of the State and immediately forward such prayer to the appellate or revisional court, as the case may be.

Copy of Judgment

41. (1) Where a person is committed to prison under a sentence of death or imprisonment and the copy of judgment to be furnished to him free of cost under section 363 of the Code of Criminal Procedure, 1973 is sent by the sentencing Court to the Superintendent of the prison for delivery to the person sentenced, the Superintendent shall immediately cause it to be delivered to such person and obtain written acknowledgement thereof from him.

Central Act 2 of 1974

(2) Where such copy is not furnished by the Court and such person desires to make an appeal against, or an application for revision, suspension, remission or commutation of, such sentence, the Superintendent shall immediately apply to the Court for such copy,

Facilities for appeal, etc.

42. (1) The Superintendent shall inform every convicted inmate of his right to prefer appeal or application for revision, suspension, remission or commutation of his sentence, and of the period within which such appeal or application is to be made.

(2) Any convicted inmate desiring to make an appeal or application as aforesaid shall be granted every reasonable facility for that purpose by the Superintendent, who shall, if such inmate is unable to write his appeal or application, cause his appeal or application to be written by an officer of the prison.

(3) The presentation of an appeal or an application for revision to the Superintendent shall, for the purpose of the Limitation Act, 1963, be equivalent to presentation to the appellate or revisional Court.

Central Act 36 of 1963

(4) The Superintendent shall not withhold any appeal or application for revision even though it is apparently barred by limitation, but shall forward it to the appellate or revisional Court, together with the appellant or applicant's explanation for the delay and his prayer for condonation of the delay.

(5) If the result of the appeal or application is not received within a reasonable period, the Superintendent shall enquire about the result, and thereafter repeat the enquiry at reasonable intervals.

Reference to Governm-ent regarding execution of death sentence

43. (1) Where a sentence of death is passed or confirmed by the High Court and the person sentenced does not make an appeal to the Supreme Court or an application for mercy within the stipulated period, or where a sentence of death is upheld by the Supreme Court and the person sentenced does not make an application for mercy within the stipulated period, the Superintendent shall make a reference of the case to the State Government under intimation to the Inspector General, and postpone the execution of the sentence of death pending receipt of the orders of the State Government.

(2) Upon a reference being made of a case as aforesaid, the State Government shall proceed to act as if an application for mercy has been made by the inmate under sentence of death, and ---

(a) if it has the power to commute the sentence of death, may in its discretion commute the sentence of death;

(b) if it has the power to commute the sentence of death but in its discretion decides not to exercise that power, shall refer the case to the Central Government for decision;

(c) if it does not have the power to commute the sentence of death, shall refer the case to the Central Government as well as such other appropriate Government as has power to commute the sentence of death, for decision.

CHAPTER – VIII
FOOD, CLOTHING AND BEDDING

Supply of food, clothing and bedding etc.

44. (1) Every inmate shall be provided, in accordance with the scale prescribed with –

(a) food, which shall be wholesome, palatable and hygenic ;

(b) clothing, which shall be suitable for the climate and adequate for personal hygiene, and which may be conspicuous for each category of inmates, but shall not be humiliating or degrading;

(c) bedding, which shall be suitable and sufficient for the climate; and

(d) other equipment as may be necessary.

(2) Except as provided under section 45, no inmate shall be permitted to procure or receive any item of food, clothing, bedding or other equipment from private sources.

Procurement of clothing from private sources

45. (1) An inmate other than a convicted inmate, if he so desires, shall be permitted to procure or receive from private sources, minimum items of clothing (but not bedding) as necessary, subject to examination and subject to rules made under this Act and also such direction as may be given by the Inspector General.

(2) No part of any clothing procured or received as aforesaid by an inmate shall be given, hired or sold to any other inmate, and any inmate transgressing the provisions of this sub-section shall be debarred from procuring or receiving as aforesaid any clothing for such time as the Superintendent thinks proper.

Maintenance of civil inmates

46. When any civil inmate is committed to prison in execution of a decree in favour of a private person, such person or his representative shall, ----

(a) make the first payment of the monthly subsistence allowance as fixed by the Court to the proper officer of the Court for transmission to the Superintendent, and if it has not been so made to an officer of the Court, then directly to the Superintendent; and

(b) make the subsequent payments of monthly subsistence allowance to the Superintendent in advance before the first day of each month;

and in default of any of the above payments, the inmate may be released by the Superintendent if so ordered by the Court by whose warrant or order the inmate is committed to prison after filing a report by the Superintendent before such Court in the matter.

CHAPTER – IX
HEALTH CARE

Sanitation and hygiene

47. (1) Every part of a prison shall be kept scrupulously clean.

(2) All buildings in which the inmates live or work or which they otherwise occupy shall contain adequate floor space, cubic content of air, lighting and ventilation arrangements.

(3) So far as possible, water-closets shall be provided to enable the inmates to comply with the needs of nature in a clean and decent manner.

(4) Facilities shall be provided to the inmates to keep themselves, their clothing, bedding and other necessary equipment clean.

Prison hospital

48. In every prison there shall be provided a hospital or a proper place for reception and treatment of sick inmates.

Sick inmates

49. (1) The name of any inmate desiring to see the Medical Officer or appearing to be out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such inmate to the Jailer, who shall, without delay, call the attention of the Medical Officer to such inmate.

