

CHAPTER 341

THE PRISON ACT

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PRISON

(1st July, 1956.)

4/1955.
12/1956.
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1. This Act may be cited as the Prison Act. **Short title.**
2. In this Act— **Interpretation.**

"prisoner" means any person lawfully sentenced or ordered to be imprisoned or detained in prison;

"prison" means gaol, and includes the airing ground or other ground or buildings occupied by prison officers and contiguous thereto and any other place which the Governor-General shall by proclamation published in the *Gazette* declare to be a prison.

PROVISION, MAINTENANCE AND CLOSING OF PRISONS

3. There shall be provided and maintained at the expense of Antigua and Barbuda, adequate accommodation for its prisoners in a prison: **Antigua and Barbuda to provide and maintain prison.**

Provided however that the buildings and premises in Antigua and Barbuda now used as a prison shall continue to be used as the prison for Antigua and Barbuda.

4. The Governor-General may with the approval of Parliament alter, enlarge or rebuild any prison in Antigua and Barbuda or may, if necessary, build new prisons in lieu of or in addition to any existing prisons. **Power to alter prisons and build new ones.**

5. (1) The Governor-General may at any time by proclamation declare any prison in Antigua and Barbuda to be closed; and every prison which the Governor-General shall so declare to be closed shall, as from the date of the proclamation, cease to be used as a prison accordingly. **Closing of prisons.**

(2) Persons committed to any prison closed under this section shall, upon the closing of such prison, be deemed to be committed to the prison nearest thereto, or to such other prison as the Governor-General may appoint or determine.

VISITING COMMITTEE

Visiting
Committee.

6. (1) Rules made under section 26 shall provide for the constitution by the Governor-General of a visiting committee of a prison consisting of Justices of the Peace of Antigua and Barbuda appointed at such times, in such manner and for such periods as may be prescribed by the Rules.

(2) Rules made as aforesaid shall prescribe the functions of the visiting committee and shall among other things require members to pay frequent visits to a prison and hear any complaints which may be made by the prisoners, to consider periodically the character, conduct and prospects of each prisoner and report to the Governor-General any matter which they consider it expedient to report; and any member of the visiting committee may at any time enter the prison and shall have free access to every part of it and to every prisoner.

PRISON OFFICERS

Prison Officers.

7. (1) The Governor-General shall appoint an officer with such title as he may approve who shall be in charge of the prison in Antigua and Barbuda and shall superintend and manage the same.

(2) In addition to the officer appointed under subsection (1) the Governor-General shall appoint such other officers including an honorary chaplain, as may be necessary, for the efficient management of the prison.

(3) The duties of the officers appointed by virtue of subsections (1) and (2) shall be such as may be prescribed by Rules made under section 26.

Powers of prison
officers.

8. Every male prison officer while acting as such shall have all the powers, authority, protection and privileges of a constable.

CONFINEMENT AND TREATMENT OF PRISONERS

Place of
confinement of
prisoners.

9. (1) A prisoner, whether sentenced to imprisonment or committed to prison on remand or pending trial or otherwise, may be lawfully confined in any prison.

(2) Prisoners shall be committed to such prisons as the Governor-General may from time to time direct; and may by direction of the Governor-General be removed during the term of their imprisonment from the prison in which they are confined to any other prison in Antigua and Barbuda.

(3) A writ, warrant or other legal instrument addressed to the officer in charge of a prison and identifying that prison by its situation or by any other sufficient description shall not be invalidated by reason only that the prison is usually known by a different description.

10. (1) Every prisoner shall be deemed to be in the legal custody of the officer in charge of the prison. **Legal custody of prisoner.**

(2) A prisoner shall be deemed to be in legal custody while he is confined in, or is being taken to or from, any prison and while he is working, or is for any other reason, outside the prison in the custody or under the control of an officer of the prison.

11. (1) Except as provided by this section, corporal punishment shall not be inflicted in any prison. **Corporal punishment in prisons.**

(2) Rules made under section 26 may authorize the infliction of corporal punishment for mutiny, incitement to mutiny, or gross personal violence to an officer of a prison when committed by a male prisoner.

