

1930.

Kenya

No. 16281.

SUBJECT

C O. 533/402

Prisons Bill

Ordinance No. 37 of 1930.

Previous

See 16145/30 (Annual Report)

1881/26

Subsequent

18204/32

1. 12 copies of Report of a Select Committee of the Legislative Council on the Prisons Bill.

(Spare copies to Library) 7

Also
Amis receipt 7 copies.

White
2/9/30
White

2. Gov. Grigg. 599. 15th. Sept. 30.

Spare to Library.

Trs 2 authenticated and 12 printed copies of The Prisons Ordinance, 1930, copy of Legal Report and a comparative table -

It would, I think, have been preferable had Kenya referred this new Prisons Ordinance to the Secretary of State in draft in order that the comments of the Prisons Commissioners might have been obtained. There is, however, very little which is new in it. On the other hand, there are one or two omissions of some importance. These may ~~have~~ been covered by the proposed rules, but in some cases I should have thought it better that they should appear in the actual ordinance, e.g., procedure in case of death (Section 16 of Cap. 37), ~~also~~ Section 60, and the proviso to Section 95.

*Require more
made as other
omissions 1930.*

The law has been almost entirely remodelled, which makes comparison rather difficult. I have been fairly carefully through it, and attach a brief note, which is intended to be in a form suitable for sending to the Prison Commissioners.

Ra

There are one or two points which may be noted:- (1) All provision for hard labour disappears.

Amis 2 39 + 69/10/

I have been through all this, but owing to the interruption of more pressing work I am afraid it has taken some time.

Section 2. There is no definition of juvenile, and the word does not appear to be used in the Ordinance, although there are references to persons under the age of 16 years - (the phrase in which the word juvenile was previously defined). In the old Ordinance, Cap. 37, there was a reference to juveniles in Section 89 relating to corporal punishment & *binding it to 12 strokes*

Section 22 (5). This is a new provision for the appointment of women visiting justices, but the powers conferred by Sections 22 (4) (e), and 22 (7) only apply to male justices.

Section 29. This provides for prisoners being confined in irons in certain cases if necessary for safe custody, and in accordance with such rules as may be *pre*scribed. This is a new section, but there is a reference to Section 107 of the old Ordinance which enabled the Commissioner, subject to the approval of the Governor, to direct the manner in which prisoners are to be secured. Presumably such directions have been given, but they are not included in the prison rules. Presumably the manner now to be prescribed will be included in the rules (see reference to safe custody under Section 69 (9)).

Attention might be drawn to this point ^{in the sense} by saying that ^{the} if the manner is prescribed in any other way than by rule, the Secretary of State would wish to see the directions given. It is proposed to ask for the rules; and therefore if this matter is dealt with

has see notes on No. 29

X There is nothing in the rules: but this amendment elsewhere JWS

(2) Section 29 provides for custody in irons, but such provision has presumably existed in practice in the rules though not in the law. (3) Sections 58, 59, 60 and 61 should be read. These correspond to Sections 87, 88, 89, 90 and 93 of Chapter 37. Apart from the omission of hard labour and the introduction of a reduced diet, there is nothing new in Sections 58 and 59.

The amendment is in with a copy of the case of juveniles 3; appears JWS

In Section 61, relating to corporal punishment, the words "mutiny or incitement to mutiny" disappear, but the words "any act of grave misconduct or insubordination" (which appear ^{also} in the present law) appear to cover such cases. The new ordinance requires confirmation by the Governor if the sentence exceeds 12 strokes.

Subject to any legal observations, I send to the Home Office a plain copy of the Ordinance with the Attorney General's report and comparative table; also a copy of Chapter 37 of the amending ordinance, No. 9 of 25, enclosing also copy of the attached note of points which have been noticed in the Colonial Office, and say that subject to any observations which they may have to make, the Secretary of State proposes to sanction the Ordinance, and at the same time to ask the Governor to send him copies of all rules issued under it.

G. Stanton
(C. X. 30.)

I shall refer to see this Ordinance after when for the 110's observations.

17/11/30 H. Duncan.

with in them, the opportunity for any necessary comment will be afforded.

The new sections 32, and 34 to 38 which dealt with ix the Attorney-General's report should be seen by Dr. Stanton since they relate to medical matters.

Section 59.

There are now to be three forms of diet, the ordinary, the reduced diet, and the penal diet. The existing dietary scales are shown in the rules herewith. In connection with the papers relating to the prison administration of the Colony generally reference is made to the reduced scale to be brought into operation, (see para 4 of No 2 of No. 16 (1922)). This is another matter which can be considered on the rule, and on which Dr. Stanton should also be consulted.

Section 61.

This section relates to corporal punishment. This matter was dealt with in Sections 82 and 94 of the old Ordinance, Cap. 37. As already indicated above, the old Section 89 limited corporal punishment in the case of juveniles to 12 strokes with a light cane. There is no mention in the new section 61 of juveniles or of persons under the age of 16 years, but no corporal punishment exceeding 12 strokes can be imposed without confirmation by the Governor ^{as a medical Officer.} I am not at all clear whether this is sufficient.

The General Department should be consulted.

Section 116 (2) of the old ordinance, Cap.

37. Provided for the publication of rules in the Gazette, and for disallowance by His Majesty. ^{This} provision is not reproduced,

but

see to comments
Dr. Stanton
8/2/31 A

10
A

but it is unnecessary in view of Section 9 (d) of the Interpretation and ~~General~~ ^{General} clauses of the Ordinance.