(2) The Medical Officer shall examine such inmate as aforesaid and also such other inmates as appear to him to be out of health in mind or body, and give such directions in writing as he deems fit.

Record and execution of directions of Medical Officer

50. All directions given by the Medical Officer in relation to any inmate, with the exception of directions relating to such matters as are to be carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in such record as may be prescribed, and shall be carried into effect by the Jailer with the sanction, where necessary, of the Superintendent; and the Jailer shall make an entry in the proper place of such record, stating in respect of each direction the fact of its having been complied with or, if not complied with, the reasons for its not having been complied with, and the date of the entry.

Inmate of unsound mind

51. (1) The Superintendent shall place under the observation of the Medical Officer and, if available, a Psychiatrist, any inmate appearing to become of unsound mind, and shall, if such inmate is an undertrial inmate, report the case to the Court by whose warrant or order such inmate is committed to prison.

(2) If after such observation as aforesaid, the inmate is found to be of unsound mind, the Superintendent shall report the case, together with the medical certificate and such other documents as may be prescribed, ----

(a) to the Court by whose warrant or order the inmate is committed to prison, if such inmate is an undertrial inmate, for appropriate orders of the Court with regard to such inmate;

(b) to the Inspector General, if such inmate is other than an undertrial inmate; for appropriate action under Section 82 with regard to such inmate;

(3) If a person of unsound mind is committed to prison for safe custody under section 330 or section 335 of the Code of Criminal Procedure, 1973 without any specific orders from the committing Court for his removal to asylum, the Superintendent shall report the case to the Inspector General for appropriate action under section 81.

Central Act 2 of 1974

Death of inmate

52. (1) On the death of an inmate, whether inside a prison or while undergoing treatment in a hospital outside the prison, the Medical Officer of the prison shall forthwith draw up a report stating the following particulars, so far as they can be ascertained, namely : -----

(i) the day on which the deceased first complained of illness or was observed to be ill;
(ii) the day on which the Medical Officer was first informed of his illness;
(iii) the day on which he was admitted to hospital;
(iv) the nature of his illness;
(v) the treatment given;
(vi) when the deceased was last seen before his death by the Medical Officer;
(vii) when the inmate died;
(viii) any special remarks that appear to the Medical Officer to be required.

(2) In every case of death of an inmate, whether inside a prison or while undergoing treatment in a hospital outside the prison, -----

(a) intimation of the death shall be given to the District or Sub-divisional Magistrate, and to the officer in charge of the police station within whose jurisdiction the death occurs;

(b) an inquest shall be held by an Executive Magistrate to be deputed by the District Magistrate or Sub-divisional Magistrate, as the case may be; and

(c) a post-mortem examination shall be conducted by a competent medical authority :

Provided that in cases where the deceased happens to be a child kept in prison with its mother or father, post-mortem examination shall not be done unless the Magistrate holding the inquest, after considering the circumstances in which the child has died, suspects the death to be homicidal and recommends for a post-mortem examination to be done, or the mother or father of the deceased child desires such post-mortem examination to be done.

CHAPTER – X
WORK

Work by convicted and undertrial inmates

53. (1) A convicted inmate sentenced to rigorous imprisonment shall, and a convicted inmate sentenced to simple imprisonment or an undertrial inmate, if and as long as he so desires, may be engaged in work, which shall not be of an afflictive, degrading or humiliating nature, and which shall, so far as may be practicable, especially in the case of a convicted inmate sentenced to imprisonment for a relatively long term, be in the form of such vocational training as will maintain or increase his ability to earn a living after release.

(2) No inmate engaged in work shall be kept to labour for more than eight hours in any one day, except on an emergency and with the sanction in writing of the Superintendent.

(3) The Medical Officer shall from time to time and at least once in every month examine every inmate engaged in work and cause his weight to be taken and entered in such record as may be prescribed, and when the Medical Officer is of opinion that the physical or mental health of any such inmate is or is likely to be adversely affected by the kind of work or class of labour in which he is engaged, such inmate shall be placed on such other kind of work or class of labour as the Medical Officer may consider suited for him.

(4) A convicted inmate not sentenced to rigorous imprisonment or an undertrial inmate, who is engaged in work at his own desire, shall be entitled to the scale of diet prescribed for inmates on labour; and a convicted inmate sentenced to rigorous imprisonment, who refuses to work, shall be entitled to the scale of diet prescribed for inmates not on labour.

(5) The State Government may, by rules made under this Act, provide for remuneration to the inmates engaged in work under the provisions of sub-section (1), as incentive but not as compensation, for such work, subject to due performance of the prescribed quantum of work and depending upon the kind of work or class of labour or the type of institution.

(6) Out of the earnings of an inmate remunerated as aforesaid, any amount shall be allowed to be spent by the inmate on payment of fine, compensation, cost or security as ordered by the Court or on payment to his legal adviser for services rendered to him; a prescribed part of the earnings shall be allowed to be spent by the inmate on approved articles for his use and to be sent by him to his family; and the rest of his earnings shall be set aside by the Superintendent so as to constitute a savings fund to be handed over to the inmate on his release from prison.

