

[Translation in English of “2010-ലെ കേരള പ്രിസണുകളും സംശുദ്ധീകരണ സാമ്പാർശ്ശികരണ സേവനങ്ങളും (നിർവ്വഹണം) ആക്ട്” published under the authority of the Governor.]

## ACT 9 OF 2010

### THE KERALA PRISONS AND CORRECTIONAL SERVICES (MANAGEMENT) ACT, 2010

*An Act to provide for the safe custody, correction, reformation, welfare and rehabilitation of prisoners and management of prisons and correctional services in the State and for matters connected therewith or incidental thereto.*

*Preamble.*—WHEREAS, it is expedient to provide for the safe custody, correction, reformation, welfare and rehabilitation of prisoners and management of prisons and correctional services in the State and for matters connected therewith or incidental thereto.

BE it enacted in the Sixty first Year of the Republic of India as follows:—

#### CHAPTER I

#### PRELIMINARY

1. *Short title extent and commencement.*—(1) This Act may be called the Kerala Prisons and Correctional Services (Management) Act, 2010.

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

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

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

(i) “Act” means the Kerala Prisons and Correctional Services (Management) Act, 2010 ;

(ii) “adolescent offender” means,—

(a) any person who has been convicted of any offence punishable with imprisonment, or who having been ordered to give security under section 117 of the Code of Criminal Procedure, 1973, has failed to do so and who at the time of such conviction or failure to give security is not less than 18 years, but not more than 21 years of age ; or

(b) any person who has been committed to prison custody during the pendency of his trial and who at the time of his commitment, is not less than 18 years and not more than 21 years of age ;

(iii) “adult prisoner” means any prisoner who is more than 21 years of age ;

(iv) “after care home” means an institution established by the State Government for the financial and social rehabilitation of released prisoners for becoming normal and good citizens ;

(v) “after care service” means a service or activity aimed for the financial and social rehabilitation of released prisoners for enabling them to lead a life as that of a good citizen ;

(vi) “civil prisoner” means any prisoner who is not a criminal prisoner ;

(vii) “competent authority” means any authority having power under any law to issue an order of detention or any officer having jurisdiction and authority under any law for the time being in force to deal with a particular matter in question ;

(viii) “confinement” means confinement in a prison, and includes detention in a prison under any law providing for preventive detention ;

(ix) “convicted prisoner” means any person committed to a prison in respect of whom any order of conviction has been made by any competent court and includes a person committed to the custody of a prison in default of payment of fine or furnishing security under any proceeding under sections 107, 108, 109 and 110 of the Code of Criminal Procedure, 1973 (Central Act 2 of 1974) ;

(x) “correctional services” means the services maintained by the State Government for proper management, administration, functioning of prisons and reformation of prisoners to become good citizens ;

(xi) “criminal prisoner” means any person committed to custody under writ, warrant or order of any court or authority exercising criminal jurisdiction or by order of a Court Martial ;

(xii) “dangerous prisoner” means any prisoner who is violently predisposed or showing violent disposition continuously or likely to escape from prison ;

(xiii) “Deputy Inspector General” means the Deputy Inspector General of Prisons and Correctional Services of the State ;

(xiv) “detenue” means any person who has been committed to a prison by warrant, writ or order issued by a competent authority under any law providing for preventive detention and includes any person detained without trial under any law for the time being in force ;

(xv) “Director General” means the Director General of Prisons and Correctional Services of the State ;

(xvi) “escort visit” means visit under escort to any place, of a prisoner who is not eligible for emergency leave for a period not exceeding twenty four hours excluding journey time for to and fro ;

(xvii) “Fund” means the Kerala Prisoners’ Welfare Fund established under section 70 ;

(xviii) “Government” means the Government of Kerala ;

(xix) “habitual offender” means a habitual offender as defined under clause (d) of section 2 of the Kerala Habitual Offenders Act, 1960 (28 of 1960) ;

(xx) “history ticket” means the ticket exhibiting such information as is required in respect of a prisoner under the Act or Rules made thereunder ;

(xxi) “inmate” means any person kept in an institution ;

(xxii) “Inspector General” means the Inspector General of Prisons and Correctional Services of the State ;

(xxiii) “institution” means a place, where prisoners are kept ;

(xxiv) “lunatic criminal prisoner” means a criminal prisoner who,—

(a) is of unsound mind at the time of his admission into a prison or thereafter, but before conviction ;

(b) is of unsound mind at the time of conviction or thereafter ;

(xxv) “Medical Officer” means a Gazetted Officer of the Government designated as such under the Act and includes a medical practitioner declared as such by general or special orders of the Government to be a Medical Officer for the purposes of the Act ;

(xxvi) “medical subordinate” means a qualified Medical Assistant ;

(xxvii) “military prisoner” means a prisoner committed to a prison on conviction by a Court Martial ;

(xxviii) “non-habitual offender” means a person who does not habitually engage in offences ;

(xxix) “notification” means a notification published in the Official Gazette ;

(xxx) “offence” means an Act or omission made punishable by any law for the time being in force ;

(xxxi) “parole” means the system of releasing the prisoners temporarily for such period by following such procedures and conditions, as may be, prescribed ;

(xxxii) “prescribed” means prescribed by rules made under this Act ;

(xxxiii) “prison” means any jail or place used permanently or temporarily under the general or special order of the Government for the detention of prisoners and includes all lands and buildings appurtenant thereto, but does not include,—

(a) any place for the confinement of prisoners who are exclusively in the custody of the Police ;

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

(c) any place which has been declared by the Government by general or special order to be a special prison ;

(xxxiv) “prisoner” means an under trial prisoner or a convicted prisoner or a civil prisoner and includes a prisoner remanded under the orders of a competent authority ;

(xxxv) “prohibited article” means any article, the bringing or removing of which, in and out of prison, is prohibited either under this Act or under the Narcotic Drugs and Psychotropic Substances Act, 1985 (Central Act 61 of 1985) and the rules made thereunder ;

(xxxvi) “rehabilitation assistance” means any assistance including financial assistance given to a released prisoner for the purpose of his rehabilitation ;

(xxxvii) “remanded prisoner” means any person who has been remanded by Court to custody or by any other authority exercising power to remand a person to prison, pending trial or investigation by Police or any other agency or authority enforcing law ;

(xxxviii) “remission” means the system of regulating the award of marks and consequent shortening of sentences of prisoners in jails or prisons in accordance with the rules made under the Act ;

(xxxix) “rule” means a rule made under this Act ;

(xl) “Scheme” means the Kerala Prisoners’ Welfare Fund Scheme framed under section 70 ;

(xli) “security prisoner” means any prisoner from whom there is a threat to the society or to the security of the State ;

(xlii) “State” means State of Kerala ;

(xliii) “Superintendent” means the officer who is appointed as superintendent of a prison and includes an officer posted in charge of a prison ;

(xliv) “undertrial prisoner” means a person who has been committed to prison by Court or competent authority pending trial of a case against him.

## CHAPTER II

### ESTABLISHMENT AND ADMINISTRATIVE SETUP OF PRISONS

3. *Power of the Government to appoint Director General, Inspector General, Deputy Inspector General and other correctional officers.*—(1) The Government shall, appoint a Director General of Prisons and Correctional Services for the administration, management and correctional services of all the prisons in the State of Kerala.

(2) The Government may also appoint, as many Inspectors General of Prisons and Correctional Services, Deputy Inspectors General of Prisons and Correctional Services and such other officers and staffs, as it may deem fit, to assist the Director General of Prisons and Correctional Services, in exercising powers and functions conferred upon him under this Act or rules made thereunder.

(3) The officers and staff appointed under sub-section (2), shall exercise such powers and discharge such duties, as may be, prescribed.

4. *Powers and functions of Director General of Prisons and Correctional Services.*—(1) The Director General of Prisons and Correctional Services shall exercise or perform his powers and functions in accordance with the Act and the rules made thereunder.