I agree with Mr. Eastwood that in replying an enquiry might be made as to the omission of Section 16, ~~160~~ and the proviso to Section 95 of the old ordinance, Cap. 37. On the whole I think it would be better not to attempt to draw the attention of the Home Office to any particular points as being of special importance, especially as the Ordinance has not received legal examination here yet.

Send the Home Office copy of the despatch, the Ordinance, the Attorney-General's Report and comparative ^{our} table; together with copies of Chapter 37 of Ordinance ~~and~~ of 1922, as Mr. Eastwood proposes, but merely ask for ^{the Prison Commission} ~~any~~ advice and observations, adding that it is proposed to ask that the rules made under the Ordinance may be sent on for the Secretary of State's consideration when issued. I do not think it is necessary to insist on prior approval of the rules. Then when the letter to the Home Office has gone, re-circulate to Dr. Stanton and the General Department for any comments they have to make on the points referred to at A. and B. above.

*Mr. Eastwood
order*

x 2 Mr. Eastwood
as well -
see minute
of 17/11/30

let after H.O. reply.

S.M. Allen

21/10/30

As proposed by Mr. Allen -
we can consider further when
we have H.O. reply.

see Dr. Stanton
8/2/31

27.12.30
at full

A

3

To H.O. (w/c's 20 small, Cap 37 and) cons
Ord. No 7 of 1926

6 JAN 1931

to Mr. Stanton

G.D.

Mr. Stanton

This is referred to J.D. with refer to Section
61 of the Ord. which does not limit flogging
of juvenile offenders to 12 strokes - though it
requires every sentence exceeding 12 strokes to be
approved by the Governor before it is carried out
I attach Circulars of 25 May 27 and 13 Aug 22
on the subject. Para 2 of the latter contemplated
legislation on all cases limiting flogging of juveniles
to 12 strokes, though immediate legislation was not
envisaged upon which the Gov. could secure by restriction
or otherwise that the limit was strictly adhered to. The
intention appears to have been that the limitation
should be definitely laid down by law, & I think
an addition should be made to Sec. 61 to provide
a limit

J.W. Smith
10/1/31

I agree.
S. Hasler
15/1/31.

Wait for J.D. reply

W. Allen

15/1
atace

Mr. Eastwood

to reply to No. 3 yet.

5

Thorus
6/2/31.

H. Extract from Official Gazette No. 70 of 31st
December 1930.

We might now send a copy of the rules (4)
to the H.O. with reference to (3) and ask that
the obs. of the Prison Commission might be given
on the Ordinance in conjunction with the Rules.
Add that ^{as} the Ordinance & Rules came into effect on
1st Jan 1931 (vol. notice 741 p. 3064 of Gazette
of 31/12/30) we should be glad of an early
reply (It seems that the Gov. is rather premature in
making this notice ~~effective~~).

I think this is all right.
J.W. must have the
only with the Ord.
the only reference to
ask the Ord. be
have the only to
certain was covered.
J.W.

In the rules reference is made to the
definition of prisoner (Sec. 21), to imprisonment in
iron (Sec. 24 ss. 22), to scales of diet (Sec. 23),
to procedure in case of the death of a prisoner (Sec. 24
ss. 12), & to the visiting of prisoners undergoing
penitentiary (Sec. 24 ss. 20). Revision of these
points ~~has been~~ commented on from the Ordinance by
Mr. Allen in his minutes of 27/10/30, but I don't
think we need refer to this in the letter to the H.O.
Draft enclosed herewith.

to be ^{also} ~~not~~ ^{agreed} ~~agreed~~ ^{at the}
time we need not consent a this

Rules, but let P.C. have the first
rite.

J.M. Allen

7/24/30

atance

5 To H.O. (w/c H) cons 21/5/31 1931

~~to~~

in basket

to reply to

thous

2/9/31

two week

Stamboulou 2/8

atance

in basket

to reply to

thous

2/4/31

7 remind

Stamboulou 27/4

ask when a reply may be

replied to 3/5.

J.M. Allen

27/4

atance

~~DESTROYED UNDER STATUTE~~

To H.O.

Cons

20/5/31

4 MAY 1931

6

in basket

no reply to nos. 5 + 6 yet.

thous

20/5/31

been it will after Whitehouse + if

to reply in ~~the~~ then, send a L.F. reminder.

Stamboulou 20/5
atance

noon 7A

Pl. see minute of 20/5. Nothing has

been received from it.

thous

20/5/31

20/6/31

To H.O.

(Reminder re. 3.5.30)

B/6

30 MAY 1931

P.T.O.

Home Office _____ 15 June
Enclose memoranda by Prison Commissioners
on the Ordinance, together with specimen forms
of reports referred to, returns 1914 and 1926
Ordinance

As the matter was not very
clear from the previous papers
I have prepared the attached
memo summarizing the points
so far noted in the new
Order enclosed in no 2 &
in the Rules reg. no 4
It will be seen that there
are a good many points to
be taken into account - & Mr Duncan
may have more to make. He
has not yet studied the Order
& that some of them are of
considerable substance

I write to the Gen.
as suggested in my note &
say that pending rec. of reply
his advice will be tendered
& that in regard to the Ord.
I ask for copies of all rules
issued under the Ord. to be

Enclosure of
of the
of the
of the

Diff. the
before
M.C.
10/11

& the Ho. shd be treated on
their terms.

Hardman
11.6.21.

As Mr Allen is about to re-arrange
(I have (1) to Mr Duncan for legal
advice on the Ord.
(2) to Mr Stanton to see
his advice on the matters referred
to at X & Y in my note.

