THE PRISONS ACT, 1894

(IX of 1894)

An act to amend the law relating to Prisons

Where as it is expedient to amend the law relating to prisons in India except the territories which immediately before the 1st November, 1956, were comprised in Part B States other than the Madhya Bharat and Sironj regions of the State of Madhya Pradesh and to provide rules for the regulation of such prisons; it is hereby enacted as follows:—

CHAPTER I—PRELIMINARY

Title, extent and commencement.

1. **(1) This Act may be called the Prisons Act, 1894**

   (2) It extends to the whole of India, except the territories which immediately before the 1st November, 1956 were comprised in Part B States *other than the Madhya Bharat and Sironj regions of the State of Madhya Pradesh.

   (3) It shall come into force on the first day of July, 1894.

   (4) Omitted.

2. Repealed by Act I of 1938.

Definitions.

3. In this Act–

   (1) "Prison" means any jail or place used permanently or temporarily under the general or special orders of a State 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 State Government under section 541 of the Code of Criminal Procedure, 1882; or

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

   (2) "Criminal prisoner" means any prisoner duly committed to custody under the writ, warrant or order of any Court or authority exercising criminal jurisdiction, or by order of a Court-martial;

*Inserted by Madhya Pradesh Act No. 40 of 1961.

(4) By Madhya Pradesh Second Extension of Laws Act, 1961 (No. 40 of 1961).

(3) "Convicted criminal prisoner" means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, 1882 or under the Prisoners Act, 1871;

(4) "Civil prisoner" means any prisoner who is not a criminal prisoner;

(5) "Remission system" means the rules for the time being in force regulating the award of marks to, and the consequent shortening of sentences of prisoners in jails;

(6) "History-ticket" means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder;

(7) "Inspector General" means the Inspector General of Prisons;

(8) "Medical Subordinate" means an Assistant Surgeon, Apothecary or qualified Hospital Assistant; and

(9) "Prohibited article" means an article the introduction or removal of which into or out of a prison is prohibited by any rule under this Act.

CHAPTER II—MAINTENANCE AND OFFICERS OF PRISONS

Accommodation for prisoners.

4. The State Government shall provide, for the prisoners in the territories under such Government, accommodation in prisons constructed and regulated in such manner as to comply with the requisitions of this Act in respect of the separation of prisoners.

Inspector-General.

5. An Inspector-General shall be appointed for the territories subject to each State Government, and shall exercise, subject to the orders of the State Government, the general control and superintendence of all prisons situated in the territories under such Government.

Officers of Prisons.

6. For every prison there shall be a Superintendent, a Medical Officer (who may also be the Superintendent), a Medical Subordinate, a Jailor and such other officers as the State Government thinks necessary:

Provided that the State Government of *Madhya Pradesh may, declare by order in writing that in any prison specified in the order the office of Jailor shall be held by the person appointed to be Superintendent.

Temporary accommodation sfor prisoners.

7. Whenever it appears to the Inspector General that the number of prisoners in any prison is greater than conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison,

or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners,

provision shall be made, by such officer and in such manner as the State Government may direct, for the shelter and safe custody in temporary prisons of so many of the prisoners as cannot be conveniently or safely kept in the prison.

CHAPTER III—DUTIES OF OFFICERS GENERALLY

Contol and duties of officers of prisons.

8. All officers of a prison shall obey the drections of the Superintendent; all officers subordinate to the Jailor shall perform such duties as may be imposed on them by the Jailor with the sanction of the Superintendent or be prescribed by rules under section 59.

Officers not to have business dealings with prisoners.

9. No officer of a prison shall sell or let, nor shall any person in trust for 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.

Officers not to be nterested in prison contracts.

10. 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 the prison; nor shall he derive any benefit, directly or indirectly, from the sell or purchase of any article on behalf of the prison or belonging to a prisoner.

Superintendent

Superintendent.

11. (1) Subject to the orders of the Inspector General the Superintendent shall manage the prison in all matters relating to discipline, labour, expenditure, punishment and control.

(2) Subject to such general or special directions as may be given by the State Government the Superintendent of a prison other than a central prison or a prison situated in a presidency-town shall obey all orders not inconsistent with

*Substituted by M. P. Act No. 40 of 1961.

this Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Inspector General all such orders and the action taken thereon.

Records to be kept by Superintendent.