(7) A convicted inmate sentenced to simple imprisonment or an undertrial inmate, who is engaged in work at his own desire, shall not be punished for neglect of work.

Work by civil inmate

54. A civil inmate, if and as long as he so desires, may be engaged in work on the same terms and conditions as set forth in section 53 with regard to a convicted inmate sentenced to simple imprisonment or an undertrial inmate who is engaged in work at his own desire.

Inmates to clean their own clothing, etc.

55. Any inmate, whether or not engaged in work under the provisions of the foregoing sections, shall be required to clean his own clothing, bedding, equipment and apartment, subject to rules made under this Act.

CHAPTER – XI
EDUCATION, RECREATION, INTERVIEW AND COMMUNICATION

Education

56. The State Government shall, so far as possible, by suitable schemes or programmes, provide for general, social and moral education of the inmates, with particular emphasis on removal of illiteracy among the inmates.

Books

57. Every prison shall have a library for the use of all categories of inmates, which shall be stocked, as far as practicable, with both instructional and recreational books, and the inmates shall be encouraged to make full use of it.

News

58. The inmates shall be kept informed regularly of the important items of news by the reading of newspapers, by the hearing of radio transmission, seeing television or by similar means as provided or authorized in the prison.

Religion

59. Subject to rules made under this Act, every inmate shall be allowed to satisfy the needs of his religious life by having in his possession books of his religious denomination and, so far as practicable, by performing religious observances.

Moral and religious instruction

60. So far as practicable, and subject to rules made under this Act, arrangement shall be made for, ----

(a) a philanthropic person, institution or society to hold moral discourses among the inmates at reasonable intervals; and

(b) a qualified representative of a religion to hold religious discourses and services among the inmates of his religion at reasonable intervals.

Recreation

61. So far as practicable, and subject to rules made under this Act, the inmates shall be provided with facilities for exercise, games and sports, musical and cultural performances, and other facilities for recreation.

Interview and communi-cation

62. Due provisions shall be made in the prison for –

(a) an inmate to communicate, both by receiving visits and by correspondence, with their relatives, reputable friends and legal advisers at reasonable intervals and under reasonable restrictions, care being taken that an inmate under trial or making an appeal or an application for revision of sentence, may communicate with his legal adviser within the sight, but not within the hearing, of an officer of the prison or of any other officer;

(b) an inmate, who is a member of a State Legislature or of Parliament, to communicate through prescribed channel with the Speaker or Chairman of the House of which he is member, or with the Chairman of a Committee (including a Committee of Privileges) of such House or of a Joint Committee of both the Houses of a State Legislature or of Parliament;

(c) an inmate, who is a foreign national to communicate through prescribed channel with the diplomatic or consular representative in India of the country to which he belongs;

(d) an inmate, who is a national of a country having no diplomatic or consular representative in India, or who is a refugee or a stateless person, to communicate through prescribed channel with any recognized national or international authority taking charge of the interests of such nationals, refugees or stateless persons.

Search of visitors to inmates

63. (1) The Superintendent or the Jailer may demand the name and address of any visitor to an inmate, and, when he has any ground for suspicion, may search any visitor or cause him to be searched :

Provided that –

(a) the search shall not be made in the presence of any inmate or of any other visitor; and,

(b) the search of a female visitor shall be carried out by a female officer.

(2) In case of any such visitor refusing to permit himself to be searched, the Superintendent or the Jailer may deny him interview with the inmate; and the grounds of such denial of interview shall be entered in such record as may be prescribed.

Requests and complaints

64. Due provisions shall be made in the prison for allowing every inmate, ----

(a) reasonable opportunity of making verbal requests and complaints, ---

(i) to the Jailer on each day and to the Superintendent on each week day; and

(ii) to the Inspector General or any other inspecting officer during his inspection and to any member of the Board of Visitors during his visit; and

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(b) reasonable facility for making written requests and complaints to the Inspector General and to any judicial or other proper authority, through approved channel.

CHAPTER – XII
REMISSION, FURLOUGH, PAROLE AND DAY-RELEASE

Remission

65. (1) The State Government may, by rules made under this Act, provide for the grant of the following kinds of remission to an inmate under a sentence of imprisonment :-

(a) ordinary remission as incentive for good conduct and work in prison; and

(b) special remission as reward for any special service rendered in prison :

Provided that the remission granted under the provisions of this sub-section shall be subject to withdrawal, forfeiture or revocation in accordance with rules made under this Act.

(2) The appropriate Government may, by general or special orders, grant state remission to the convicted inmates or any category of the convicted inmates on occasions of public importance or public rejoicings.

(3) Any convicted inmate sentenced to imprisonment for a term shall be entitled to be released from prison on his actual period of imprisonment undergone together with remission granted under sub-sections (1) and (2) being equal to such term, but such remission shall not entitle an inmate sentenced to imprisonment for life to be released without specific orders from the appropriate Government remitting his sentence of imprisonment for life.

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Furlough

66. (1) Where a person is detained in prison under a sentence of imprisonment, and the State Government, or any authority empowered by it in this behalf, is satisfied from his antecedents or his conduct in prison that he is not likely to commit any offence during a period of temporary release from prison, the State Government or such authority may, subject to rules made under this Act, by order direct that such person be released on furlough, that is, on leave or on any emergency ground for such period as may be specified in the order, upon his giving an undertaking in writing to observe the conditions specified in the order and upon his entering into a bond to surrender himself to the Superintendent of the prison on the expiration of such period or on revocation of such order, whichever is earlier.