Hardman

Subject to comments below I agree with the
observations of the Prison Commissioners and those
contained in Mr. Eastwood's memorandum (9)

Section 40 (1). The right to earn a
remission of sentence is given to every criminal
prisoner under sentence of imprisonment for six
months or more, but no remission can be earned until
six months have been served. Hence, the man sentenced
to six months imprisonment can never get the
benefit which it appears to be intended that he
should enjoy. But, perhaps the words "six months
or more" should be "more than six months."

Sections 40 and 42. I do not agree ^{with} the
criticism of these sections made by the Prison
Commissioners

Commissioners in the first paragraph of page 4 of their memorandum. Take the case of a man sentenced to imprisonment for three years. By good behaviour he can earn complete remission of ^{3 yrs less 6 months =} 1/7ths of ~~the~~ 30 months i.e. 4 ²/₇ ~~months~~ months. His sentence is thereby reduced to 2 years and 7.5/7ths months but he can go further and be allowed out on licence after two years for the remaining 7.5/7ths months. It appears to be incorrect, therefore, to say that grant of absolute remission in section 40 does not apply to prisoners to whom section 42 applies.

Sections 58 and 59.

The powers of visiting Justices under these sections appear to apply to all visiting Justices, but sections 22 (4) (a) restricts them to male Justices. I think the Court would hold that the ^{earlier} ~~later~~ enactment prevailed, and do not suggest, therefore, that this point calls for comment.

Section 59.

What is the difference between penal diet and reduced diet? Section 69 enables rules to be made with respect to diet, but there is no definition to show any distinction between reduced and penal diet. It is obvious that both are less than ordinary diet, but it is only by implication under provisos (b) and (c) to section 59 (4), that one gathers that

Commissioners in the first paragraph of page 4 of their memorandum. Take the case of a man sentenced to imprisonment for three years. By good behaviour he can earn complete remission of 1/7ths of ^{3 yrs less 6 months =} ~~the~~ 30 months i.e. 4 ~~and~~ ²/₇ months. His sentence is thereby reduced to 2 years and 7.5/7ths months but he can go further and be allowed out on licence after two years for the remaining 7.5/7ths months. It appears to be incorrect, therefore, to say that grant of absolute remission in section 40 does not apply to prisoners to whom section 42 applies.

Sections 58 and 59.

The powers of visiting Justices under these sections appear to apply to all visiting Justices, but sections 22 (4) (~~2~~) restricts them to male Justices. I think the Court would hold that the ^{earlier} ~~later~~ enactment prevails, and do not suggest, therefore, that this point calls for comment.

Section 59.

What is the difference between penal diet and reduced diet? Section 69 enables rules to be made with respect to diet, but there is no definition to show any distinction between reduced and penal diet. It is obvious that both are less than ordinary diet, but it is only by implication under provisos (b) and (c) to section 59 (4), that one gathers that

that

8

that reduced diet is not so severe as penal diet. So long as there ~~is~~ ^{was} only one kind of punishment involving a reduction of diet, it was perhaps unnecessary to give any definition, but where the Ordinance itself uses two expressions so vague and so similar, I think that they should be broadly defined in the Ordinance itself. Moreover, the rules now submitted do not, so far as I can see, make any provision for reduced diet except in the case of natives.

Section 62.

It does not appear what is meant by the expression "offences against prison discipline". Section 57 gives a list of "prison offences" but the old section 95 which was similar to the present section 62 had the words "whether included in section 91 or not" after the words "prison discipline". It is, however, difficult to imagine any offence against prison discipline which would not come within the old section 91 or the new section 57, having regard especially to the final paragraph in each of those sections. The form of the repeal of section 57 is, however, worse than the new section 62 and I do not, therefore, suggest raising this point.

With regard to the omissions from the new Ordinance mentioned on page 5 of Mr. Eastwood's memorandum, see my marginal notes.

July, 1931.

J. A. B. [Signature]
207.31

X Where there is a large prison there is always a medical officer on duty and it is customary for him to visit the prison daily. It may happen that where there is a small prison at an outstation the M.O. may be absent from headquarters and thus could not visit daily.

Y In papers 3072, 73, & 74 of the Rules two scales of diet, ordinary and penal, are laid down for Europeans, Eurasians, Indians, Arabs and Somalis, while Africans have three scales, ordinary,

reduced and penal.

It seems to me that the penal diet is not sufficient to maintain health.

I believe that in Sierra Leone it has been found necessary to abolish punishment by restricting a prisoner's diet.

A. P. O'Brien

20.7.31.

This is a new scale maximum of one week.

Library 9
Would you, please, see what you can find as to provision for diet for prisoners in other Trop. African Dependencies - esp. as to 'reduced diet' & 'penal diet'.

allert

20.7.31

Mr Parkinson

Please see the annexed statement which has been compiled from the various Rules of the various Dependencies concerned.

you

L. V. Thorne
24 7 31
(Royal)

P. O'Brien

[I have held this up & fear that it does not pass.]

Please see last paragraph of the letter of 7th inst.

I think we must consider the Sierra diet in the light of the diets which exist elsewhere.

Do you wish to recommend that all Trop. Af. Cells with penal diets shd. bring them up to a given standard? and if so, what shd. that be?

allert
14/7/31

The Kenya penal diets are
nearly the same as those
elsewhere. They are identical
with those in T.T.

There is no reason for
uniformity in penal diets
throughout Tropical Africa.
The normal diets of the
native peoples differ.

Penal diet may not
be combined with hard
work (K.O. 4 to 3074, General
rule (4)). That was the
reason for introducing
the "reduced diet" for natives.
The "reduced diet" has been
given a trial and it has
now been included in
the new rules.

Great consideration has
been given to the question of
prison diets in Kenya and
they have had expert advice
in plenty.