(2) In particular, and without prejudice to the above, the Director General shall exercise or perform the following powers and functions, namely:—

(a) to implement policies of Government relating to prisoners and prisons ;

(b) to plan, organise, co-ordinate and control the activities of prison and correctional services ;

(c) to define the functions and fix channels of command of the prison personnel ;

(d) to inspect prison institutions and ensure proper implementation of programme or measures for the reformation, correctional services, welfare and rehabilitation, treatment and training of prisoners, protection of human rights of prisoners and ensure discipline among officers and staff ;

(3) The Director General shall also exercise such administrative, financial and disciplinary powers as may be exercisable by a Head of the Department and such other powers specifically conferred upon him by the Government from time to time by special or general order.

(4) The Director General may delegate one or more of powers vested in him to his immediate subordinate subject to orders, directions and guidelines of Government issued from time to time.

5. *Structure of Zonal Headquarters.*—(1) The State shall be divided into such number of zones as may be necessary for the purposes of administration and management of Prisons and Correctional Services.

(2) Each zone shall be under the administrative control and supervision of a Deputy Inspector General of Prisons and Correctional Services and he shall exercise such powers and functions, as may be prescribed.

(3) The Deputy Inspector General in each zone shall be assisted by Superintendent and other subordinate officers of the Prison and Correctional Services, to exercise or perform the powers and functions under the Act and rules made thereunder.

6. *Superintendent and other Officers of prisons.*—(1) In every Prison there shall be a Superintendent, a Medical Officer, a Welfare Officer and such other officers and ministerial staffs, as may be prescribed, for the functioning of the prison.

(2) The Superintendent, Joint Superintendent, Medical Officer, Welfare Officer and other officers shall exercise such powers and perform such functions, as may be prescribed.

7. *Accommodation for prisoners.*—(1) The Government shall provide accommodation in prisons, constructed and regulated in such manner so as to comply with the requirements of this Act.

(2) Subject to the provisions of any law or rules for the time being in force and conditions which may be prescribed, Government shall provide in prison a decent standard of life for the prisoners.

8. *Categories of prisons.*—(1) The Government may, by notification, establish various categories of prisons for the purposes of the Act and rules made thereunder.

(2) The pattern of construction of prison, ground space, air space and ventilation in respect of cells, sleeping barracks, bathing places, kitchen, work sheds, hospitals etc. shall conform to such standards and requirements, as may be specified, by notification, by the Government, in this behalf.

(3) The standards of security of each prison shall, such as may be prescribed.

9. *Temporary accommodation for prisoners.*—Whenever the Director General is satisfied that,—

(a) the number of prisoners in any prison is greater than that can conveniently or safely be kept therein and it is not convenient to transfer the excess number to some other prison ; or

(b) due to natural calamities or outbreak of epidemic diseases within any prison or for such other reasons, it is desirable to provide for the temporary shelter and safe custody of any prisoner, provision shall be made by such officer and in such manner as the Government may direct, for their shelter and safe custody in temporary prisons of the prisoners that cannot conveniently or safely be kept in the prison.

10. *Other Departments to assist the Director General.*—Where on the report of a Superintendent, the Director General is satisfied that,—

(a) in a prison such emergency situation has arisen where the security of the prison is in danger, or

(b) for the maintenance of essential services in a prison including food and minimum accommodation, the assistance of the officers of other Departments, is inevitable,

the Director General or an officer authorised by him in this behalf may request any Department of the Government to provide assistance to handle any such situation and on such request, all officers of such Departments shall be bound to provide assistance called for.

### CHAPTER III

### TRAINING

11. *State Institute of Correctional Administration.*—(1) There shall be a State Institute of Correctional Administration, for imparting basic training and conducting refresher and re-orientation courses to officers and warder staff in the prison.

(2) The State Institute of Correctional Administration shall be headed by an officer not below the rank of Central Prison Superintendent and designated as Director.

(3) The Institute shall have such other officers and staff as the Government may deem necessary.

(4) The State Institute of Correctional Administration shall also conduct seminars, symposiums, other awareness activities, etc. on subjects relevant to prison management and correctional administration.

(5) The Institute shall be a Centre of learning for Prisons and Correctional Services and shall undertake research and analysis on such subjects and issues, as the Government may deem fit, for the improvement in the standards of functioning and performance of prison and promote correctional services to prisoners.

#### CHAPTER IV

#### FUNCTIONS OF PRISONS

12. *Functions of a Prison.*—The functions of prison shall be,—

(i) to keep in safe custody of a prisoner committed to it under any writ, warrant or an order of any court or other competent authority ;

(ii) to give correctional treatment to the prisoners in custody so as to efface from their mind the evil influence of anti-social ways of life and to rehabilitate them in the society as good citizens ;

(iii) to provide the prisoners with food, clothing, accommodation and other necessities of life and adequate medical treatment and care of sick prisoners ;

(iv) to adopt measures for developing a healthy social outlook ;

(v) to adopt measures,—

(a) to put the prisoners sentenced to rigorous imprisonment to labour ;

(b) to put the prisoners to vocation-oriented labour ;

(c) to put the prisoners on activities in the prison like cooking, sanitary services, gardening etc. on a roster basis ;

(vi) to take measures for physical, mental and moral uplift of the prisoners ;

(vii) to provide educational and other facilities for improving qualities, character and mental attitude of prisoners ;

(viii) to take measures for the safety and security of prisoners ;

(ix) to maintain discipline in prison in accordance with the provisions of this Act and the rules made thereunder ; and

(x) such other facilities and amenities to the prisoners as the Government may, prescribe.

#### CHAPTER V

#### DUTIES OF OFFICERS

13. *Duties of officers in general.*—Subject to the provisions of any law for the time being in force and conditions which may be prescribed, every officer of a prison shall,—

(i) treat every prisoner impartially and with humanity ;

(ii) hear any complaint or report made by a prisoner and redress his grievance ;

(iii) maintain discipline in the prison ; and

(iv) exercise or perform his powers and functions and discharge his duties promptly and effectively.

14. *Officers not to have business dealings with prisoners.*—No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealings, directly or indirectly, with any prisoner or his near relatives and close friends.

15. *Officers not to accept gifts.*—No officer of a prison shall accept any gift from a prisoner or his relatives or from persons having any dealings with prisoner or prison administration.

16. *Officers not to be interested in prison contracts.*—No officer of a prison shall, nor shall any person in trust for or employed by him, have any interest, direct or indirect, in any contract for the supply of provisions or any other article to the prison nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any such provisions or articles for or of prison or of any article belonging to a prisoner.

17. *Punishment for offences under sections 14, 15 and 16.*—Any officer who commits offence under sections 14, 15 and 16 of this Act, shall be liable to punishment including removal from service subject to such rules, as may be prescribed.

18. *Administrative control and duties of Superintendent and other Officers of prisons.*—(1) The general administrative control and management of prisons shall be vested with the Superintendent and the officers and staff shall exercise or perform such powers and functions, as may be prescribed.

(2) All officers and staff of the prison subordinate to the Superintendent shall obey the directions of the Superintendent and perform such duties as may be assigned to them by the Superintendent or such officer authorised in this behalf by the Superintendent.

19. *Functions and duties of Superintendent of Prison.*—Subject to the provisions of the Act and the Rules and the lawful orders and directions of the Director General or other superior officers in the respective zone, the Superintendent of a prison shall, manage the prison in all matters including admission of prisoners, allowing visitors inside the prison, security of the prison, labour, correctional programmes, expenditure, discipline, punishment and control and release of prisoners with the aid of his subordinate officers.

20. *Superintendent to reside in prison.*—The Superintendent shall reside in the prison unless the Director General permits him, in writing, to reside elsewhere.

21. *Records to be kept by the Superintendent.*—The Superintendent shall keep, or cause to be kept, the following records:—

- (i) a register of prisoners admitted;
- (ii) a book showing when each prisoner is to be released;
- (iii) a punishment book for the entry of the punishments inflicted on prisoners for prison offences;
- (iv) a visitors book for the entry of any observation made by the visitors touching any matters connected with the administration of the prison;
- (v) a record of the money and other articles taken from prisoners;
- (vi) Superintendent's journal; and
- (vii) such other records, as may be prescribed.

22. *Utilisation of the services of prisoners.*—(1) The Superintendent may utilize the services of prisoners in accordance with the rules for the day-to-day administration and management of the prison.

(2) Prisoners, who are appointed as officers of prisons as per rules prescribed, shall be deemed to be public servants within the meaning of the Indian Penal Code, 1860 (Central Act 45 of 1860).