(2) The State Government or the authority making an order under sub-section (1) may, at any time, on being satisfied that the person released on furlough has failed to observe any of the conditions of furlough, revoke such order.

(3) An order of revocation made under sub-section (2), shall specify the date with effect from which the furlough order shall cease to be in force, and shall be served upon the person released on furlough in such manner as may be prescribed by rules made under this Act.

(4) The period during which a person is absent from prison on leave in pursuance of a furlough order shall be reckoned as a part of the period of imprisonment to which he was sentenced :

Provided that in cases where the furlough order is revoked under sub-section (2) for failure to observe any of the conditions of furlough, the period of such absence from prison in pursuance of such order shall not be so reckoned as a part of the period of imprisonment.

(5) The period during which a person is absent from prison on any emergency ground in pursuance of a furlough order shall not be reckoned as a part of the period of imprisonment to which he was sentenced.

Parole

67. (1) Where a person is detained in prison under a sentence of imprisonment, and the State Government is satisfied from his antecedents or his conduct in prison that he is likely to lead a law-abiding and useful life, if he is released from prison, the State Government may, subject to rules made under this Act, by order direct that such person be released on parole, upon his giving an undertaking to observe the conditions specified in the order and upon his entering into a bond to surrender himself to the Superintendent of the prison on revocation of such order, and be placed under the supervision or authority of a Parole Officer, who may be a Probation Officer appointed under the Probation of Offenders Act, 1958 or any other officer appointed by the State Government to be a Parole Officer, or of a society, an institution or a responsible person willing to take charge of him :

Central Act 20 of 1958

Provided that when an order is made under this section for release on parole of a person in respect of whom the State Government is not the appropriate Government as defined in section 2 of this Act, intimation about such order shall be immediately communicated by the State Government to the appropriate Government :

Provided further that no person under a sentence of imprisonment for life for an offence for which death is one of the punishments provided by law shall be released on parole unless he has served at least ten years of actual imprisonment including any period of detention undergone during investigation, inquiry or trial of such offence.

(2) Before making an order under sub-section (1) the State Government shall take into consideration the recommendation of the Review Board constituted under section 22.

(3) The parole order made under sub-section (1) shall be in force, -

(a) where the person released on parole was sentenced to imprisonment, not being imprisonment for life, for the unexpired term of the sentence or until the parole order is revoked, whichever is earlier;

(b) where the person released on parole was sentenced to imprisonment for life, until the sentence of imprisonment for life is remitted by the appropriate Government or until the parole order is revoked, whichever is earlier.

(4) The State Government may at any time, on being satisfied that the person released on parole has failed to observe any of the conditions of parole, or otherwise in its discretion, revoke a parole order.

(5) An order of revocation made under sub-section (4) shall specify the date with effect from which the parole order shall cease to be in force and shall be served upon the person released on parole in such manner as may be prescribed by rules made under this Act.

(6) The period during which a person is absent from prison in pursuance of a parole order in force shall be reckoned as a part of the period of imprisonment to which he was sentenced:

Provided that if the parole order is revoked under sub-section (4) for failure on the part of the person released on parole to observe any of the conditions of parole, the period of such absence shall not be so reckoned, and the person shall have to serve the whole of the unexpired term of his original sentence of imprisonment.

Day-release

68. (1) In exceptional cases where a person is detained in prison under a sentence of imprisonment and the State Government, after taking into account (i) his antecedents, (ii) the nature and gravity of the offence for which he has been convicted, and the way in which the offence was committed, (iii) his conduct in prison and (iv) such other factors as considered relevant and important, is satisfied that his prospects of rehabilitation after release from prison are likely to be substantially enhanced if he is enabled to acquire better qualification or vocational training of a formal nature in any institution or establishment outside the prison, and he is not likely to commit any offence if, for this purpose, he is let out of the prison during the day time, the State Government may, subject to rules made under this Act, by order allow such person to be let out of prison during the day time to attend an educational institution or to undergo training or apprenticeship in a vocational or industrial establishment, upon his giving an undertaking in writing to observe the conditions specified in the order and upon his entering into a bond with surety to return to the prison every day immediately after attending such institution or establishment, and subject to supervision of a Parole Officer, who may be a Probation Officer appointed under the Probation of Offenders Act, 1958 or any other officer appointed by the State Government to be a Parole Officer.

Central Act 20 of 1958

(2) Before making an order under sub-section (1), the State Government shall take into consideration the recommendation of the Review Board constituted under section 22.

(3) The State Government may at any time, on being satisfied that the person granted day-release under sub-section (1) has failed to observe any of the conditions of such day-release, or otherwise in its discretion, revoke an order for day-release.

(4) An order of revocation made under sub-section (3) shall specify the date with effect from which the order for day-release shall cease to be in force and shall be served upon the person to whom day-release is granted in such manner as may be prescribed by rules made under this Act.