12. The Superintendent shall keep, or cause to be kept, the following records :—

(1) a register of prisoners admitted;

(2) a book showing when each prisoner is to be released;

(3) a punishment book for the entry of the punishments inflicted on prisoner for prison-offences;

(4) a visitor's book for the entry of any observations made by the visitors touching any matters connected with the administration of the prison;

(5) a record of the money and other articles taken from prisoners; and all such other records as may be prescribed by rules under section 59.

Medical Officer

Duties of Medical Officer.

13. Subject to the control of the Superintendent, the Medical Officer shall have charge of the sanitary adminstratios of the prison and shall perform such duties as may be prescribed by rules made by the State Government under section 59.

Medical Officers to report in certain cases

14. Whenever the Medical Officer 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 Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

This report, with the orders of the Superintendent thereon shall forthwith be sent to the Inspector General for information.

Report on death of prisoner.

15. On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars so far as they can be ascertained, namely:—

(1) the day on which the deceased first complained of illness or was observed to be ill,

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

(3) the scale of his diet on that day,

(4) the day on which he was admitted to hospital,

(5) the day on which the Medical Officer was first informed of the illness,

(6) the nature of the disease,

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

(8) when the prisoner died, and

(9) (in cases where a post-mortem examination is made) an account of the appearances after death, together with any special remarks that appear to the Medical Officer to be required.

Jailor.

16. (1) The Jailar shall reside in the prison unless the Superintendent permits him in writing to reside elsewhere.

(2) The Jailor shall not, without the Inspector General's sanction in writing, be concerned in any other employment.

Jailor to give notice of death of prisoner.

17. Upon the death of a prisoner, the Jailor shall give immediate notice thereof to the Superintendent and the Medical Subordinate.

Responsibility of Jailor.

18. The Jailor shall be responsible for the safe custody of the records to be kept under section 12, for the commitment warrants and all other documents confided to his care, and for the money and other articles taken from prisoners.

Jailor to be present at night.

19. The Jailor shall not be absent from the prison for a night without permission in writing from the Superintendent; but, if absent without leave for a night from unavoidable necessity, he shall immediately report the fact and the cause of it to the Superintendent.

Powers of Deputy and Assistant Jailors.

20. Where a Deputy Jailor or Assistant Jailor is appointed to a prison, he shall subject to the orders of the Superintendent, be competent to perform any of the duties, and be subject to all the responsibilities of a Jailor under this Act or any rule thereunder.

Subordinate Officers

Duties of gate-keeper.

21. The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in 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 any such article or property be found, shall give immediate notice thereof to the Jailor.

Subordinate officer not to be absent without leave

22. Officers subordinate to the Jailor shall not be absent from the prison without leave from the Superintendent or from the Jailor.

Convict officers.

23. Prisoners who have been appointed as officers of prisons shall be deemed to be public servants within the meaning of the Indian Penal Code.

CHAPTER IV—ADMISSION, REMOVAL AND DISCHARGE OF PRISONERS

Prisoners to be examined on admission.

24. Whenever a prisoner is admitted into prison, he shall be serached , and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or specical orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailor a record of the state of the prisoner'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.

(3) In the case of female prisoners, the search and examination shall be carried out by the matron under the general or special orders of the Medical Officer.

Effects of prisoners.

25. All money or other 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 sent to the prison for his use, shall be placed in the custody of the Jailor.

Removal and discharge of prisoner.

26. All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

(2) No prisoner shall be removed from one prison to another unless the Medical Officer certifies that the prisoner is free from any illness rendering him unfit for removal.

(3) No prisoner shall be discharged against his will from prison if labouring under any acute or dangerous distemper, nor until, in the opinion of the Medical Officer, such discharge is safe.

CHAPTER V—DISCIPLINE OF PRISONERS

Separation of prisoners.

27. The requisitions of this Act with respect to the separation of prisoners are as follows :—

(1) In a prison containing female as well as male prisoners, the females shall be imprisoned in separate buildings, or separate parts of the same building, in such manner as to prevent their

seeing, or conversing or holding any intercourse with the male prisoners;

(2) in a prison where male prisoners under the age of twenty one are confined, means shall be provided for separating them altogether from the other prisoners, and for separating those of them who have arrived at the age of puberty from those who have not;

(3) unconvicted criminal prisoners, shall be kept apart from convicted criminal prisoners; and

(4) civil prisoners shall be kept apart from criminal prisoners.