23. *Duties of Medical Officer.*—Subject to the general control of the Superintendent, the Medical Officer shall be in-charge of health, hygiene and the medical and sanitary administration of the prisoners in prison and he shall perform such duties as may be prescribed.

24. *Medical Board to submit report in certain cases.*—(1) Whenever a Medical Board constituted by the Government by notification in the Gazette for this purpose, considers that any prisoner is seriously ill and that his illness has not been caused or aggravated by the prisoner himself and that his illness, whether caused by imprisonment or not, will be so aggravated by further imprisonment as to render his early death certain and that the prisoner will have a fair chance of recovery if released, it shall record a certificate accordingly, forward the same, through the Superintendent of the prison, to the Director General together with a full statement of the medical case and of the reasons which led the Medical Board to the observation in the certificate. While forwarding the certificate and statement, the Superintendent shall furnish the nominal roll of the prisoner showing the amount of remission earned and any remarks relevant to the case. The Director General shall forward the report to Government for appropriate orders with his remarks regarding the release of the prisoner.

(2) Whenever the Medical Board has reason to believe that any prisoner is in danger of death from sickness not due to infectious diseases and that there is no scope for recovery inside or outside the prison, it shall record a certificate accordingly and along with full details of the case, send a report to the Superintendent of the prison who in turn forward the same to the Director General along with a nominal roll of the prisoner, details of remission and his specific remarks.

(3) On receipt of the report, the Director General shall along with his remarks, address the Government for decision whether the prisoner shall be released immediately or not.

(4) Whenever the Medical Board has reason to believe that the mind of a prisoner is or is likely to be injuriously affected by the discipline or treatment to which he is subjected, the Medical Board shall report such

case in writing to the Superintendent, together with such observations as it may think proper. The Superintendent shall take appropriate action on the report and also send a report forthwith to the Director General together with details of action taken and the report of the Medical Board.

25. *Administering of medicines.*—The Medical Officer shall not administer any medicine to any prisoner without informing him of what is being administered to him:

Provided that the Medical Officer may administer any such medicine to any prisoner without informing him of what is being administered, in emergent situations, where the prisoner is unconscious or in a state in which he is not fit to understand and respond to such information.

26. *Report on the death of a prisoner.*—(1) On the death of any prisoner, the Medical Officer-in-charge shall forthwith record in a register the following particulars, so far as they can be ascertained, namely:—

(a) the day on which the deceased first complained of illness or injury or was observed to be ill or injured;

(b) the labour, if any, on which he was engaged on that day;

(c) the scale of his diet on that day;

(d) the day on which he was admitted to hospital;

(e) the day on which the Medical Officer was first informed of the illness or injury;

(f) the nature of the disease or injury;

(g) whether the patient prisoner was referred to outside hospital;

(h) if so, the details of treatment provided in the outside hospital;

(i) the details of medicines administered and the clinical tests conducted on the prisoner;

(j) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate;

(k) the time of the death of the prisoner; and

(l) an account of the appearance of the corpse, together with any special remarks that the Medical Officer may desire to record or report to the Superintendent.

(2) The Medical Officer shall send a report of such death to the Superintendent of the Prison and to the Director General, through the Superintendent.

27. *Subordinate Officers not to be absent without leave.*— Officers subordinate to the Superintendent shall not be absent from the prison without leave from the Superintendent or an officer authorised in this behalf by the Superintendent.

## CHAPTER VI

### DISCIPLINE IN PRISONS

28. *Discipline in Prisons.*—(1) The Superintendent and other officers shall be responsible for maintaining discipline in the prison and of prisoners and staff in accordance with the provisions of this Act and Rules made thereunder.

(2) There shall be a committee consisting of Superintendents, Joint Superintendent (Discipline) or Deputy Superintendents, Welfare Officer and Medical Officer for the purpose of maintaining discipline in the prison.

(3) The Superintendent shall be the Chairman of the Committee and Chief Discipline Officer of the prison. The Joint Superintendent (Discipline) or the Deputy Superintendent shall be the Discipline Officer.

(4) The committee may decide the procedure for transaction of its business.

(5) The Chief Discipline Officer or Discipline Officer shall subject to the supervision of the Committee maintain discipline in the prison.

(6) It shall be the duty of the Discipline Officer,—

(a) to assist the Chief Discipline Officer in maintenance of security and discipline in prison;

(b) to supervise the work of gate keepers;

(c) to supervise the work or labour of prisoners;

(d) to prevent smuggling of any prohibited or unauthorised article in the prison;

(e) to take action against offenders of smuggling or possessing prohibited articles;

(f) to receive official and non-official visitors;

(g) to carry out instructions of the Chief Discipline Officer in all matters relating to discipline and prison administration.

(7) The manner of enforcing discipline in prisons shall be, such as may be prescribed.

29. *Responsibility of Superintendent in District Jails, Special Sub Jails and Sub Jails.*—The Superintendent assisted by his subordinate officers shall maintain discipline in the prison in accordance with the provisions of the Act and Rules made thereunder.

## CHAPTER VII

### ADMISSION AND REMOVAL OF PRISONERS

30. *Admission of Prisoners.*—(1) No person shall be admitted into a prison for detention unless a warrant, writ or order authorising his detention signed by a competent authority and duly sealed, is produced before the officer who, for the time being, remains in-charge of the prison.

(2) Every person received in a prison for detention shall be searched and the officer conducting the search shall take into custody all weapons and prohibited articles, if any, in the possession of the prisoner. The search shall be made in such manner as may not subject the prisoner or the person to unnecessary harassment, humiliation or ignominy. A female prisoner shall be searched by the matron or by a female warder only. When a female is admitted into a prison and if there is no other female prisoner, a female warder be deputed to remain inside the ward where such female prisoner is accommodated.

(3) All money and other valuable articles in respect whereof no order of a competent court has been made and which may with proper authority be brought into the prison by any criminal prisoner or brought to the prison for his use, shall be placed in the custody of Superintendent or an officer authorised by the Superintendent in that behalf.

(4) Every prisoner after being searched and before being taken into his accommodation shall be photographed at the gate itself and biometric measurements including finger prints should be taken for establishment of his correct identification.

(5) Every prisoner shall also, after admission, be examined on the same day or the next day under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Medical Officer, a record of the state of prisoner's health including blood group, whether he is an HIV positive 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 considers fit to add.

(6) During examination under sub-section (5), if it is found that any prisoner is suffering from any infectious disease, mental ailment, addiction to drugs, serious sickness, pregnancy, injury or any other serious ailment as may be discernible on examination by the Medical Officer, the prisoner shall be referred to a Government Hospital or Mental Health Centre, as the case may be:

Provided that examination regarding the infectious diseases referred in sub-section (6) shall be conducted within two weeks and a report regarding this shall be submitted to the Superintendent:

Provided further that orders of the competent administrative authority shall be obtained before referring a prisoner to Mental Health Centre.

(7) Every prisoner after returning from leave shall be subjected to medical examination in the same way as specified in sub-section (5) by the Medical Officer.

31. *Removal of prisoners.*—(1) All prisoners shall, before being removed from one prison to another, be examined by the Medical Officer.

(2) No prisoner shall be removed from a prison to another prison unless the Medical Officer certifies that the prisoner is medically fit for such removal.

32. *Detention of prisoner ordered to be released but production warrant pending.*—The Superintendent may seek orders from the Chief Judicial Magistrate of the District regarding further detention of a criminal prisoner who has been ordered to be released by a Court, but against whom a production warrant from another court has been received by the Superintendent and remains to be executed. The Superintendent shall act as per the orders of the Chief Judicial Magistrate in the matter.

## CHAPTER VIII



### FOOD, CLOTHING AND BEDDING OF PRISONERS

33. *Maintenance of civil prisoners.*—(1) A civil prisoner shall be permitted to maintain himself and to obtain from private sources his requirement of clothing and other necessities, subject to examination and to such rules as may be prescribed. The subsistence allowance to be paid by the decree holder to the Prison Department for the detention of a civil prisoner or a civil debtor may be enhanced periodically and suitably.

(2) No part of any clothing and other necessities belonging to any civil prisoner shall be given, hired or sold to any other prisoner and any civil prisoner transgressing the provisions of this section shall lose the privilege of obtaining from private sources the above mentioned items for such time as the Superintendent thinks proper.