Penalty for failure to surrender

69. Any person, who fails to surrender himself to the Superintendent of the prison on the expiration of the period of release on furlough or on revocation of a furlough or parole order, or to return to the prison on any day immediately after attending an educational institution or a vocational or industrial establishment by an order of day-release or on revocation of an order of day-release, may be arrested by a police officer without warrant, and shall, if such failure be without any lawful excuse, be liable upon conviction before a Magistrate of the first class to imprisonment of either description for a term not exceeding two years or to a fine not exceeding one thousand rupees or to both, without prejudice to any proceedings that may be taken against him or his surety or sureties in respect of such bond as was entered into for such surrender or return to the prison.

CHAPTER – XIII
PRISON OFFENCE AND PUNISHMENTS

Prison offences

70. The following acts and omissions on the part of any inmate shall be deemed as prison offences: ------

(i) conspiring or assisting to escape;

(ii) assault or attack upon any officer or inmate;

(iii) orgainsing or conspiring to organise a riot, mutiny or any other act of violence and/or participating or instigating other inmates to participate in such act of violence;

(iv) omitting or refusing to report, as soon as it comes to his knowledge, any occurrence of fire, any escape, attempt or preparation to escape, any attack or preparation for attack upon officer or inmate, and any violence or preparation for violence;

(v) omitting or refusing to help an officer of the prison when called upon to do so in dousing fire or preventing escape, violence, suppressing assault, attack, violence, riot or mutiny, or in any other emergencies;

(vi) doing any act likely to create unnecessary alarm in the minds of other inmates;

(vii) causing or attempting to cause disturbance of law and order and discipline in the prison;

(viii) wilfully tampering in any way with walls, buildings, bars, locks and keys, lights or lamps, handcuffs, fetters or irons of any other description, or any other security and custody measures of the prison;

(ix) communicating or attempting to communicate with outsiders otherwise than through authorized channels;

(x) receiving, possessing or transferring any prohibited article;

(xi) wilfully tampering with or defacing history tickets, records or documents;

(xii) wilfully causing damage to prison property;

(xiii) stealing any prison property or any article of any other inmate; receiving, possessing or transferring any such stolen property or article;

(xiv) wilfully bringing any false accusation against any officer or inmate;

(xv) using indecent, abusive, insulting or threatening language;

(xvi) doing or making any immoral, indecent, vulgar or disorderly acts or gestures;

(xvii) wilfully hurting religious feelings, beliefs or faiths of any inmate, or attempting to convert any inmate to a different religious faith;

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(xviii) refusing to eat the food prescribed by prison rules, or going on hunger-strike;

(xix) willfully or negligently destroying or spoiling food;

(xx) feigning, illness, or wilfully causing to himself any illness, injury or disability;

(xxi) omitting or refusing to perform work, or wilful idleness or negligence at work, as assigned to him in the manner prescribed;

(xxii) such willful disobedience to any rule or regulation of the prison as may be declared by rules made under this Act to be a prison offence;

(xxiii) instigating, abetting or assisting, directly or indirectly, any inmate to commit any of the aforesaid offences.

Punishments for prison offences

71. (1) The Superintendent may punish any inmate found guilty of any prison offence with, -----

(i) a formal warning (personally addressed to the inmate by the Superintendent);

(ii) forfeiture of remission granted under the provisions of sub-section (1) of section 61 :

Provided that the forfeiture of remission in excess of thirty days shall be subject to prior approval of the Inspector General;

(iii) forfeiture of such prison privileges for such period as may be prescribed;

(iv) temporary or permanent removal from a prison office or reduction from a higher to a lower grade of prison office;

(v) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed :

Provided that no female inmate, civil inmate or detenu shall be punished with imposition of handcuffs of any form;

(vi) separate confinement for any period not exceeding three months:

Provided that separate confinement for a period exceeding one month shall be subject to prior approval of the Inspector General.

(2) Any two of the punishments enumerated in sub-section (1) may be awarded in combination for any prison offence, subject to the following exceptions, namely : ----

(a) formal warning shall not be combined with any other punishment;

(b) Imposition of handcuffs shall not be combined with separate confinement;

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

Safeguards against punishm-ent

72. (1) No inmate shall be punished unless he has been informed of the offence alleged against him and given a reasonable opportunity of making his defence.

(2) No inmate shall be punished except by orders of the Superintendent made in accordance with the provisions of this Act and rules made there under.

(3) No inmate shall be awarded any punishment other than the punishments enumerated in section 71 except by order of the Court.

(4) No inmate shall be punished twice for the same offence:

Provided that any measure of restraint taken under the provision of section 37 shall not be deemed as a punishment for the purposes of this sub-section.

(5) No punishment of imposition of handcuffs or separate confinement shall be continued against the advice of the Medical Officer, who shall be immediately informed by the Superintendent of the award of such punishment, and who shall visit every inmate undergoing such punishment at least once a day and report in writing to the Superintendent if he considers the termination, alteration or modification of such punishment necessary on grounds of physical or mental health of the inmate.

Record of punishment

73. (1) There shall be a punishment book in which there shall be recorded in respect of every punishment inflicted on any inmate for a prison offence, the inmate's name, register number and the class (whether habitual or not) to which he belongs, the date on which such prison offence was committed, the number of previous prison offences recorded against him, and the date of his last prison offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison offence, the names of the witnesses proving the offence shall be recorded, and the Superintendent shall record the substance of the evidence of the witnesses, the defence of the inmate, and the finding with the reasons therefor.