(3) The rules shall not authorize the infliction of corporal punishment except by order of the visiting committee made at a meeting at which not less than two thirds of the members are present; and no such order shall be made except after an inquiry in which the evidence is given on oath:

Provided that the Governor-General may, if he thinks fit in any particular case, direct that the functions exercisable as aforesaid by the visiting committee shall be exercised by a magistrate appointed by him in that behalf.

(4) The punishment which may be inflicted under such an order as aforesaid shall not exceed—

(a) in the case of a person appearing to the visiting committee or magistrate to be not less than twenty-one years of age, eighteen strokes of a cat-o'-nine-tails or tamarind rod; or

(b) in the case of a person appearing to them or him to be under that age, twelve strokes of a tamarind rod,

and if corporal punishment is inflicted, no further punishment by way of confinement in cells or restricted diet shall be imposed.

(5) Where an order for the infliction of corporal punishment has been made under this section, a copy of the notes of the evidence given at the inquiry, a copy of the order and a statement of the grounds on which it was made shall forthwith be given to the Governor-General; and the order shall be carried into effect only after confirmation by the Governor-General and, if the Governor-General confirms the order with modifications, in accordance with the modifications.

(6) A refusal by the Governor-General to confirm such an order as aforesaid shall not prejudice any power to impose another punishment for the offence for which the order was made.

Duty of officer in charge to deliver calendar of prisoners.

12. The officer in charge of every prison in which persons committed for trial before the High Court are confined shall deliver to that Court a calendar of those persons.

Removal of prisoners for judicial and other purposes.

13. (1) Rules made under section 26 may provide in what manner an appellant within the meaning of the Court of Appeal Rules, when in custody, is to be taken to, kept in custody at, and brought back from, any place at which he is entitled to be present for the purposes of those rules, or any place to which the Court of Appeal or any judge thereof may order him to be taken for the purpose of any proceedings of that Court.

(2) The Governor-General may—

(a) if he is satisfied that the attendance at any place in Antigua and Barbuda of a person detained in a prison in Antigua and Barbuda is desirable in the interests of

justice or for the purposes of any public inquiry, direct him to be taken to that place;

(b) if he is satisfied that a person so detained requires medical or surgical treatment of any description, direct him to be taken to a hospital or other suitable place for the purpose of the treatment,

and where any person is directed under this subsection to be taken to any place he shall, unless the Governor-General otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the prison in which he is required in accordance with law to be detained.

(3) It shall be lawful for any magistrate, in any case where he may see fit to do so, upon application to issue a warrant or order under his hand for any prisoner to be taken from the prison to his Court for the purpose of answering any charge that may be preferred against him.

14. (1) In any sentence of imprisonment the word "month" shall, unless the contrary is expressed, be construed as meaning calendar month. Calculation of term of sentence.

(2) A prisoner who but for this subsection would be discharged on a Sunday, Christmas Day or Good Friday, shall be discharged on the day next preceding.

15. (1) Rules made under section 26 may make provision whereby, in such circumstances as may be prescribed by the rules, a person serving a sentence of imprisonment for such a term as may be so prescribed may be granted remission of such part of that sentence as may be so prescribed on the ground of his industry and good conduct, and on the discharge of a person from prison in pursuance of any such remission as aforesaid his sentence shall expire. Remission for good conduct and award of gratuities.

(2) Rules made as aforesaid may also provide for the award of gratuities on their discharge to prisoners who have been sentenced to imprisonment with hard labour for a term of or exceeding twelve months.

Power to discharge prisoners temporarily on account of ill-health.

16. (1) If the Governor-General is satisfied that by reason of the condition of a prisoner's health it is undesirable to detain him in prison, but that, such condition of health being due in whole or in part to the prisoner's own conduct in prison, it is desirable that his release should be temporary and conditional only, the Governor-General may, if he thinks fit, having regard to all the circumstances of the case, by order authorize the temporary discharge of the prisoner for such period and subject to such conditions as may be stated in the order.

(2) Where an order of temporary discharge is made in the case of a prisoner not under sentence, the order shall contain conditions requiring the attendance of the prisoner at any further proceedings on his case at which his presence may be required.

(3) Any prisoner discharged under this section shall comply with any conditions stated in the order of temporary discharge, and shall return to prison at the expiration of the period stated in the order, or of such extended period as may be fixed by any subsequent order of the Governor-General, and if the prisoner fails so to comply or return, he may be arrested without warrant and taken back to prison.