Association and segregation of prisoners.

28. Subject to the requirements of the last foregoing section convicted criminal prisoners may be confined either in association or individually in cells or partly in one way and partly in the other.

Solitary confinement.

29. 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, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

Prisoners under sentence of death.

30. Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence be searched by, or by order of the Jailor and all articles shall be taken from him which the Jailor deems it dangerous or inexpedient to leave in his possession.

(2) Every such prisoner shall be confined in a cell apart from all other prisoners and shall be placed by day and by night under the charge of a guard.

CHAPTER VI—FOOD, CLOTHING AND BEDDING OF CIVIL UNCONVICTED CRIMINAL PRISONERS

Maintenance of certain prisoners from private sources.

31. A civil prisoner or an unconvicted criminal prisoner shall be permitted to maintain himself, and to purchase, or receive from private sources, at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the Inspector-General.

Restriction on transfer of food and clothing between certain prisoners.

32. No part of any food, clothing, bedding or other necessaries belonging to any civil or unconvicted criminal prisoner shall be given, hired or sold to any other prisoner, and any prisoner transgressing the provisions of this section shall lose the privilege of purchasing food or receiving it from private sources, for such time as the Superintendent thinks proper.

Supply of clothing and bedding to civil and unconvicted criminal prisoners.

33. Every civil prisoner and unconvicted criminal prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

(2) When any civil prisoner has been committed to prison in execution of a decree in favour of a private person, such person, or his representative shall, within forty-eight hours after the receipt by him of a demand in writing pay to the Superintendent the cost of the clothing and bedding so supplied to the prisoner; and in default of such payment the prisoner may be released.

CHAPTER VII—EMPLOYMENT OF PRISONERS

Employment of civil prisoners.

34. Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession.

(2) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expence of the prison shall be subject to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

Employment of criminal prisoners.

35. No criminal prisoner sentenced to labour, or employed on labour at his own desire shall, except on an emergeney with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed, 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 the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment or any kind of 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 suited for him.

Employment of criminal prisoners sentenced to simple imprisonment.

36. Provision shall be made by the Suprinterdent for the the employment (as long as they so desire) of all criminal prisoners sentenced to simple imprisonment, but no prisoner not sentenced to rigorous imprisonment shall be punished for neglect of work excepting by such alteration in the scale of diet as may be established by the rules of the prison in the case of neglect of work by such a prisoner.

CHAPTER VIII—HEALTH OF PRISIONERS

Sick prisoners.

37. The names of prisoners desiring to see the Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailor.

(2) The Jailor shall without delay, call the attention of the Medical Subordinate to any prisoner desiring to see him or who is ill, or whose state of mind or body appears to require attention, and shall carry into effect all written directions given by the Medical Officer or Medical Subordinate respecting alterations of the discipline or treatment of any such prisoner.

Record of directions of Medical Officer.

38. All directions given by the Medical Officer or Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as the State Government may by rule direct, and the Jailor shall make 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 observation, if any, as the Jailor thinks fit to make and the date of the entry.

Hospital

Hospital.

39. In every prison a hospital or proper place for the reception of sick prisoners shall be provided.

Power of Superintendent to send a prisoner to hospital or asylum for special treatment.

39-A. The Superintendent may if in his opinion a prisoner requires special treatment in a hospital outside the prison or in any asylum as defined in the Indian Lunacy Act, 1912 (No. 4 of 1912) send him or cause him to be sent to such hospital or asylum, subject to the prisoner or any relative or friend of the prisoner executing such bond and abiding by such other conditions, if any, as the State Government may prescribe.

(2) The period spent by the prisoner for such treatment in the hospital or asylum or in going thereto or returning there from shall be deemed to be part of the period of his detention in the prison.

Explanation I.—Nothing contained in this section shall be deemed to affect the operation of section 30 of the Prisoners Act, 1900.

sons Act, 1894 (No. 9 of 1894) (hereinafter referred to as the Principal Act), shall to the State of Madhya Pradesh, be amended in the manner hereinafter provided.

Amendment of Central Act No. 9 of 1894 in its application to the State of Madhya Pradesh.

ection 36 of the Principal Act, the following section shall be inserted, namely :—

Insertion of new Section 36-A.