(3) Every civil prisoner unable to provide himself with sufficient clothing and other necessities shall be supplied with such clothing and other necessities as may be prescribed.

(4) Every civil prisoner shall be supplied such food by the Superintendent subject to examination and conditions, as may be prescribed.

34. *Maintenance of undertrial prisoners and detenues.*—(1) Undertrial prisoners and detenues shall be permitted to bring along with them or obtain from private sources their requirement of clothing and other necessities, subject to rules.

(2) No part of any clothing and other necessities belonging to any undertrial prisoner or detinue shall be given, hired or sold to any other prisoner by him and any undertrial prisoner or detinue transgressing the provisions of this sub-section shall lose the privilege of obtaining from private sources the above mentioned items for such time as the Superintendent thinks proper.

(3) Undertrial prisoners and detenues unable to provide themselves with sufficient clothing and other necessities shall be supplied with such clothing and other necessities, as may be prescribed.

(4) Undertrial prisoners and detenues shall be supplied such food by the Superintendent subject to examination and conditions, as may be prescribed.

(5) No money shall be demanded from undertrial prisoners and detenues for any food, bedding and other necessities provided to them in the prisons.

35. *Maintenance of criminal prisoners.*—(1) Criminal prisoners shall be supplied such food, clothing, bedding and other necessities by the Superintendent, as may be prescribed.

(2) No money shall be demanded from criminal prisoners for any food, bedding and other necessities provided to them in the prisons.

### CHAPTER IX

#### RIGHTS AND DUTIES OF PRISONERS

36. *Rights of prisoners.*—Subject to the provisions of any law for the time being in force and conditions as may be prescribed, all prisoners shall have the right,—

- (a) to live with human dignity;
- (b) to be entitled for adequate diet, health and medical care, hygienic living conditions and proper clothing;
- (c) of communication which includes contacts with his family members and other persons in such manner and subject to such condition, as may be prescribed;
- (d) of access to due process of law, including legal service and legal aid;
- (e) to protection against unlawful aggression on his person or against imposition of ignominy in any manner not authorised by law;
- (f) to protection against unreasonable discrimination;
- (g) to protection against punishment or hardship amounting to punishment, except through procedure established by law and with due opportunity of defence;
- (h) of being informed of the amenities and privileges of prisoners admissible under the law;

(i) of pursuing his religious faith;

(j) to protection against labour not authorised by law or in excess of the prescribed period or without payment of wages at the prescribed rate;

(k) of enjoyment of fundamental rights under Chapter III of the Constitution of India in so far as they do not become incapable of enjoyment as an incident of conviction and confinement; and

(l) of being released on due date.

*Explanation:*—For the purpose of clause (f), classification, segregation or difference in treatment under the provisions of the Act or the Rules made thereunder, shall not be deemed to be unreasonable discrimination.

37. *Duties of prisoners.*—It shall be the duty of every prisoner to obey orders and instructions of any prison officer, to abide by the provisions of this Act and the Rules made thereunder and also to comply with such other duties, as may be prescribed.

## CHAPTER X

### CLASSIFICATION AND SEPARATION OF PRISONERS

38. *Classification of prisoners.*—All Prisoners as classified below shall be categorised by a Committee consisting of the Superintendent, Joint Superintendent, Welfare Officer and Medical Officer, namely:—

- (a) Civil prisoners
- (b) Criminal prisoners
- (c) Undertrial prisoners
- (d) Convicted prisoners
- (e) Habitual offenders
- (f) Non habitual offenders
- (g) Detenués
- (h) Lunatic criminal prisoners
- (i) Dangerous prisoners
- (j) Security prisoners
- (k) Prisoners sentenced to death.

39. *Separation of prisoners.*—(1) Prisoners classified into different categories under section 38 shall be imprisoned separately.

(2) The prisoners referred to in clauses (a) to (k) of section 38 shall further be classified into male prisoners and female prisoners and kept separated in separate buildings in such a manner as to prevent their contact with each other.

(3) Female prisoners convicted or charged for offences under the Immoral Traffic (Prevention) Act, 1956 (Central Act 104 of 1956) shall be segregated from other female prisoners.

(4) Adolescent offenders shall be separately confined and kept separate from adult prisoners.

(5) Remanded and undertrial prisoners shall be kept apart from convicted criminal prisoners.

(6) Civil prisoners shall be kept apart from criminal prisoners.

(7) Dangerous prisoners and security prisoners shall be kept separately.

(8) Detenués shall be kept separately.

(9) Military prisoners shall be kept separately.

(10) Foreign prisoners shall be kept separately.

(11) Lunatic criminal prisoners shall not be kept in prison, but sent to the nearest mental health centre or hospital on the advice of the Medical Officer.

(12) First offenders shall be kept separate from habitual offenders.

(13) Prisoners suffering from infectious diseases and those likely to infect fellow prisoners with diseases through bodily contact, shall be kept separately.

(14) Aged, infirm and handicapped prisoners shall be kept separately as far as possible.

(15) All blood related prisoners, separated on grounds of different sex, shall be allowed to meet each other once in a week in the presence of a prison officer.

40. *Association and segregation of prisoners.*—Subject to the requirements of section 38, convicted prisoners may be confined either in association or individually in cells or partly in one way or partly in the other.

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

42. *Prisoners sentenced to death.*—(1) Every prisoner sentenced to death shall, immediately on his arrival in prison after sentence be searched meticulously and all articles shall be taken from him which the Superintendent or an officer authorised in this behalf by the Superintendent deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be treated as a normal convicted prisoner until his final executable sentence is passed and such a prisoner shall not be entitled to any leave or escort visit.

(3) As and when a finally executable sentence is passed in respect of prisoner sentenced to death, such prisoner shall be confined in a cell apart from all other prisoners and shall be kept under the charge of a guard, day and night.

## CHAPTER XI

### CUSTODY AND SECURITY OF PRISONERS

43. *Safe custody and security of prisoners.*—The Superintendent of the Prison shall be responsible to undertake effective measures to ensure safe custody and security of prisoners.

44. *Confinement in iron bars with the permission of the court.*—Whenever the Superintendent has reason to believe that a prisoner is likely to jump out of prison or break out of the custody in view of his proneness to violence or his tendency to escape of his being so dangerous or desperate that no other practicable way of preventing his escape is available except by confining him in iron bars, he may so confine him with the permission of the court.

45. *Use of handcuffs and fetters in emergent situations.*—In emergent situations, it shall be open to the Superintendent to use handcuffs and fetters to secure any prisoner, for reasons to be recorded in writing, and under intimation to the District and Sessions Judge within twenty four hours of using such handcuffs or fetters.

46. *Dangerous prisoners and Security prisoners.*—(1) Dangerous and Security prisoners shall be accommodated in special cells in Central Prisons or high security prisons.

(2) The Superintendent shall take special care and caution for ensuring safe custody of dangerous prisoners and security prisoners as may be specified by Government by notification in this behalf.

47. *Facility for interviews and communication with relatives and legal practitioners.*—Subject to the provisions of the Act and the rules relating to the security of prison and prisoners, the Superintendent shall provide to every prisoner, facilities for interviews and communication with relatives and legal practitioners and for writing letters, in such manner and at such intervals, as may be prescribed.

48. *Search of visitors.*—(1) The Superintendent or the authorised officer shall record the name and address of all visitors to a prisoner in a register kept for the purpose at the entrance of the prison and cause a thorough search to be conducted on the visitor for the purpose of ensuring security to the prison and the prisoners. If any prohibited article is found in the possession of the visitor, the Superintendent or the authorised officer shall initiate such action as may be prescribed and such visitor shall not be allowed to meet the prisoner. The

Superintendent shall ensure that the visitor does not carry prohibited articles to the prison on the pretext of meeting any prisoner. Search of visitors shall be undertaken with due regard to privacy and decency. Women visitors shall be searched only by women warders or women staff. Searching of women visitors shall be done in separate enclosures away from the view of male persons.

(2) A visitor who refuses to permit to be searched may be denied admission by the Superintendent and the grounds of such denial shall be entered in a proceedings and contents there of written in such records and in such manner as may be prescribed.