"Penal diet" is a punishment
diet, so is "reduced diet" in a
less degree. Keeping these points
in mind I am satisfied with
the dietary scales laid down.

A. Stanton

1583/

Having done
A of you
attached please
No. 10
sent to
to 11.6.10

10, to H.O.

10a.

DESTROYED UNDER STATUTE

in reply to to 10, agrees to suggested amendment.

12 to 10.6.50 (acks. to 11) — 10 Dec

DESTROYED UNDER STATUTE

Let's to
refer to
concluded

I have ventured to crystallize the
action suggested above in the
attached draft for comment.

J. Stanton
3.11.31

A. Stanton

This paper deals with the new Prisons Ordinance, and also with the Rules made under it. The Ordinance (flagged A) consolidates and amends the law relating to prisons in the light of experience since 1914 when the previous law was enacted. It is mainly a re-enactment of the existing law, with some omissions which are explained in the brief report of the Attorney General (flagged B). The Ordinance and the Rules have been referred to the Home Office, and the Prison Commissioners have furnished observations in the memorandum, No. 8 (flagged D). Dr. Stanton and Mr. Roberts-Wray have also considered both the Ordinance and the Rules from the medical and legal standpoints, and the Surgeon-General has been consulted as to the provisions as to corporal punishment. Much time has been spent in its consideration, and also in s.o. correspondence with the Prison Commissioners as to the amendments in their memorandum, which have now been agreed.

The draft herewith ^{adds with an} ~~embodies~~ all the points of which comments seem called for, and there seems no reason to withhold sanction of the Ordinance pending ^{the} ~~consideration~~ of these points with the Government. I do not think it is necessary to ask for all future Rules under the Ordinance to be sent home separately. The Home Office, ^{has} it is true, told in No. 3 that the Governor would be asked to send home all rules, but that was before we received them in Gazette form.

There are two points which have required some investigation since the draft reached me.

(1) Section 61, unlike Section 89 of the

This paper deals with the new Prisons Ordinance, and also with the Rules made under it. The Ordinance (flagged A) consolidates and amends the law relating to prisons in the light of experience since 1914 when the previous law was enacted. It is mainly a re-enactment of the existing law, with some omissions which are explained in the brief report of the Attorney General (flagged B). The Ordinance and the Rules have been referred to the Home Office, and the Prison Commissioners have furnished observations in the memorandum. No. 8 (Flagged C). Mr. Stanton and Mr. Roberts-Wray have also considered both the Ordinance and the Rules from the medical and legal standpoints, and the J.P.s have been consulted as to the provisions as to corporal punishment. Much time has been spent in its consideration, and also in s.o. correspondence with the Prison Commissioners as to the amendments in their memorandum, which ~~has~~ now been approved.

The draft herewith ~~is~~ ^{has} all the points and amendments seem called for, and there seems no reason to withhold sanction of the Ordinance ~~and~~ ^{and} these points with the ~~proposed~~ ^{proposed} amendments. I do not think it is necessary to ask for all future Rules under the Ordinance to be sent home separately. The Home Office ^{has} it is being told in No. 3 that the Governor would be asked to send home all rules, but that was before we received them in Gazette form.

There are two points which have required some investigation since the draft reached me. (1) Section 61, unlike Section 89 of the

old Ordinance does not limit whipping of juveniles to 12 strokes, and I see that this Section 61 follows generally Section 27 of the Penal Code, which also contains no similar limitation. It is proposed to take up the position as regards the Penal Code in connection with the recent case of a whipping of an Indian boy, and also in connection with the caning returns, but I am afraid that will take some time, and I think we may dispose of the point so far as it concerns the Prisons Ordinance by the remarks made on page ~~5~~ of the draft to the Governor.

(2) The second point relates to racial discrimination in Section 61, and is I hope sufficiently explained in the draft Confidential despatch which I also put up. I have also added a draft to the Home Office.

*Amending
- and for
the same
...*

*W. Allen
23/11 1917*

(with 17269/30)

*I have thought it best to
have the drafts, but the papers
should then go to Sir R. Hamilton
to see
be successful, and
indulge the Prisons
Commissioners for their help.*

W.S. 7.12.17

Hand
Ltr
17/2/32

13

To Gov 82H _____ 11/6
(w/c memo. incl in 8, Report of Report on
and copy 15. No 2 answer
To Gov. Conf _____ Com 11/6

12 DEC 1931

V. Home Office (No 13 + Annual Report Prisons 1930) - 12/12/31
(8 Answer)

Seen
Milt
18 12 31

O. O.

Mr. Allen

Mr.

Mr.

Mr. Tomlinson.

Sir O. Bottomley.

Sir J. Shackburgh.

Sir G. Grindle.

Permi. U.S. of S.

Party. U.S. of S.

Secretary of State.

Downing Street,

12 December, 1931.

Sir,

I am directed, etc, to refer to your letter 582,436/2 of the 15th of June, and to transmit to you, for the information of Secretary Sir Herbert Samuel and the Prison Commissioners, a copy of a despatch which has been addressed to the Governor of Kenya regarding the new Prisons Ordinance and Rules of that Colony.

In communicating to the Governor the Memorandum of the Prison Commissioners which accompanied the letter under reference, the penultimate sentence of the first paragraph on page 4 has been amended, as arranged semi-officially, to read:-

Presumably

3 DRAFT ^{Care:} v. minute (8)
THE UNDER SECRETARY OF STATE,
HOME OFFICE.

Copy to Gov 5 24 12 DEC 1931

To Gov. No 524 2 Dec.
(Comp: Off)
Amended Report Prisons 530

2. A copy of the Annual Report on the Prisons 1930-1931, to be sent to the Secretary of State & also below: 1 See Rules that the attention of the Prisons Commission might be invited to para 15, 19 & 38 which...