The prisoners shall be paid wages for the employment provided to them at such rate as may be prescribed from time to time. The amount of fifty per cent. of the total amount of wages earned by the prisoner in a month shall be kept and deposited in a separate common fund which shall be exclusively used for the payment of compensation to the deserving victims or his family of the offence the commission of which entailed the sentence of imprisonment to the prisoner. The account of the fund shall be maintained by the Superintendent of Jail in such form and in such manner as may be prescribed. The rate of compensation to be paid to the victims shall be fixed by a committee consisting of such persons as may be prescribed.".

Creation of fund for compensation.

नियंत्रक, मुद्रण तथा लेखन सामग्री, मध्यप्रदेश द्वारा शासकीय केन्द्रीय मुद्रणालय, भोपाल से मुद्रित तथा प्रकाशित—2000.

डाक-व्यय की पूर्व-अदायगी के बिना डाक द्वारा भेजे जाने के लिए अनुमत. अनुमति-पत्र क्र. भोपाल/एम.पी.-2 डब्ल्यू. पी./505/2000.

पंजी क्रमांक भोपाल डिवीजन एम. पी. 108/भोपाल/2000.

मध्यप्रदेश राजपत्र

(असाधारण)

प्राधिकार से प्रकाशित

क्रमांक 4] भोपाल, सोमवार, दिनांक 3 जनवरी 2000—पौष 13, शक 1921

विधि और विधायी कार्य विभाग

भोपाल, दिनांक 3 जनवरी 2000

क्र. 92-इक्कीस-अ (प्रा.).—मध्यप्रदेश विधान सभा का निम्नलिखित अधिनियम, जिस पर दिनांक 29 दिसम्बर 1999 को राज्यपाल की अनुमति प्राप्त हो चुकी है, एतद्द्वारा सर्वसाधारण की जानकारी के लिये प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. के. सिटोके, अतिरिक्त सचिव.

मध्यप्रदेश अधिनियम
क्रमांक १ सन् २०००.

कारागार (मध्यप्रदेश संशोधन) अधिनियम, १९९९.

[दिनांक २९ दिसम्बर, १९९९ को राज्यपाल की अनुमति प्राप्त हुई; अनुमति "मध्यप्रदेश राजपत्र (असाधारण)" में दिनांक ३ जनवरी, २००० को प्रथम बार प्रकाशित की गई.]

कारागार अधिनियम, १८९४ को मध्यप्रदेश राज्य को लागू हुए रूप में और संशोधित करने हेतु अधिनियम.

भारत गणराज्य के पचासवें वर्ष में मध्यप्रदेश विधान-मण्डल द्वारा निम्नलिखित रूप में यह अधिनियमित हो:—

१. इस अधिनियम का संक्षिप्त नाम कारागार (मध्यप्रदेश संशोधन) अधिनियम, १९९९ है. संक्षिप्त नाम.

मध्यप्रदेश राज्य को लागू हुए रूप में केन्द्रीय अधिनियम, १८९४ का सं. ९ का संशोधन.

२. मध्यप्रदेश राज्य को लागू हुए रूप में कारागार अधिनियम, १८९४ (१८९४ का सं. ९) (जो इसमें इसके पश्चात् मूल अधिनियम के नाम से निर्दिष्ट है) को इसमें इसके पश्चात् उपबंधित रीति में संशोधित किया जाए.

नई धारा ३६-क का अंतःस्थापन.

३. मूल अधिनियम की धारा ३६ के पश्चात्, निम्नलिखित धारा अंतःस्थापित की जाए, अर्थात् :—

प्रतिकर के लिए निधि का सृजन.

"३६-क. बंदियों को उन्हें उपलब्ध कराए गए नियोजन के लिए मजदूरी का भुगतान ऐसी दर पर किया जाएगा जैसी कि समय-समय पर विहित की जाए, बन्दी द्वारा एक मास में उपार्जित की गई मजदूरी की कुल राशि की पचास प्रतिशत राशि एक पृथक् सामान्य निधि में रखी और जमा की जाएगी जिसका कि अनन्यतः उपयोग उस अपराध के योग्य पीड़ितों या उनके परिवार को प्रतिकर दिए जाने में ही किया जाएगा जिसके कि किए जाने के कारण उस बन्दी को कारावास से दंडादिष्ट किया गया है. निधि का लेखा जेल के अधीक्षक द्वारा ऐसे प्ररूप और ऐसी रीति में संधारित किया जाएगा जो कि विहित की जाए, पीड़ितों को भुगतान किए जाने वाले प्रतिकर की दर एक समिति द्वारा नियत की जाएगी जो ऐसे व्यक्तियों से मिलकर बनेगी जो कि विहित किए जाएं.".