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

Procedure on commission of serious offence

74. (1) If any inmate is found guilty of any prison offence which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such inmate to the Court of a Magistrate having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the inmate, and, upon conviction, may sentence him to imprisonment of either description for a term not exceeding one year or to any of the punishments enumerated in section 71.

(2) In respect of any offence committed by any inmate which is punishable under this Act as well as under the Indian Penal Code, 1860 or any other law in force, it shall be in the discretion of the Superintendent to determine whether he will use his own powers of punishment or forward the inmate to the Court of a Magistrate having jurisdiction to be dealt with in accordance with the Code of Criminal Procedure, 1973 :

Central Act 45 of 1860

Central Act 2 of 1974

Provided that, in the case of any of the following offences, the Superintendent shall forward the inmate to the Court of a Magistrate having jurisdiction, namely : ---

(a) Any offence triable exclusively by a Court of Session;

(b) Any offence punishable under section 147 (Rioting) or section 148 (Rioting armed with a deadly weapon) or section 152 (Assaulting or obstructing or using criminal force to a public servant when suppressing riot, or threatening or attempting to do so) of the Indian Penal Code, 1860;

Central Act 45 of 1860

(c) Any offence punishable under section 222 (Public servant intentionally omitting to apprehend any person lawfully committed to custody or intentionally suffering such person to escape or intentionally aiding such person in escaping or attempting to escape) or section 223 (Escape negligently suffered by public servant) or section 224 (Resistance or obstruction to lawful apprehension, or escape or attempt to escape from lawful custody) of the Indian Penal Code, 1860; Central Act 45 of 1860

(d) Any offence punishable under section 304A (Causing death by a rash or negligent act) or section 309 (Attempt to commit suicide) or section 324 (Voluntarily causing hurt by dangerous weapons or means) or section 325 (Voluntarily causing grievous hurt) of the Indian Penal Code, 1860. Central Act 45 of 1860

(3) No inmate shall be punished twice for the same offence :

Provided that the removal of an inmate from a prison office in consequence of a judicial conviction for an offence shall not be deemed as a punishment for the purposes of this sub-section.

CHAPTER – XIV
OFFENCES IN RELATION TO PRISONS

Penalty for introduction or removal of prohibited articles into or from prison and communication with inmates

75. Whoever, contrary to any rule made under this Act, introduces or removes, or attempts by any means whatsoever to introduce or remove, into or from any prison, or supplies or attempts to supply to any inmate outside the limits of a prison, any prohibited article;

and every officer of a prison who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from the prison, to be possessed by any inmate, or to be supplied to any inmate outside the limits of the prison;

and whoever, contrary to any such rule, communicates or attempts to communicate with any inmate;

and whoever, abets any offence made punishable by this sub-section, -----

shall, on conviction before a Magistrate, be liable to imprisonment of either description for a term not exceeding six months or to fine not exceeding one thousand rupees or to both.

Penalty for taking photograph of prison interior

76. (1)The prisons are protected places and in the interest of safety and security of the prisons and persons detained therein, no person shall, without the permission of the State Government or any officer authorized by the State Government in this behalf, take any photograph or videograph of the interior of a prison.

(2) Whoever, contrary to the provisions of sub-section (1), takes in an unauthorized or surreptitious manner any photograph or videograph of the interior of a prison, including any aerial photograph or videograph taken from a high-rise facility,

and whoever contrary to the aforesaid provisions, publishes or telecasts or otherwise displays such photograph or videograph of the interior of a prison taken in an unauthorized or surreptitious manner,

and whoever aids or abets any offence made punishable by this section,

shall, on conviction before a Magistrate, be liable to imprisonment of either description for a term not exceeding six months or to fine not exceeding one thousand rupees or to both.

Power to arrest for offences under sections 75 and 76

77. When any person, in the presence of any officer of a prison, commits any offence specified in section 75 or section 76, and refuses on demand of such officer to state his name and address, or gives a name or address which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay make him over to a police officer, and thereupon such police officer shall proceed as if the offence had been committed in his presence.

Publication of penalties

78. The Superintendent shall cause to be affixed in a conspicuous place outside the prison, a notice in English and the vernacular setting forth the acts prohibited under sections 75 and 76 and the penalties incurred by their commission.

CHAPTER – XV
TRANSFER

Transfer from one prison to another in the State

79. (1) The State Government or, subject to its general or special directions, the Inspector General may, by general or special order, direct any inmate to be transferred from one prison to any other prison in the State :

Provided that when an order is made under this section directing an undertrial inmate to be transferred from one prison to any other prison, intimation about such order shall be immediately communicated to the Court by whose warrant or order the inmate is committed to prison, together with a commitment to produce him in that Court on the date fixed for his production.

(2) The Superintendent of the prison to which any person is transferred under sub-section (1) shall receive and detain him, so far as may be, according to the exigency of any writ, warrant or order of the Court by which such person has been committed, or until such person is discharged or removed in due course of law.