(4) Where a prisoner under sentence is discharged in pursuance of an order of temporary discharge, the currency of the sentence shall be suspended from the day on which he is discharged from prison under the order to the day on which he is received back into prison, so that the former day shall be reckoned and the latter shall not be reckoned as part of the sentence.

(5) Nothing in this section shall affect the duties of the medical officer of a prison in respect of a prisoner whom the Governor-General does not think fit to discharge under this section.

OFFENCES

Escape, attempt to escape, and prison breach.

17. Every prisoner who—

(a) escapes or attempts to escape from any prison wherein he is lawfully confined; or

(b) escapes or attempts to escape during the time of his conveyance to or from a prison, or whilst on his way to or from any road or public work, or during the time of his employment therein; or

(c) forcibly breaks out of any cell or other place in which he is lawfully confined or makes any breach therein with intent to escape,

shall be guilty of an offence against this Act and on conviction thereof on indictment be liable to imprisonment for a period not exceeding two years.

18. Every person who rescues, or attempts to rescue any person who has been convicted, or who is in custody, on a charge of felony, shall be guilty of felony and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding three years; and every person who rescues, or attempts to rescue, any person who has been convicted, or who is in custody, on a criminal charge other than felony, shall be guilty of a misdemeanour, and shall be liable to be imprisoned, with or without hard labour, for any term not exceeding eighteen months; and all persons aiding, assisting or abetting the commission of any such offence as aforesaid shall be liable to be prosecuted and punished in the same manner as principals.

Rescue, or promotion of rescue, of prisoners.

19. Every person having the custody of a prisoner, who shall knowingly and wilfully allow him to escape, shall be liable to be imprisoned, with or without hard labour, for any term not exceeding two years.

Wilfully permitting prisoner to escape.

20. Every person having the custody of a prisoner, who, through negligence or carelessness, allows any such prisoner to escape, shall be liable to fine or imprisonment, or both, at the discretion of the Court.

Negligently permitting prisoner to escape.

21. Any person who assaults or resists any prison officer in the execution of his duty, or aids or excites any person so to assault or resist any such officer shall be liable on summary conviction to a penalty not exceeding one thousand dollars, or to imprisonment, with or without hard labour, for any term not exceeding two months; or, if the offender be a prisoner, he shall be liable, on conviction on

Assaulting or resisting prison officers.

indictment, to be imprisoned, with or without hard labour, for any term not exceeding one year:

Provided however that no prisoner shall be liable both to punishment under this section and section 11 for an assault against a prison officer.

Assisting prisoner to escape.

22. Any person who aids any prisoner in escaping or attempting to escape from a prison or who, with intent to facilitate the escape of any prisoner, conveys any thing into a prison or to a prisoner or places any thing anywhere outside a prison with a view to its coming into the possession of a prisoner, shall be guilty of felony and liable to imprisonment for a term not exceeding two years.

Unlawful conveyance of spirits or tobacco into prison etc.

23. Any person who contrary to the rules of a prison brings or attempts to bring into the prison or to a prisoner any spirituous or fermented liquor or tobacco, or places any such liquor or any tobacco anywhere outside the prison with intent that it shall come into the possession of a prisoner, and any officer who contrary to those rules allows any such liquor or any tobacco to be sold or used in the prison, shall be liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding one thousand dollars.

Unlawful introduction of other articles.

24. Any person who contrary to the rules of a prison conveys or attempts to convey any letter or any other thing into or out of the prison or to a prisoner or places it anywhere outside the prison with intent that it shall come into the possession of a prisoner shall, where he is not thereby guilty of an offence under either section 22 or section 23 be liable on summary conviction to a fine not exceeding five hundred dollars.

Display of notice of penalties.

25. The officer in charge of every prison shall cause to be affixed in a conspicuous place outside such prison a notice of the penalties to which persons committing offences under sections 22, 23 and 24 are liable.

RULES

26. (1) The Cabinet may make rules for the regulation and management of prisons, the conduct, discipline and duties of the officers employed therein, and the classification, treatment, employment, discipline and control of prisoners. ^{Power to make Rules.}

(2) Rules made under this section shall make provision for ensuring that a person who is charged with any offence under the rules shall be given a proper opportunity of presenting his case.