भोपाल, दिनांक 3 जनवरी 2000

क्र. 93-इक्कीस-अ (प्रा.).—भारत के संविधान के अनुच्छेद 348 के खण्ड (3) के अनुसरण में, कारागार (मध्यप्रदेश संशोधन) अधिनियम, 1999 (क्रमांक 1 सन् 2000) का अंग्रेजी अनुवाद राज्यपाल के प्राधिकार से एतद्द्वारा प्रकाशित किया जाता है.

मध्यप्रदेश के राज्यपाल के नाम से तथा आदेशानुसार,
आर. के. सिटोले, अतिरिक्त सचिव

MADHYA PRADESH ACT

No. 1 OF 2000

THE PRISONS (MADHYA PRADESH AMENDMENT) ACT, 1999.

[Received the assent of the Governor on the 29th December, 1999; assent first published in the "Madhya Pradesh Gazette (Extra-ordinary)" dated 3rd January, 2000.]

An Act further to amend the Prisons Act, 1894, in its application to the State of Madhya Pradesh.

Be it enacted by the Madhya Pradesh Legislature in the Fiftieth Year of the Republic of India as follows :—

Short title.

1. This Act may be called the Prisons (Madhya Pradesh Amendment) Act, 1999.

(No. 3 of 1900), in cases to which that section applies.

Explanation II.—In this section, prisoner means a convicted criminal prisoner.

Punishment for escape or attempt to escape from hospital or asylum.

39-B. If any prisoner dealt with under section 39-A escape or attempts to escape from the hospital or asylum to which he has been sent or when going thereto or returning therefrom, he shall be punished with imprisonment for a term which may extend to two years, or with fine or, with both.

(2) Such punishment shall be in addition to the punishment for which the prisoner was liable for the offence of which he was already convicted.

Provisions applicable to bonds referred to in Section 39-A.

*39-C. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898 (No. V of 1898), shall, so far as may be apply to the bonds referred to in section 39-A.

CHAPTER IX—VISITS TO PRISONERS

Visits to Civil and unconvicted criminal prioners.

40. Due provision shall be made for the admission, at proper times and under proper restrictions into every prison of persons with whom civil or unconvicted criminal prisoners may desire to communicate, care being taken that so far as may be consistent with the interests of justice, prisoners under trial may see their duly qualified legal advisers without the presence of any other person.

Search of visitors.

41. The Jailor may demand the name and address of any visitor to a prisoner and when the Jailor has any ground for suspicion may search any visitor or cause him to be searched, but the search shall not be made in the presence of any prisoner or of another visitor.

(2) In case of any such visitor refusing to permit himself to be searched, the Jailor may deny him admission; and the grounds of such proceeding with the particulars thereof, shall be entered in such record as the State Government may direct.

CHAPTER X—OFFENCES IN RELATION TO PRISONS

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

42. Whoever, contrary to any rule under section 59 introduces or removes or attempts by any means whatever to introduce 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 every officer of a prison who contrary to any such knowingly suffers any such articles to be introduced in to or

* Inserted by Madhya Pradesh Act No. 40 of 1951.

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 such 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 six months, or to fine not exceeding two hundred rupees, or to both.

Power to arrest for offence under section 42.

43. When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence or gives a name or residence 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 this presence.

Publication penalties.

*44. The Superintendent shall cause to be affixed in a conspicuous place outside the prison a notice in English and and Hindi in Devnagari script setting forth the acts prohibited under section 42 and the penalties incurred by their commission.

CHAPTER XI—PRISON OFFENCES

45. The following acts are declared to be prison offences when committed by a prisoner:—

(1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison offence;

(2) any assault or use of criminal force;

(3) the use of insulting or threatening language;

(4) immoral or indecent or disorderly behaviour;

(5) wilfully disabling himself from labour;

(6) contumaciously refusing to work;

(7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority;

(8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;

* Substituted by Madhya Pradesh Act 40 of 1961.

(9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;

(10) wilful damage to prison property;

(11) tempering with or defacing history-tickets, records or documents;

(12) receiving, possessing or transferring any prohibited articles;

(13) feigning illness;

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

(15) ommitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or official, and

(16) conspiring to escape, or to assist in escaping or to commit any other of the offences aforesaid.