"Presumably, therefore, the grant of absolute remission in Section 40 is not meant to apply to prisoners to whom Section 42 applies".

4. Sir Philip Cunliffe-Lister desires that his thanks may be conveyed to the Prison Commissioners for the trouble ^{which} they have been so good as to take in examining the Ordinance and Rules.

I am,

etc.

16281/30/Kenya.

C. O.

Mr. Allen. 27/11 12/12

Mr.

Mr.

Mr. Tomlinson.

Sir O. Bottomley. 7.12

Sir J. Shuckburgh.

Sir G. Grindle.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

Downing Street,

14
13
December, 1931.

Sir,

I have the honour to refer to my despatch No. 824 of even date regarding the Kenya Prisons Ordinance and Rules.

2. I observe that ^{under} in Section 61 (2) of the Ordinance a sentence of corporal punishment not exceeding 12 strokes ^{only} requires the confirmation of the Governor in the case of a non-native, and that ^{discriminatory} provision of a similar ^{native} ~~type~~ was contained in Section 94 (k) of the ^{ed} Repeal Ordinance, Chapter 37. I also note that the wording of the new Section 61 ~~is~~ is very similar to that of Section 27 of the Penal Code, where, however, no such discriminatory provision was not included among those

3 DRAFTS ^{ca's: 1. merits}

KENYA

CONFIDENTIAL

Governor.

3 Drafts

those discussed in your Confidential

despatch No. 36 of the 11th of March

2
17/01/31

1931, and I shall be glad to receive
your observations as to the necessity for
retaining it.

I have,

etc.

(Sgd.) P. CUNLIFFE-LISTER

C.O.

X.16281/30 K.

13. 14
JD

Mr. Eastwood. 11

Mr. Roberts-Wray. 5.11

Mr. Freston. 13.

Mr. Allen. 23/11

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shackburgh.

Sir G. Girdle.

Permt. U.S. of S.

Party. U.S. of S.

Secretary of State.

7.12 fo.

Recd
No. 1 on 18/12/32

12 December
November, 1931.

3 **DRAFT**, see minute
for conson:
v. minutes

KENYA

NO. 824.

GOV.

~~Memo~~
(spare copy in jacket
(as corrected) below No. 8)

~~Form of Report.~~
(in orig. in jacket
below No. 8)

To H. O. 12/12/31
(com:dft)

copy to H.O. 12/12/31

~~16281/30 K.~~

(No.4)

I have the honour to refer to Sir Edward Grigg's despatch No. 599 of the 15th September, 1930, and to inform you that His Majesty will not be advised to exercise his power of disallowance in respect of Ordinance No. XXXVII of 1930 of the Legislature of Kenya entitled "An Ordinance to Consolidate and Amend the Law relating to Prisons, to Provide for the Organization, Discipline, Powers and Duties of the Prison Officers, and for matters incidental thereto."

2. The Ordinance and also the Rules made on the 28th December 1930 and published in the Official Gazette

of

of the 31st December, 1930, have been referred to the Home Office and I enclose for your consideration a copy of a memorandum which the Prison Commissioners have been so good as to furnish. A specimen of the form of report referred to in this memorandum is also enclosed.

(No.8)

3. I have the following observations to offer on the Ordinance:-

Section 31. Duties of Medical Officers.

I realize that under the conditions stated in the Ordinance procedure which would be normal in England may have to be modified but I shall be glad to receive your observations on the remarks made in the enclosed memorandum on this point.

Section 32. Juvenile prisoners.

The Prison Commissioners were comment on the provision regarding the separation of juveniles from other offenders. You will no doubt consider their comments in connection with Lord Passfield's

circular



(copy h.w.)

circular despatch of the 11th September, 1930, to which a reply is still ~~awaited~~ ^{awaited} I note that this matter is referred to in paragraph 19 of the Annual Report on the Prisons Department for 1930.

Section 33. Lunatic Prisoners.

It would seem that an amendment is required to meet the point made by the Prison Commissioners. I would suggest that at a convenient opportunity the section be amended to begin:- "If any prisoner shall appear to be of unsound mind" etc.

Sections 40 to 42. Remissions/ ^{*Quences.*}

I shall be glad if you will consider the desirability of an amendment of the Ordinance to meet the first point made by the Prison Commissioners. Under Section 40 (1) the right to earn a remission of sentence is given to every criminal prisoner under sentence

sentence of imprisonment for six months or more: but no remission can be earned until six months have been served. It would therefore appear that a prisoner serving a sentence of six months can never secure the benefit which it appears to be intended that he should enjoy. Possibly however the words "six months or more" should be "more than six months".

The observations of the Prison Commissioners on this section appear to call for consideration and I request that they may be furnished with your views thereon.

The Ordinance contains no definition of penal and reduced diets. The implication under provisions (b) and (c) to section 4 is that reduced diet is not so severe as penal diet, and power is given under Section 69 (9) to make

rules

16
rules covering the point, but it would seem to be desirable that where two provisions so vague and so similar appear in the Ordinance they should be distinguished by definitions in the Ordinance itself. I suggest that an opportunity should be taken to insert definitions. Also the rules of the 28th December ~~of~~ 1930 apparently omit any provision for reduced diet except in the case of native prisoners and I shall be glad to be informed of the reason for this omission.

Section 61. Corporal Punishment.

Section 89 of Chapter 37 limited corporal punishment of juveniles to 12 strokes with a light cane. There is no mention in the new Section 61 of juveniles or of persons under 16 years of age, and in accordance with long *Anglo-Indian* established practice a limiting provision similar to that in section 89 of Chapter 37 is required.