Transfer to and from any other State

80. (1) The provisions of the Transfer of Prisoners Act, 1950 shall be followed in cases where a person detained in a prison in the State under sentence of death or imprisonment or in default of payment of fine or in default of giving security for keeping the peace or for maintaining good behaviour, is required to be transferred to a prison in any other State or Union Territory, and where such a person is required to be transferred from a prison in any other State or Union Territory to a prison in the State. Central Act 29 of 1950

(2) Upon and with effect from the admission of a person in a prison in the State by transfer from any prison in any other State or Union Territory as aforesaid the provisions of this Act and rules made thereunder shall apply to such person as if he had been originally admitted to such prison in the State:

Provided that in the case of such a person, the authority for granting suspension, remission and commutation of sentence and for granting State remission shall remain with the appropriate Government as defined in section 2 of this Act.

Transfer to mental hospital of inmates of unsound mind committed to prison under section 330 or section 335 of the Code of Criminal Procedure, 1973

81. The State Government and subject to its general direction and control the Inspector General, may by order, direct, ---

(a) a person accused of an offence, who is found to be of unsound mind and consequently incapable of making his defence and is committed to prison under sub-section (2) of section 330 of the Code of Criminal Procedure, 1973 for safe custody without any specific orders for his removal to asylum, or Central Act 2 of 1974

(b) a person acquitted of an offence on grounds of unsoundness of mind, who is committed to prison under section 335 of the said Code of Criminal Procedure, 1973, for safe custody without any specific orders for his removal to asylum,

to be transferred from a prison to a mental hospital in the State or in any other State or Union Territory, and upon such transfer such person shall be dealt with in accordance with the provisions of sections 337, 338, and 339 of the said Code of Criminal Procedure, 1973 :

Provided that no order directing a person to be transferred to a mental hospital in any other State or Union Territory shall be made under this section except by the State Government and except with the consent of the Government of such other State or Union Territory.

Transfer to mental hospital of convicted inmates of unsound mind

82. (1) The State Government and subject to its general direction and control the Inspector General, may by order, direct a convicted person detained in a prison, who is certified by the Medical Officer to be of unsound mind, to be transferred from such prison to a mental hospital in the State or in any other State or Union Territory :

Provided that no order directing a person to be transferred to a mental hospital in any other State or Union Territory shall be made under this sub-section except by the State Government and except with the consent of the Government of such other State or Union Territory.

(2) A person transferred to a mental hospital in pursuance of an order made under sub-section (1), shall be detained in such hospital until he becomes of sound mind and is transferred to a prison in pursuance of an order made under sub-section (4) or discharged in accordance with the provisions of sub-section (5).

(3) The period of detention of a person in a mental hospital in pursuance of an order made under sub-section (1), shall be reckoned as a part of the period of imprisonment to which he was sentenced.

(4) If a person detained in a mental hospital in pursuance of an order made under sub-section (1) becomes of sound mind before the expiration of the remainder of the term of imprisonment to which he was sentenced, the authority making such order shall, by order, direct such person to be transferred from such mental hospital to a prison.

(5) If a person detained in a mental hospital in pursuance of an order made under sub-section (1) becomes of sound mind on or after the expiration of the remainder of the term of imprisonment to which he was sentenced, he shall be discharged from such hospital in accordance with the provisions of section 40 of Mental Health Act, 1987. Central Act 14 of 1987

Medical certificate prior to transfer

83. (1) All inmates, prior to their transfer from a prison, shall be examined by the Medical Officer.

(2) No inmate shall be transferred from a prison unless the Medical officer certifies that the inmate is fit to undertake the journey.

Non-exposure to public view

84. While escorting an inmate from or to a prison, his exposure to public view shall be as little as possible, and proper safeguards shall be adopted to protect him from insult or injury and undue curiosity or publicity.

CHAPTER XVI
ATTENDANCE IN COURT

Attendance in court on expiry of remand period

85. The Superintendent shall cause every person committed to prison by warrant or order or a Court pending the investigation, inquiry or trial of an offence of which he is accused, to be taken to such Court, together with such warrant or order, on the expiration of each period of detention authorized by such warrant or order.

Attendance of inmate in court to give evidence or answer a charge

86. In cases where the attendance of a person detained in a prison is required by a Court of Civil or Criminal Jurisdiction for giving evidence or answering a charge, and a warrant or order requiring his production is issued by such Court under section 3 of the Prisoners (Attendance in Courts) Act, 1955 or under section 267 of the Code of Criminal Procedure, 1973, the Superintendent of the prison shall act on such warrant or order in accordance with, and subject to, the provisions of the said Act or Chapter XXII of the said Code, as the case may be :

Central Act 32 of 1955

Central Act 2 of 1974

Provided that a warrant or order issued by a Court requiring the production of person in such Court in connection with any case shall not by itself, be a sufficient authority for detaining such person in prison in connection with such case, and therefore, no person shall be kept detained in prison in connection with such case on the strength of such a warrant or order alone unless there exists a separate warrant issued by such Court specifically directing such person to be detained in custody in connection with such case.

CHAPTER- XVII

SOCIAL RELATION AND REHABILITATION

Relation with and assistance to family

87. (1) An inmate shall be encouraged and assisted to maintain and improve such relations with his family as are desirable in the best interests of his family and himself, and to establish and maintain such relations with persons and agencies outside the prison as may promote the best interests of his family.