Punishment of such offences.

46. The Superintendent may examine any person touching any such offence, and determine thereupon, and punish such offence by:-

(1) a formal warning;

Explanation.—A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history ticket;

(2) change of labour to some more irksome or severe form for such period as may be prescribed by rules made by the State Government;

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

(4) such loss of privileges admissible under the remission system for the time being in force as may to be prescribed by rules made by the State Government;

(5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months;

(6) imposition of handcuffs of such pattern and weight, in such manner and for such period as may be prescribed by rules made by the State Government;

(7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the State Government;

(8) separate confinement or any period not exceeding three months;

Explanation.—Separate confinement means such confinement with or without labour as secludes a prisoner from communication with, but not from sight of other prisoners, and allows him not less than one hour's exercise per diem and to have his meals in association with one or more other prisoners;

(9) Penal diet.—that is, restriction of diet in such manner and subject to such conditions regarding labour as may be prescribed by the State Government;

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours and shall not be repeated except for a fresh offence nor until after an interval of one week;

(10) 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 or solitary confinement;

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

(11) Penal diet as defined in cluase (9) combined with cellular confinement.

*(12) Omitted.

Provided that nothing in this section shall render any female or civil prisoner liable to the imposition of any form of handcuffs or fetters.

Plurality of punishment under section 46.

47. [1] Any two of the punishments enumerated in the last foregoing section may be awarded for any such offence in combination, subject to the following exceptions, namely:—

(1) formal warning shall not be combined with any other punishment except loss of privileges under clause (4) of that section;

(2) penal diet shall not be combined with change of labour under clause (2) of that section, nor shall

* Omitted by Madhya Pradesh Act, 40 of 1961.

any additional period of penal diet awarded singly be combined with any period of penal diet awarded in combination with cellular confinement;

(3) 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;

*(4) Omitted.

(5) no punishment will be combined with any other punishment in contravention of rules made by the State Government;

[2] No punishment shall be awarded for any such offence so as to combine, with the punishment awarded for any other such offence, two of the punishments which may not be awarded in combination for any such offence.

Award of punishment under section 46 and 47.

48. (1) The Superintendent shall have power to award any of the punishments enumerated in the two last foregoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confirmation of the Inspector-General.

(2) No officer subordinate to the Superintendent shall have power to award any punishment whatever.

Punishment to be in accordance with foregoing sections.

49. Except by order of a Court of Justice, no punishment other than the punishments specified in the foregoing sections shall be inflicted on any prisoner, and no punishment shall be inflicted on any prisoner otherwise than in accordance with the provisions of those sections.

Medical Officers to certify to fitness of prisoner for punishment.

**50. (1) No punishment of penal diet, either singly or in combination, or of change of labour under section 46, clause (2) shall be executed until the prisoner to whom such punishment has been awarded has been examined by the Medical Officer, who, if he considers the prisoner fit to undergo the punishment, shall certify accordingly in the appropriate column of the punishment book prescribed in section 12.

(2) If he considers the prisoner unfit to undergo the punishment, he shall in like manner record his opinion in writing and shall state whether the prisoner is absolutely unfit for punishment of the kind awarded, or whether he considers any modification necessary.

* Omitted by Madhya Pradesh Second Extention of Laws Act, 1951.
** Substituted by Madhya Pradesh Act, No. 40 of 1961.

(3) In the latter case he shall state what extent of punishment he thinks the prisoner can undergo without injury to his health.

Entries in punishment book.

51. (1) In the punishment-book prescribed in section 12, there shall be recorded in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, 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.

(2) In the case of every serious prison offence, the names of the witnesses proving the offence shall be recorded.

(3) Against the entries relating to each punishment the Jailor and Superintendent shall affix their initials as evidence of the correctness of the entries.

Procedure on committal of heinous offences.

52. (1) 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 forward such prisoner to the Court of any Magistrate of the first class having jurisdiction, together with a statement of the circumstances, 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 one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence or may sentence him to any of the punishments enumerated in section 46.

(2) Both the provisions omitted.

53. Omitted.

Offences of prison subordinates.

54. (1) Every Jailor or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous noitce in writing of his intention, for the period of two months or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison duty, or who shall be guilty of

cowardice, shall be liable on conviction, before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months or to both.