4. The following minor printing

errors have been noted:-

Section 14 (2): The word "and"

should appear before the words "an officer" in line 3.

Section 22 (4) The word "and"

should appear at the end of (d) instead of at the end of (c).

Section 27 (2): The word

"wells" should apparently be "wells".

to provide the Rules of the

20th
30th The following

Rule 11: The Prison Commissioners

draw
the provisions that in
the event of service of a
account shall to

take of any imprisonment for any cause
less than 6 months *including any time which counts in his
favor as time served.* They *shall be liable to be
removed or to be
removed or to be*

officer who was himself imprisoned
would immediately be dismissed. I

shall

Handwritten note:
Note that the provision
was made in section 36(a)
of Chapter 37 &

4. The following minor printing errors have been noted:-

Section 14 (2): The word "and" should appear before the words "an officer" in line 3.

Section 22 (4): The word "and" should appear at the end of (d) instead of at the end of (c).

Section 17 (2): The word "walls" should apparently be "wells".

The remainder of the Rules of the Prison Department have the following contents:-

Rule 11: The words "Prison Commissioners" should be "Prison Officers" and "draw" should be "drawn". The words "in the" should be "of the" and "of a" should be "of an".

The words "in the" should be "in any cause" and "which is not reserved" should be "which is not reserved". They are equal in value & should be very present.

When a prison officer has been self-imprisoned he shall immediately be dismissed.

shall

Similar note that the provision was made in section 36(a) of Chapter 37 &

shall be glad to receive your observations on this point.

Rule 24 (25): Education

No. 4 on 17269/31 K. (Annual Report) (coming on separately)

In your despatch No. 433 of the 29th July, 1930, you refer to paragraphs 15, 19 and 38 of the Annual Report of the Prisons Department for 1930

relating to the training of prisoners: & you will see from the enclosed letter that you will see from the enclosed

Enclosed letter to the Home Office that the

attention of the Prison Commissioners has been invited to those paragraphs.

Rule 25 (15): Employment of

Civil Debtors. I would invite your attention to the fact to which the Prison Commissioners refer that similar provision in English prison rules has recently been repealed.

5. Solitary Confinement.

I note that Section 60 of Chapter 37 has not been repeated in the new Ordinance. This section provided that

that no cell should be used for
solitary confinement unless
furnished with a means of enabling a
prisoner to communicate at any time with
a prison officer. No doubt it was
intended that a rule should be made
under Section 25 ¹⁰ of the new
Ordinance to cover the point. No such
rule however appears among those made
on the ~~28~~ 28th page of 1980. It should
be clear to read the reason for this
omission as it would seem desirable
that provisions similar to that in
section 25 of Chapter 37 should appear
in the Ordinance or the Rules.

6 ~~10~~ Trial for Prison Offences

The following proviso to Section 25
of Chapter 37 does not appear in *section 62 f*
the new Ordinance:

" provided that ~~it shall~~ in this
Ordinance shall be considered to

exempt

that no cell should be used for
solitary confinement unless
furnished with a means of enabling a
prisoner to communicate at any time with
a prison officer. No doubt it was
intended that a rule should be made
under Section 65 of the new
Ordinance to cover the point. No such
rule however appears to have been made
on the 28th December 1962. It would
be desirable to hear the reasons for this
and it would seem desirable
that a rule under section 65 should appear
in the new Ordinance of the Prison.

6. Trial for Prison Offences

The following is provided to Section 65
of the new Ordinance. It appears in *Section 62 f*
the new Ordinance.

It is provided that a prisoner in this
Ordinance shall be considered to

exempt

exempt any prisoner from being
proceeded against for any offence
by the ordinary course of law and
provided that no prisoner shall be
punished twice for the same offence."

You will no doubt consider
whether it would not be desirable
to amend the new Ordinance by inserting
a similar provision.

I have, etc.

(Sgd.) P. CUNLIFFE-LISTLER.

Waller ^{Hurdler}
~~Waller~~ pro

Is there any provision in
Kenya law limiting corporal
punishment in the case of
juveniles to 12 strokes?

10/11/51
35/11

I cannot trace any in
the Penal Code and the Criminal
Procedure Code the maximum
number of strokes that can be
imposed is 24; but any sentence
in excess of 12 strokes requires
the confirmation of the sub-
court.

Under sec 46 of the Employment
of Natives Ordinance a limit of
16 strokes with a light cane is
laid down in the case of juveniles
under the age of 16.
J.H. Humphreys
25-51

P.C. NO.
2.2.9

To Allen.

We discussed & I have
made considerable, tho' not yet
exhaustive, research on the
subject. So far as I have
seen the position appears to be:-

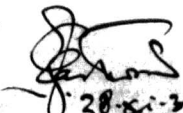
There is no limitation in the
new Penal Code.

In Uganda at least there
used to be such a limitation under
the old code.

In T.C. ~~there~~ a limit is
laid down ~~imposed~~ under the special
Whipping Act.

You agreed that the point of merit
should be pursued in the Penal
Code & "Whipping of an Indian Boy"
papers. This will need the

done.


28.5.31.

K. Allen

10a²⁰

Please see your note above of a.

⑩ on 16145/30

copy below

As a result of so correspondence with Mr. Paterson we wrote to the Gov. asking why 150 out of 245 juvenile convicts were whipped during 1929, and inviting his attention to the draft Bill regarding the trial and punishment of young offenders which was enclosed with circular despatch of 11/9/30.