49. *Foreign prisoners.*—(1) Subject to the provisions of the Act and the rules made thereunder relating to the security of prison and prisoners, foreign prisoners may be permitted to use internet facilities at their own cost for legal assistance and also to contact their Embassies in India in such manner and upon such conditions, as may be prescribed.

(2) The Superintendent of the prison concerned shall report the admission of any foreign national in the prison to the Director General immediately stating the full name, address and nationality and the sections under which the prisoner is detained. The Director General shall address the State Government in this regard. The release of such prisoner from the prison shall also be reported by the Superintendent to the Director General who in turn shall inform the Government.

(3) Foreign prisoners who have no valid travel documents, when released from prison, and those under orders of deportation, shall be handed over to the Station House Officer of the Police Station having jurisdiction over the area who shall take appropriate action in accordance with the law for the time being in force.

## CHAPTER XII

### VISITORS TO PRISON

50. *Panel of visitors.*—(1) The Government shall, by notification, specify a panel of such official and non official visitors for each prison and the period during which the panel shall visit the prison and the periodicity of such visit shall be as specified in the notification.

(2) The visitors shall exercise such powers and carry out such duties as may be prescribed.

(3) Every visitor, after he has completed his visit to prison, shall record in the visitor's book the date and hour of his visit and remarks or suggestions which he may like to make. Entries in the visitor's book shall be made in the visitor's own handwriting. The Superintendent shall forward a copy of the remarks recorded by the visitor together with a report on action taken by him to the Director General, who may take appropriate further action in the matter.

## CHAPTER XIII

### EMPLOYMENT OF PRISONERS

51. *General.*—For carrying out the orders of convictions by various Courts on prisoners sentenced to rigorous imprisonment, all the prisons where such convicted prisoners are accommodated, shall have facilities for providing labour to the prisoners. Such prisons shall have appropriate infrastructure for giving meaningful work to such prisoners. The prisoners shall be given such vocational training, as may be prescribed, for enabling them to find employment or getting self employed after their release. Men and women prisoners shall be given appropriate and separate tasks for doing labour in deserving cases. The prisoners sentenced to simple imprisonment shall also be provided with work on their request so as to enable them to earn wages depending on the requirements of rehabilitation.

52. *Employment of criminal prisoners sentenced to rigorous imprisonment.*— (1) Criminal prisoners sentenced to rigorous imprisonment shall be provided with facilities of appropriate labour preferably based on their aptitude.

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

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

(4) When the Medical Officer is of opinion that the health of any prisoner suffers from employment of any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such other kind or class of labour as the Medical Officer may consider suitable for him.

53. *Employment of criminal prisoners sentenced to simple imprisonment.*—The Superintendent shall make provision for providing such employment as may be prescribed to all criminal prisoners sentenced to simple imprisonment, if they express their willingness to engage in such employment.

54. *Employment of remanded prisoners and undertrial prisoners.*—The Superintendent shall make provision for providing such employment, as may be prescribed, to all remanded prisoners and undertrial prisoners as long as they so desire.

55. *Employment of civil prisoners.*—(1) Civil prisoners may, with the permission of the Superintendent and subject to such restrictions as the Superintendent may impose, be provided with work, if they desire so.

(2) Civil prisoners not maintained at the expense of the prison shall be allowed to receive the whole of their earnings. Earnings, if any, made at the expense of the prison shall, however, be subjected to such deduction as may be prescribed.

56. *Wages for employment.*—The rate of wages payable to skilled, semi-skilled and unskilled prisoners put to different types of labour in different categories of prisons shall be such, as may be prescribed. The Government shall also prescribe the manner and quantum of utilisation of wages earned by prisoners.

#### CHAPTER XIV

#### HEALTH AND PERSONAL HYGIENE OF PRISONERS

57. *Prison Medical Officer to provide medical aid to prisoners.*—(1) The Medical officer of a prison shall provide treatment to sick prisoners and attend to all matters connected with mental and physical health of prisoners. The criteria for ensuring general hygiene and sanitation of the prison and personal hygiene of prisoners shall be such as may be prescribed.

(2) The Medical Officer shall also provide specialized treatment to the needy by referring them to the nearest Government hospital or by arranging visits of specialized Government doctors inside the prison.

58. *Medical aid to sick prisoners.*—(1) The officer in-charge of the prisoners shall, without any delay, report the names of prisoners desiring to have medical assistance to the Superintendent.

(2) The Superintendent shall, without delay, call the attention of the Medical Officer or Medical subordinate to any prisoner desiring to see him and to any prisoner whose state of mind or body appears to require the attention of the Medical Officer or Medical subordinate and shall thereafter carry out all written directions given by the Medical Officer or Medical subordinate regarding alterations of the discipline or treatment of any such prisoner.

59. *Record of directions of Medical Officer.*—All directions given by the Medical Officer or Medical subordinate in relation to any prisoner, with the exception of orders for supply of medicines or direction relating to such matters as are carried into effect by the medical officer himself or under his superintendence, shall be entered everyday in the prisoner's history-ticket or in such other record as the State Government may direct and the Superintendent shall make or cause to be made an entry in its proper place stating in respect of each direction, the fact of its having been or not having been, complied with accompanied by such observations if any, as the Superintendent thinks fit to make and the date of the entry.

60. *Prison hospital.*—There shall be a prison hospital in every Central Prison or Open Prison, administered by Medical Officers and para-medical staff for admission and treatment of sick prisoners. The hospital shall have inpatient facility and facility for clinical tests.

61. *Superintendent's power to send prisoner to outside hospital or mental health centre for special treatment.*—When the Superintendent, on the advice of the medical officer, is of opinion that a prisoner requires special treatment at a Government hospital outside the prison or in a mental health centre, he may send him to such Government hospital or mental health centre as may be referred to by the Medical Officer.

#### CHAPTER XV

#### WELFARE PROGRAMMES FOR PRISONERS

62. *Educational facilities.*—There shall be adequate facilities for imparting education to deserving prisoners in all such prisons as may be prescribed. Facilities shall also be provided for education of prisoners with the objective of their ultimate rehabilitation in society. The main objectives of education in the prisons shall be,—

- (1) providing opportunities to the illiterate inmates to achieve at least a certain minimum level of education in reading, writing and basics in arithmetic;
- (2) enabling literate inmates to achieve educational standard upto matriculation level;
- (3) extending facilities to matriculates to advance their education through distance education programmes;
- (4) enabling better physical and mental health through lectures on health and hygiene, physical exercises, yoga, etc., and their practice; and
- (5) providing inputs in moral and spiritual fields through lectures, meditation, group prayers, reading out books on ethics and moral values.

63. *Prison School.*—There shall be a school in every Central Prison and in such other prisons as may be prescribed by Government for providing education to the inmates up to primary level. Classes for higher levels may also be arranged depending on requirements.

64. *Nursery School and Creche.*—In every Women’s Prison, there shall be a nursery school and crèche facility for the children of convicted female prisoners who live in the prison along with their children aged up to six years.

65. *Prison library.*—There shall be a library in every Central prison, Open prisons and Women’s prisons to cater the intellectual needs of the inmates, and to facilitate their reformation.

66. *Religious and moral instructions.*—Religious and moral instructions shall be provided to prisoners through reliable and reputed personalities from all religions for providing religious and moral inputs to the inmates. The institutions and personalities approved in this behalf by the Director General shall be permitted to render religious and moral instructions to prisoners. The services of reliable voluntary agencies and Non-Governmental Organisations may be availed for organizing religious, spiritual, cultural and recreational programmes in prisons. The organization of such welfare programmes shall be the responsibility of the Welfare Officer.

67. *Reformation and pre-release programmes.*—(1) The Government and the Director General shall undertake measures, formulate and implement programmes for the reformation of the prisoners.

(2) The Director General shall arrange suitable pre-release programmes in such prisons as the Government may direct for the benefit of those prisoners who are sentenced to more than three years of imprisonment, with the objective of their ultimate rehabilitation in society in such manner as may be prescribed.

68. *Recreations and Sports activities.*—The Superintendent shall, with the assistance of subordinate officers, organise regular recreational and sports activities for the benefit of the inmates in such prisons.