*(2) Omitted.

CHAPTER XII—MISCELLANEOUS

Extramural custody, control and employment of prisoner.

55. A prisoner, when being taken to or from any 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 prison and shall be subject to all the same incidents as if he were actually in prison.

Confinement in irons.

56. Whenever the Superintendent considers it necessary (with reference either to the state of prison or the character of the prisoners) for the safe custody of any prisoners that they should be confined in irons he may subjects to such rules and isntructions as may be laid down by the Inspector General with the sanction of the State Government, so confine them.

Confinement of prisoners under sentence of transportation in irons.

57. (1) Prisoners under sentence of transportation may subject to any rules made under section 59 be confined in fetters for the first three months after admission to prison.

(2) Should the Superintendent consider it necessary, either for the safe custody of the prisoner himself or for any other reason, that fetters should be retained on any such prisoner for more than three months, he shall apply to the Inspector General for sanction to their retention for the period for which he considers their retention necessary and the Inspector General may sanction such retention accordingly.

Prisoners not to be ironed by Jailor except under necessity.

58. No prisoner, shall be put in irons or under mechanical restraint by the Jailor of his own authority, except in case of urgent necessity in which case notice thereof shall be forthwith given to the Superintendent.

Power to make rules.

59. The State Government may make rules consistent with this Act—

(1) defining the acts which shall constitute prison-offences

(2) determining the classification of prison-offences into serious and minor offence;

* Substituted by Madhya Pradesh Act, 12 of 1968.

(3) fixing the punishments admissible under this Act which shall be awardable for commision of prison offences or classes thereof;

(4) declaring the circumstances in which acts constituting both a prison offence and an offence under the Indian Penal Code (Act 45 of 1860), may or may not be dealt with as a prison-offence;

(5) for the award of marks and the shortening of sentences;

(6) regulating the use of arms against any prisoner or body of prisoners in the case or an outbreak or attempt to escape;

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

(8) for the classification of prisons, and description and construction of wards, cells and other places of detention;

(9) for the regulation by numbers, length or character of sentences or otherwise of the prisoners to be confined in each class of prisons;

(10) for the Government of prisons and for the appointment of all officers appointed under this Act;

(11) as to the food, bedding and clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost;

(12) for the employment instruction and control of convicts within or without prisons;

(13) for defining articles the introduction or removal of which into or out of prisons without due authority is prohibited;

(14) for classifying and prescribing the forms of labour and regulating the periods of rest from labour;

(15) for regulating the disposal of the proceeds of the employment of prisoners;

(16) for regulating the confinement in fetters of prisoners sentenced to transportation;

(17) for the classification and the separation of prisoners;

(18) for regulating the confinement of convicted criminal prisoners under section 28;

(19) for the preparation and maintenance of history tickets;

(20) for the selection and appointment of prisoners as officers of prisons;

(21) for rewards for good conduct;

(22) for regulating the transfer of prisoners whose terms of transportation or imprisonment is about to expire, subject, however, to the consent of the State Government of any other state to which the prisoner is to be transferred;

(23) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons;

(24) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends;

(25) for the appointment and guidance of visitors of prisons;

(26) for extending any or all of the provisions of this Act and of the rules thereunder to Subsidiary Jails or special places of confinement appointed under section 541 of the Code of Criminal Procedure, 1882, and to the officers employed, and the prisoners confined, therein;

(27) in regard to the admission, custody, employment, dieting, treatment and release of prisoners; and

(28) generally for carrying to effect the purposes of this Act.

Power of Local Government to make rules.

*60. Omitted.

Exhibition of copies of rules.

†61. Copies of rules, under section 59 so far as they affect the Government of prisons, shall be exhibited, both in English and in Hindi in Devnagri script in some conspicuous place and to which all persons employed within a prison have access.

Exercise of powers of Superintendent and Medical Officer.

62. All or any of the powers and duties conferred and imposed by this Act on a Superintendent or Medical Officer may in his absence be exercised and performed by such other officer as the State Government may appoint in this behalf either by name or by his official designation.

*Omitted by the Government of India (Adoption of Indian Laws Order, 1937).
†Amended by Madhya Pradesh Act, No. 40 of 1961.

THE SCHEDULE

Enactments repealed

(Repealed by the Repealing Act, 1 of 1938), 2 and Sch.