95 Conf. 10/7/31
(duplicate below)

The Gov. has now replied saying that it was preferable to whip these juveniles than to imprison them, and that he will deal with the draft bill in a separate despatch.

As regards the education of prisoners, especially juveniles, his subject was touched on in the 1929 report ^{in paragraph 8 and in} ~~in~~ paragraph 15 and 38 of the 1930 report

a Reformatory is being run at Kabeta, apparently successfully and on the right lines. See the memorandum on 16145/30 Sub-file B

9th November 1930

Walter H. Lawrence Esq to No 10

10/11/30

W/O

S. J. P.

- Mr. Chamberlain K.9
- Mr. *Robert Wray, 25.9.*
- Mr. *Allen 15/9*
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Permt. U.S. of S.
- Partly. U.S. of S.
- Secretary of State.

*Wrote to Wray
gives list
to put the
hand list*

Quarto for Mr. Allen's signature.



Downing Street,
28 September, 1931.

DRAFT.

*Checked
11*

Dear Maxwell,

H. Maxwell, Esq.
Prison Commission
Home Office.

Thanks for your letter
of the 7th September about the
Kenya Prisons Ordinance.

We had gathered that you
meant in the memorandum that Section 40
of the Kenya Ordinance does not apply
as it stands ~~to~~ to persons mentioned
in Section 41, should therefore be
amended so that it will apply, but ~~it~~

Section 40 does so apply, but is
and should be amended
presumably not meant to apply. Accordingly

This point might certainly be raised
and we would suggest that the
penultimate sentence of the first
of the memo
paragraph on page 4 should be

amended

*now appears that
your intention was
to insert that*



amended to read:-

"Presumably, therefore, the grant of absolute remission in Section 40 is not meant to apply to prisoners to whom Section 42 applies."

Will you kindly let me know whether ~~the Prison Commissioner would agree to~~ this suggested amendment of the memorandum *may be made?*

(Signed) H. T. ALLER

Mr Roberts - Gray

May we have your views
on this, please?

[I send this on a
separate sheet in order not to
lengthen the main minutes]

J. H. Allen

9/9/31

It looks as if the O. Home Comms meant
the name nd (or ? changed) that
S. G. does not apply as it stands to
persons mentioned in S. G. & should
therefore be amended so that it will
fit - but that it does apply but
is presumably meant to apply

The ... I think a point which
might be raised ... of the ...
... think it odd ... the
... I suggest that the name should be
altered ...

J. H. Allen
9/9/31

to Chamberlain
Please draft a note to the
... action of the ... to the
... 11/11/31

23

Prison Commission
Home Office
Whitehall SW 1

A. 24.7.5.

11th September, 1951.

Dear Allen,

I have before me your letter of the 20th August 1951 about the Kenya Prisons Ordinance. I understand that you interpret Sections 40 and 41 as meaning that a convict can earn an absolute remission of 1/7th of such part of his sentence as is in excess of six months so that a convict with a three years sentence who is licensed at the end of 4 years may only be under licence for 6 2/7ths months.

If this is the interpretation, of course no amendment of the Ordinance is wanted.

Such an arrangement is quite different from the English arrangements. Under our scheme a convict does not earn any absolute remission, and a combination of a licence system with an absolute remission system strikes us as odd.

If, however, you do not think it worth while calling attention to the point, please delete the paragraph from our memorandum. I only put it in because

ALC

H. D. Allen, Esq.

20 Sept 1951

44

when reading through the Ordinance I assumed the convict
would not get absolute remission and ^{that} some words to
make this clear were desirable.

Yours sincerely,

J. Maxwell

C. O.

16281/30 Kenya

24

Downing Street,

28 August, 1931.

- Mr. Chamberlain L.J.B.
- Mr. ~~Freeston~~ *Roberts Gray*
- Mr. ~~Allen~~ *W/B*
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.
- Sir G. Grindle.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

C.D.
 R 25/10/31
 D 9/6

[Handwritten signature]
[Handwritten initials]

D. ... [Handwritten]

We have ~~recently~~ received

a memorandum from the Prison
 Commissioners under cover of Home
 Office letter of the (15th of June)
 (382436(2))
 regarding the Kenya Prisons Ordin-

DRAFT.

MISS J.I. WALL

(Home Office)

ance of 1930, ~~and our Legal~~
~~Advisers have raised a query to the~~
In the
~~remarks which are contained in the~~
 first part of page 4 of the memo-
 randum, ~~the Prison Commissioners~~
it is
~~there point out~~ *suggested* that, on the
 presumption that the grant of
 absolute remission of sentences
 which is provided for in Section
 40 ~~and~~ *of the Ordinance* does not apply to those
 prisoners who may ~~gain partial~~ *be released*
~~remission~~ *on license* under Section 42, the
 wording of Section 40 should be
 amended. *Actually, however,*

Revised

Section 40 provides that a prisoner under sentence of imprisonment for six months or ~~over~~ ^{more} may, after the completion of six months of his time, obtain a remission of 1/7th of the remaining period if he is of good

behaviour. Section 42 provides that any prisoner sentenced to a term of ~~more than~~ ^{or more} three years/may, after he has completed 2/3rds of his sentence, be liberated on licence. Both sections

~~could in certain cases be applied to the same prisoner.~~ ^{The above} In the case of a

convict sentenced to three years imprisonment by good behaviour he could earn inter-

Section 40 a ~~complete~~ remission of 1/7th of his sentence in excess of six months, that is 1/7th of thirty

months. ^{his} ~~he would thus receive~~ ^{by} ~~the~~ ² ~~sentence~~

to two years and 1/7th months. ^{And} ~~therefore~~

under the provisions of section 42 ~~would apply~~ and he

^C ~~would be allowed out on licence~~ ^{as} ~~if~~ ^{he}

~~had~~ completed two years' imprisonment



25
to allow an appeal for
the remainder 7 ⁵/₇ the months

~~for a period of 7 5/7 the months,
of his sentence
when his total sentence would have
expired. This is the way in which~~