69. *After care and rehabilitation.*—(1) The Government shall, provide assistance to the prisoners before their release from prison, for their financial and social rehabilitation.

(2) The criteria for such assistance, manner of payment and matters connected therewith shall be such, as may be prescribed.

70. *Prisoners’ Welfare Fund.*—(1) The Government may, by notification, frame a Scheme to be called the “Kerala Prisoners’ Welfare Fund Scheme” for the establishment of a Fund under this Act for the welfare of the prisoners in the State and there shall be established, as soon as may be after the framing of the Scheme, a Fund called the Kerala Prisoners’ Welfare Fund, in accordance with the provisions of this Act and the Scheme framed thereunder.

(2) The management of the Fund and its administration shall be vested in a Committee constituted as per the scheme.

(3) The Fund shall be established with an initial corpus of such amount as the Government may provide by way of grants or loans and such yearly contributions made on subsequent years for providing benefits to prisoners and their families and also for providing financial assistance for the rehabilitation of prisoners.

(4) Donations from individuals, organisations, trusts etc., as may be specified in the scheme.

(5) The prisoners shall also contribute such portion of the wages that may be received by them for labour or work done in prison.

71. *Modification of the Scheme.*—(1) The Government may, by notification, add to, amend or vary the scheme framed under this Act, either prospectively or retrospectively.

(2) Every notification issued under sub-sections (1) of section 70 and 71 shall be laid, as soon as may be after it is issued, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly makes any modification in the Scheme, the Scheme shall, thereafter have effect only in such modified form; so, however, that any such modification shall be without prejudice to the validity of anything previously done under the Scheme.

## CHAPTER XVI

### REMISSION, PAROLE, OVER STAY AND PREMATURE RELEASE

72. *Remission to prisoners.*—(1) Remission may be granted to convicted prisoners as may be prescribed in the rules. There shall be a Remission Committee consisting of the Superintendent and such other officers as may be prescribed to oversee the calculation and computation of remission to convicted prisoners in the Central Prison, Open Prison and Women's Prison.

(2) The kinds of remission and the criteria for granting remission shall be such as may be prescribed.

73. *Release on parole.*—The State Government may, subject to such conditions as may be prescribed, release on parole for such period as it may deem necessary, any convicted prisoner in case of any serious illness or death of any member of the prisoner's family or of any of his nearest relatives or for any other sufficient cause.

74. *Prisoner to surrender himself on the expiration of the period of parole.*—(1) On the expiry of the period for which a prisoner was released on parole under section 73, he shall surrender himself to the officer in-charge of the prison from which he was released.

(2) If a prisoner fails to surrender himself as required by sub-section (1), he may be arrested by any Police Officer without a warrant and produced before a Judicial Magistrate who shall commit him to undergo the unexpired portion of the sentence.

75. *Penalty for failure to surrender.*—(1) Any prisoner who fails to surrender himself, as required by sub-section (1) of section 74, shall be liable to be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.

(2) The imprisonment under sub-section (1) shall be in addition to the punishment awarded to the prisoner for the offence or offences for which he is undergoing the sentence.

(3) While imposing penalty under sub-section (1), the court shall take into account any mitigating circumstances beyond the control of the prisoner.

76. *Cancellation of order and parole.*—Whenever any prisoner fails without sufficient cause to observe any of the conditions on which he was released on parole, the Government or the competent authority, as the case may be, may cancel such order granting parole.

77. *Premature release.*—(1) Well behaved, long term convicted prisoners may be prematurely released with the objective of their reformation and rehabilitation, by the Government, either *suo motu* or on the recommendations of an Advisory Committee as may be prescribed.

(2) The Advisory Committee constituted as per sub-section (1) shall have the powers and duties, as may be prescribed.

## CHAPTER XVII

### LEAVE AND ESCORT VISIT

78. *Leave.*—(1) Leave may be granted to well behaved, eligible, convicted prisoners with the objective of their better rehabilitation and re-socialisation as an incentive for good behaviour and responsiveness to correctional treatment in such manner and subject to such conditions as may be prescribed.

(2) All kinds of parole, remission and leave granted to the prisoners shall in no case exceed one third of the sentence.

(3) Kind of leave and matters related thereto shall be, such as may prescribed.

79. *Escort visit.*—The prisoners who are not eligible for the required kind of leave may be granted permission to visit relatives etc., under escort under such circumstances as may be prescribed in the rules for a maximum period of twenty four hours excluding journey time. In circumstances in which the prisoner has to halt

at night *en-route*, at a place where there is a jail he shall be confined therein and where there is no jail, he shall be kept in the nearest Police lock up.

#### CHAPTER XVIII

##### GRIEVANCE REDRESSAL MECHANISM

80. *Redressal of grievances of prisoners.*—(1) For the purpose of receiving complaints or representation from the prisoners a Grievance Redressal Committee shall be constituted in such manner as may be prescribed at the prisons as may be specified by order of the Government.

(2) The Grievance Redressal Committee shall meet once in three months or more, as may be necessary, and it shall follow such procedure, as may be prescribed for the examination of the petitions or representations received.

(3) The decision of the Grievance Redressal Committee on petitions shall be forwarded to the Director General within a fortnight from the date of convening of the meeting, for follow up action, if any.

(4) Every prisoner shall be provided with full opportunity to make a complaint in writing and such complaints and grievances shall be redressed through the Grievance Redressal Committee.

#### CHAPTER XIX

##### PRISON OFFENCES AND PUNISHMENTS

81. *Offences committed by prisoners.*—The following acts are declared to be prison offences when committed by a prisoner, namely:—

(1) wilful disobedience to any rule or regulation of the prison declared as such by rules made under the Act to be a prison offence; or

(2) loitering or lingering or leaving without permission of an officer of the prison, the gang to which he is attached or the part of the prison in which he is confined or the ward, the yard, the place in file, the seat, or berth assigned to him; or

(3) omitting or refusing to wear clothing given to him or exchanging any portion of it for the clothing of other prisoner or loosening, discarding, damaging or altering any part of it; or

(4) removing, defacing or altering any distinctive number, mark or badge attached to or worn on the clothing or person; or

(5) omitting or refusing to keep clothing, blankets, bedding, cups, mugs, etc., clean or disobeying any order of the officer of the prison as to the arrangement or disposition of such articles; or

(6) talking loudly, laughing or singing at any time after having been ordered by an officer of the prison to desist ; or

(7) quarrelling with any other prisoner; or

(8) tampering with prison locks, lamps or lights or other property of the prison in any manner; or

(9) spitting on or otherwise soiling any floor, door, wall or other part of the prison building or any article in the prison; or

(10) committing a nuisance in any part of the prison; or

(11) assaulting or using criminal force upon any other prisoner or an officer of the prison; or

(12) deliberately or persistently using insulting or abusive words to any other prisoner or an officer of the prison; or

(13) showing any conduct or deliberate and disorderly behaviour, outrageous to normal sense and decency; or

(14) wilfully injuring or disabling himself or feigning so as to evade labour; or

(15) refusing to work without any reasonable excuse; or

(16) manufacturing or making any article without the knowledge or permission of an officer of the prison; or



(17) wilfully mismanaging his work or causing loss or diminution of the product of his labour through unfair means or tampering with any implement of work without any lawful excuse; or

(18) wilfully malingering; or

(19) wilfully idling or showing negligence in the work; or

(20) tampering with or defacing any history ticket or record or document relating to the prison; or

(21) receiving or possessing any prohibited article or transferring or attempting to transfer any prohibited article for despatch outside the prison; or

(22) possessing knives, razor blades, scissors, nails, hack saw blades etc. which can be used as weapon of offences; or

(23) possessing unauthorised food articles, cooking vessels, oils, wicks etc.; or

(24) doing any act likely to create unnecessary alarm in the mind of other prisoners; or

(25) wilfully or negligently destroying or spoiling food; or

(26) making dirty or befouling any place or article meant for human habitation and consumption; or

(27) sending any communication, in writing or by word or by signs or by mobile phones or other electronic devices, to any person other than persons authorised; or

(28) performing any portion of the work allotted to another prisoner or obtaining unauthorised assistance of another prisoner in the performance of work; or

(29) failing to assist, or preventing other person from assisting prison officials in suppressing violence, assault, riot, mutiny, attack, gross personal violence or other emergencies; or