(2) Due provisions shall be made for giving, so far as is necessary and possible, material assistance for the subsistence of indigent dependents of an inmate under a sentence of imprisonment for life during his detention in prison.

Pre-release preparation

88. An inmate under a sentence of imprisonment imposed on conviction for an offence shall be prepared by counselling and guidance for a smooth return and re-adjustment to his family and to the society, and shall be encouraged and assisted to establish and maintain such relations with persons and agencies outside the prison as may promote the prospects of his socio-economic rehabilitation.

Aftercare and rehabilitation

89. Due provisions shall be made for providing an inmate under a sentence of imprisonment imposed on conviction for an offence, with –

(a) a certificate about his conduct in prison and the vocational proficiency acquired by him in prison, at the time of his release on the expiration of his sentence or on parole;

(b) so far as is necessary and possible, material and other assistance for his economic rehabilitation after his release from prison on the expiration of his sentence or on parole.

Removal of disqualification for employment

90. (1) Save as provided in sub-section (2), no person released from prison on the expiration of a sentence of imprisonment or on parole shall be disqualified or discriminated against on grounds of his having been detained in prison, in the matter of employment under the State Government or any undertaking owned or controlled, wholly or partly, by the State Government or any private employer.

(2) The State Government may, by notification in the Official Gazette, direct that persons having been detained in prison on conviction for such offence or class of offences shall be deemed to be ineligible for such kind or kinds of employment under the State Government or any undertaking owned or controlled, wholly or partly, by the State Government, as may be specified in such notification:

Provided that the State Government may, on merit of individual cases, by order, exempt such a person from the operation of such notification.

CHAPTER-XVIII
MISCELLANEOUS

Power to make rules

91. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for, ----

(i) the classification of prisons, and regulation of the class or classes of inmates to be detained in each class of prisons;

(ii) the description and construction of the prison buildings, and specification of floor space, cubic content of air and ventilation in buildings occupied by inmates;

(iii) regulating the establishment and declaration of temporary prisons;

(iv) the recruitment, training, conditions of service and functions of the officers;

(v) regulating the selection, appointment and functions of the convict officers;

(vi) the constitution and mode of functioning of the State Advisory Board on Correctional Administration, the Boards of Visitors and the Review Board;

(vii) the maintenance of records and registers in prisons;

(viii) regulating the admission, detention and release of inmates;

(ix) defining the circumstances and regulating the conditions under which inmates in danger of death may be released;

(x) the preparation and maintenance of history tickets;

(xi) regulating the accommodation and separation of inmates;

(xii) the classification of inmates for treatment and training;

(xiii) the rewards to inmates for good conduct and performance;

(xiv) the scale and manner of supply of food, clothing, bedding and other equipment to inmates;

(xv) regulating the transmission of appeals and applications from inmates;

(xvi) the engagement of inmates in work and regulating the hours of work;

(xvii) regulating the remuneration to inmates engaged in work;

(xviii) the education and recreation of inmates;

(xix) regulating the interview and communication with inmates;

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(xx) regulating the grant of remission;

(xxi) regulating the release of inmates on furlough and parole, and grant of day-release to inmates, and defining the conditions upon which inmates may be released on furlough and parole, and granted day-release;

(xxii) regulating the manner in which an order of revocation of furlough, parole or day-release may be served upon a person released on furlough or parole, or granted day-release;

(xxiii) defining the powers and duties of the Parole Officers, societies, institutions or persons under whose supervision or authority persons released on parole may be placed;

(xxiv) defining the prohibited articles;

(xxv) defining the acts which shall constitute prison offence; classifying the prison offences into serious and minor offences; and fixing the punishments awardable on commission of such offences;

(xxvi) prescribing the pattern and weight of handcuffs to be used as punishment and chain fetters to be used as instrument of restraint, and regulating the manner of using such handcuffs and fetters;

(xxvii) regulating the use of arms against any inmate or group of inmates in the case of an outbreak or attempt to escape;

(xxviii) regulating the transfer of inmates and their escort on transfer;

(xxix) regulating the treatment, transfer and disposal of inmates who are of unsound mind or who, having been of unsound mind, have become of sound mind;

(xxx) regulating the assistance to the families of inmates;

(xxxi) aftercare and rehabilitation of inmates on release from prison.

Repeal and savings

92. (1) The Prisons Act, 1894 and the Prisoners Act, 1900 along with the amendments made therein in their application to the State of Assam, and the Good Conduct Prisoners' Probational Release Act, 1938 are hereby repealed. Central Act 9 of 1894; Central Act 3 of 1900; Assam Act 2 of 1938

(2) Notwithstanding such repeal, any rule or appointment made, order or direction issued, action taken or anything done prior to such repeal under any of the Acts so repealed shall, in so far as it is consistent with this Act, be deemed to have been made, issued, taken or done under the corresponding provisions of this Act, and shall continue to have effect accordingly unless and until superseded by any rule or appointment made, order or direction issued, action taken or anything done under this Act.

(3) All references in any enactment to any of the provisions of the Acts so repealed shall be construed as references to the corresponding provisions of this Act.

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Legislative Department, Dispur.

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