(30) wilfully bringing false accusation against any officer or any prisoner; or

(31) refusing to eat food except for religious practices like fasting; or

(32) going on hunger strike in protest against any rule, instructions etc.; or

(33) wilfully hurting others' religious feelings, beliefs and faith or converting or attempting to convert a prisoner to a different religious faith; or

(34) wilfully withholding any information or refuses or omits to disclose any information which has come to his knowledge about the occurrence or chances of any dangers to prison or prisoner or any conspiracy for escape from the prison or preparation thereof or any attack or preparation of attack upon any other prisoner or any officer of the prison; or

(35) attempting to escape or conspiring with any other prisoner to escape, or assisting any other prisoner to escape, from the prison or abets any of the aforesaid acts; or

(36) participating in any riot or mutiny or abetting another prisoner or prisoners to commit riot or mutiny; or

(37) stealing, damaging, destroying, disfiguring or misappropriating any prison property or prisoners' articles and property; or

(38) cooking unauthorisedly inside the cell or barrack or any place inside the prison; or

(39) participating in, or organising unauthorised activities like gambling, betting, consuming alcohol, etc.; or

(40) committing any other unauthorised, unlawful or illegal acts as may be prescribed; or

(41) agitating or organising on the basis of political, caste, religious or other such prohibited activities; or

(42) abetting the commission of or conspiring to commit, any prison offence.

*Explanation:*—The commission of prison offences by a group of prisoners inside the prison or while being taken out for work or while being brought back after work or while engaged in work, will be taken as offences committed jointly and severally.

82. *Punishment for prison offences.*—(1) The Superintendent may, either by himself or through an officer authorised in this behalf by him, conduct an inquiry into any allegations of commission of any prison offence specified in section 81 and impose any of the following punishments, namely :—

(a) a formal warning, which shall be personally addressed to the prisoner by the Superintendent and recorded in the punishment book;

(b) change of labour to some more irksome or severe form for such period as may be prescribed;

(c) hard labour, for a period not exceeding seven days, in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;

(d) forfeiture of remission up to a period of thirty days at any one time or, removal of the prisoner with the approval of the Director General from the remission system up to a period of six months :

Provided that the Director General shall have power to forfeit all earned remissions, other than remissions given by the Government, or to remove a prisoner from the remission system for the entire period of his imprisonment;

(e) stoppage of recreational facilities up to a period of one month or canteen facilities for a period of three months or stoppage of interviews for a period of one month;

(f) in case of breaches and violations in conditions of release on parole, such period shall not be counted as period of imprisonment;

(g) segregation up to a period of three months, and with the sanction of the Director General, up to a period of six months;

(h) separate confinement up to a period of one month at a time, and with the sanction of the Director General up to a period of three months subject to such conditions as may be prescribed.

*Explanation:*—Separate confinement means such confinement with or without labour which secludes a prisoner from communication with, but not from sight of other prisoners, and allows him not less than one hour's exercise per day.

(i) Cellular confinement for any period not exceeding fourteen days :

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

*Explanation:*—Cellular confinement means such confinement with or without labour which entirely secludes a prisoner from communication with, but not from sight of, other prisoners.

(2) Any incident of serious or repeated misconduct by a prisoner facing trial may be intimated by the Superintendent to the trial court :

Provided that except by order of a court of competent jurisdiction, no punishment other than the punishments specified in this Chapter shall be inflicted on any prisoner otherwise than in accordance with the provisions of this Act:

Provided further that any two of the punishments may be awarded for any such offence in combination, subject to the following :

(i) Formal warning shall not be combined with any other punishment except forfeiture of remission;

(ii) Cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;

(iii) No punishment shall be combined with any other punishment in contravention of the Act and the rules made thereunder.

(3) While the prisoner undergoes any of the punishments awarded under sub-section (1) above, the following privileges may, however, be extended to him, namely:—

(a) he may be allowed to write letters;

(b) he may be provided with religious and moral books as far as the rules of the prison permit.

83. *Procedure for conducting enquiries for the award of punishment.*—(1) No prisoner shall be awarded any punishment for offences defined in section 81 unless he has been informed of the offence alleged against him and given a reasonable opportunity of being heard in his defence.

(2) Subject to the provisions of sub-section (1), the Superintendent or an officer authorised by him in this regard, may follow such procedure, for the holding of inquiries, framing of charges, segregation of prisoners pending inquiry, medical examination in case of injuries and such other matters connected therewith, as may be prescribed.

(3) Where an act of a prisoner is an offence punishable under this Act or the Indian Penal Code, 1860 (Central Act 45 of 1860) or any local or special laws, the Superintendent shall at his discretion either deal with the case himself or send it to the Magistrate concerned :

Provided that where the offence committed is a cognizable offence punishable with imprisonment for a term of three years or more, he shall initiate action against the offender before the Station House Officer having jurisdiction over the area.

84. *Procedure on committing of heinous offence.*—If any prisoner is guilty of any offence against prison discipline which, by reason of his having frequently committed such offences or otherwise in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment, which he has power under this Act to award, the Superintendent may send a report against such prisoner, together with a statement of circumstances, to the Chief Judicial Magistrate or any Judicial Magistrate having jurisdiction, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and upon conviction, may sentence him to imprisonment which may extend to three years, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence.

85. *Entries in punishment book.*—(1) In the punishment book mentioned under section 21, there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class to which he belongs, namely, whether habitual or not, the prison offence of which he was guilty, the date on which such prison offence was committed, the number of previous prison offences recorded against the prisoner and the date of his last prison offence, the punishment awarded, and the date of infliction of punishment.

(2) In the case of every serious prison offence, the names of witnesses and substance of their evidence, the defence of the prisoner and the finding with the reasons therefore, shall be recorded.

(3) Against the entries relating to each punishment, the Superintendent or the authorised officer shall affix their signatures as evidence of the correctness of the entries.

86. *Punishment in certain cases.*—(1) Whoever, in contravention of any provisions of the Act, brings or removes or attempts by any means whatever to bring or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article, and any officer or member of staff of a prison who, contrary to any rule, knowingly suffers any such article to be brought into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison, and whoever, contrary to any rule, communicates or attempts to communicate with any prisoner, and whoever abets any offence made punishable by this section, shall, on conviction before a Magistrate, be liable to imprisonment for a term not exceeding twelve months, or to fine not exceeding ten thousand rupees or with both.

(2) Whoever, being a prisoner or a visitor, or a prison official, is found in possession of an electronic communication or other equipment inside the prison against the provisions of the Act or rules, or found to be manipulating, damaging or destroying any equipment, electronic or otherwise, in the prison, shall on conviction, before a Magistrate, be liable to imprisonment for a term not exceeding two years or fine not exceeding ten thousand rupees or with both.

(3) The offences mentioned in sub-sections (1) and (2) above, shall be cognizable and non-bailable.

87. *Power to arrest for offence under section 86.*—When any person, commits any offence specified in section 86, any officer of the prison may arrest him, and shall without delay make him over, with a report, to the Station House Officer who is having jurisdiction over the area and thereupon such police officer shall proceed as if the offence had been committed in his presence :

Provided that when the person committing the offence is a prisoner or a prison official, a report need only be presented before the Station House Officer.

88. *Publication of penalties.*—The Superintendent shall cause to be affixed, in a conspicuous place outside the prison, a notice in Malayalam and English setting forth the acts prohibited under section 81 and the punishments to be imposed for such offences.

## CHAPTER XX

## MISCELLANEOUS

89. *Prohibition of strike and agitation.*—No person employed in the prison shall have any right to strike or start or continue any agitation inside the prison for achieving any request or demand.

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

91. *Review of cases of remand and undertrial prisoners.*—(1) The Government shall cause to be reviewed the cases of undertrial prisoners detained in the prison for more than one year and also the cases where the period of detention undergone is more than half of the maximum punishment for the offence provided under the law by a Committee in every district consisting of the following members, namely:—

(a) District and Sessions Judge having jurisdiction of the district who shall be the Chairman of the Committee;

(b) Chief Judicial Magistrate;

(c) Superintendent of the Prison or the Jail concerned who shall be the Convener and Secretary of the Committee;

(d) District Superintendent/Commissioner of Police, as the case may be;

(e) Sub Divisional Magistrate having jurisdiction;

(f) District Probation Officer having jurisdiction;

(g) Representative of Excise/Forest Department concerned.

(2) The Committee shall meet at such times and at such places and observe such procedure, with regard to the transaction of business at its meeting, as may be prescribed.

(3) A report with recommendation, if any, along with the proceedings of the Committee, shall be sent to the Director General who shall initiate such action as may be deemed necessary.

(4) The Magistrate remanding the prisoner and the Superintendent of the prison, where the undertrial prisoner is remanded or detained, as the case may be shall ensure that no undertrial prisoner is detained in prison for a period exceeding the maximum period of punishment provided for the offence for which he has been detained.

(5) No legal proceedings shall be entertained by any Court against any Magistrate or Superintendent of the Prison for the detention of any prisoner beyond half of the maximum of or even maximum punishment provided for the offence for which he has been detained if the concerned Magistrate or the Superintendent has no ulterior motive in such detention.

92. *Use of minimum force.*—(1) For controlling any incident of rioting in a prison, any officer of the prison may use the minimum force required, and do as little injury to a prisoner or prisoners or other persons as may be required for restoring order.

(2) Any officer of the prison may use minimum force against any prisoner escaping or attempting to escape, or committing violence against any official of the prison or any other person.

(3) Any officer of the prison may use minimum force required against any prisoner who refuses to enter into the cell or barrack for lockup.

93. *Legal aid.*—The State shall provide free legal aid as may be prescribed to the prisoners.

94. *Protective custody.*—No person entitled to protective custody shall be kept in the prison.

95. *Accounts and audit.*—The accounts of every prison shall be maintained and audited in such manner as may be prescribed.

96. *Delegation of powers.*—The powers conferred by this Act on the Government may be exercised and performed by such officers as the Government may delegate in this behalf.

97. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Government or against any functionary of the Prisons and Correctional Services in respect of anything which is done or intended to be done in good faith in pursuance of this Act or the rules made or orders or directions issued thereunder.

98. *Power to remove difficulties.*—(1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order published in Official Gazette, make such provisions or take such measures, not inconsistent with the provisions of this Act, as may appear to it, to be necessary or expedient for removing the difficulty :

Provided that no such order shall be made after the expiry of a period of two years from the date of commencement of this Act :

Provided further that an order under sub-section (1) shall have effect from any date not earlier than the date of commencement of this Act.

(2) An order made under sub-section (1) shall be laid, as soon as may be after it is made, before the Legislative Assembly of the State of Kerala.

99. *Powers of Government to make rules.*—(1) The Government may, by notification, make rules consistent with this Act, either prospectively or retrospectively, for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(i) the requirements of history ticket under clause (xx), of section 2 and the period of parole and the procedure and conditions subject to which parole is to be granted under clause (xxxii) of the said section;

(ii) the powers and functions of officers and staff of the prisons and correctional services under sub-section (3) of section 3;

(iii) the powers and functions of the Zonal Deputy Inspector General under section 5;

(iv) the officers and ministerial staff required for the functioning of prison and their powers and functions under section 6;

(v) the conditions subject to which accommodation is to be provided to prisoners under section 7;

(vi) the standard of security for various categories of prisons under sub-section (3) of section 8;

(vii) the facilities and amenities to be provided under section 12;

(viii) the conditions subject to which the officers shall discharge their duties under section 13;

(ix) the powers and functions of the officers and staff of the prison under section 18;

(x) the records to be kept by the Superintendent under section 21;

(xi) the duties of Medical Officer under section 23;

(xii) the manner of enforcing discipline in prisons under section 28;

(xiii) the requirement of clothing, food and other necessities which a civil prisoner shall be permitted to obtain from private sources and food, clothing etc. that shall be supplied to him under section 33;

(xiv) the requirement of clothing and other necessities which undertrial prisoners and detenues shall be permitted to bring along with them or obtain from private sources under sub-section (1) of section 34 and clothing and other necessities to be supplied to undertrial prisoners and detenues under sub-sections (3) and (4) of the said section;

(xv) food, clothing, bedding and other necessities to be provided to every criminal prisoner under section 35;

(xvi) the conditions to which the rights of prisoners are subjected under section 36, the right of communication of prisoners under item (c) of the said section and the period and the rate of wages to be prescribed under item (j) of the said section;

(xvii) the additional duties of prisoners under section 37;

(xviii) the manner in which and the intervals at which facilities for interviews and communication with relatives and legal practitioners and for writing letters are to be provided to every prisoner under section 47;

(xix) the action to be initiated by the Superintendent if any prohibited articles are found on the person of the visitor under sub-section (1) of section 48 and the records under sub-section (2) of the said section;

(xx) the manner and conditions upon which foreign prisoners may use internet and contact their Embassies in India under sub-section (1) of section 49;

(xxi) the powers and duties of visitors under sub-section (2) of section 50;

(xxii) the kind of vocational training to be given to the prisoners under section 51;

(xxiii) the kind of employment to be provided to all criminal prisoners sentenced to simple imprisonment and to all remand-undertrial prisoners under sections 52 and 53 respectively;

(xxiv) the deduction to be made from the earning made at the expense of the prison by a civil prisoner under section 55;

(xxv) the rate of wages and the manner and quantum of utilisation of wages earned by prisoners under section 56;

(xxvi) the criteria for ensuring general hygiene and sanitation of the prison and personal hygiene of the prisoners under section 57;

(xxvii) the categories of prisons where there shall be adequate facilities for imparting education to deserving prisoners under section 62;

(xxviii) the manner of arranging programmes under sub-section (2) of section 67;

(xxix) the manner of organising recreational and sports activities for the benefits of inmates under section 68;

(xxx) the categories of prisons where there shall be a Remission Committee and the officers in such Committee under sub-section (1) of section 72 and the kinds of remission and the criteria for granting remission under sub-section (2) of the said section;

(xxxii) the conditions subject to which any prisoner may be released on parole under section 73;

(xxxiii) the authority which may recommend the premature release of prisoners under section 77;

(xxxiv) the manner in which leave may be granted to prisoners under sub-section (1) of section 78;

(xxxv) the various kinds of leave and matters related thereto under sub-section (3) of section 78;

(xxxvi) the circumstances under which escort visit may be permitted under section 79;

(xxxvii) the categories of prisons and the manner in which Grievance Redressal Committees shall be constituted under sub-section (1) of section 80 and the procedure to be followed by such committees under sub-section (2) of the said section;

(xxxviii) committing unauthorised, unlawful or illegal acts under sub-section (40) of section 81 as may be prescribed; or

(xxxix) the period for which the punishment of change of labour under clause (b) of sub-section (1) of section 82 may be imposed;

(xl) the conditions for determining separate confinement under clause (h) of sub-section (1) of section 82;

(xli) the procedure to be followed for holding of inquiries, framing of charges etc. under sub-section (2) of section 83;

(xlii) the time and place of meeting of the committees and the procedure to be followed for the transaction of its business under sub-section (2) of section 91; and

(xliii) free legal aid to be given to the prisoners under section 93;

(xliv) the accounts and audits of a prison under section 95;

(xlv) any other matter which is to be, or may be, prescribed.

100. *Rules to be laid before State Legislature.*—Every rule made under this Act shall be laid, as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, the Legislative Assembly make any modification in the rule or decides that the rule should not be made, the rules shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

101. *Exhibition of copies of Rules.*—Copies of Rules so far as they affect the governance of prisoners, shall be exhibited in Malayalam and English in a place to which all prisoners within the prison have access.

102. *Repeal and saving.*—(1) The Prisons Act, 1894 (Central Act IX of 1894) shall cease to be in force in the Malabar district referred to in sub-section (2) of section 5 of the State Reorganization Act, 1956 (Central Act 37 of 1956) and Travancore–Cochin Prison Act, 1950 (XVIII of 1950) is hereby repealed, with effect from the commencement of this Act.

(2) Notwithstanding such cessation or repeal all rules, regulations, orders, directions, notifications relating to the prison administration in the State of Kerala, made under such Act shall, so far as they are not inconsistent with or repugnant to the provisions of this Act, continue to be in force until altered, amended or repealed by rules made under this Act.