~~our Legal Advisers interpret the
working of the two sections, and they
consequently do not think that we have done him wrong.~~

We are sending a copy
As it is proposed to send
of the Prison Commissioners' memorandum
referred to out to the Governor of
Kenya, and if on consideration of the
points explained in this letter you
agree with the views of our Legal
Advisers, it will be necessary
for the relevant section of the
memorandum to be deleted. Would you
therefore please let me know whether
the Prison Commissioners would agree
to this?

we show the effect of the
paragraph relating to section
40 942 and to
be considered in the light
of the foregoing words
as of the interpretation

They
hope above is correct it would
appear that ^{no} ~~the~~ amount
of \$40 is necessary. If
in that case it may be thought
wise to ^{omit} ~~omit~~ the ^{relevant} ~~relevant~~ para in the
memo before it is sent
to the Governor.

I hope there is no

objection to my taking of
the Board ^{as} ~~as~~ officialy ^{acted} ~~acted~~

Yours very truly

(Signed) H. T. ALLEN

Mr Chamberlain

Please drop \$10 to Miss
Hall, Inman ~~Contra~~, ^{rewards} Mrs
Robt's Mrs's debts, Mrs
Ann's ~~...~~ ^{no 40 1912}
satisfying either if in case
by agreement with a Rev's view
the money like the ~~...~~
delete for the ~~...~~ in
sending it to Kenya.

Then please look up
the records juvenile process
what was done as regards the
\$10 comes a pp below which
raised a similar point:
also see what's said about
education in recent
trans reports

H T Allen

19/8

Mr Allen
I hope beneath. You
said that this should go
now and that afterwards
be done so into the
points which you raise
at A opposite
S. Stamboulis
21/8

A

REDUCED DIETARY SCALES IN FORCE IN PRISONS IN TROPICAL

AFRICAN DEPENDENCIES.

9a 27

TANGANYIKA

"Penal Diet"

European: 1 lb bread and 1 gallon water.
Eurasian: 1 lb bread and 1 gallon water.
Indian, Arab and Somali: 8 oz. rice and 1 gallon water.
Native: 1 lb maize and water ad lib.

UGANDA

"Penal Diet"

European: 1 lb bread and 1 gallon water.
Eurasian: 1 lb bread and 1 gallon water.
Native and Swahili: $\frac{1}{3}$ rd ordinary full diet.

NYASALAND

"Punishment Diet"

Europeans: 1 lb bread and water ad lib.
Asiatics: $\frac{1}{2}$ lb rice with $\frac{1}{2}$ oz salt and water ad lib.
Natives: Maize or other meal 1 lb or rice $\frac{1}{2}$ lb with $\frac{1}{2}$ oz. of salt and water ad lib.

ZANZIBAR

"Penal Diet"

Indian and Arabs: 8 oz. of rice and 1 gallon water.
Natives: 12 oz. Mtama and 1 gallon water.

SOMALILAND

"Punishment Diet" is provided for by sec. 75 of the Prisons Regulations but particulars of the actual diet are not given.

NIGERIA

NIGERIA

"Reduced Diet" for Native Prisoners (a) one to three days:

Rice $\frac{1}{2}$ lb or Guinea Corn $\frac{1}{2}$ lb. or Yam $1\frac{1}{2}$ lb (after peeling); Salt $1\frac{1}{2}$ drms; (b) after three days and up to six days: Rice $\frac{1}{2}$ lb or Guinea Corn $\frac{1}{2}$ lb or Yam $1\frac{1}{2}$ lb (after peeling); Palm Oil $\frac{1}{2}$ oz. Salt 3 drms; (c) after six days and up to fourteen days: (a) and (b) alternately.

If any of the articles of diet in Scales A, B and C should not be procurable, the superintendent of the prison may, with the concurrence of the medical officer, provide substitutes.

GOLD COAST

"Punishment Diet"

No.1 Kenki $1\frac{1}{2}$ lbs; salt $\frac{1}{2}$ oz.

No.2 " 1 lb; " "

SIERRA LEONE

"Low Diet"

Europeans:

2 lbs bread

Natives:

$\frac{1}{2}$ lb fofoo, or 1 lb yam
 $\frac{1}{2}$ oz. salt.

GAMBIA

"Low Diet"

Europeans

$1\frac{1}{2}$ lbs bread

Natives

$\frac{1}{2}$ lb rice; $\frac{1}{2}$ pint gruel; 2 eggs fish and oil, salt pepper and lime juice as ordered by the Medical Officer.

1. In some instances the Prisons Rules provide conditions upon which prisoners are allowed to be placed on a restricted diet e.g. in Sierra Leone the "Low Diet" may not be inflicted for a longer period than 3 days without an interval of 1 day on ordinary diet.

2. In Sierra Leone "Half Diet" is also in existence, and in the Gambia, "Reduced Diet".

PROVISIONS OF THE NEW ORDINANCE.

Section 2. There is no definition of juveniles since all references to them have been deleted from the Ordinance. No comment.

Section 15. For certain purposes prison officers shall have the powers, protections and privileges of a police officer. No comment.

Section 21. Duties of medical officers. The Home Office comment at length on this section, especially sub-Section 3. ? Draw attention to their remarks; say that while the Secretary of State realises that it is not always possible for a medical officer to attend daily, their observations will no doubt be borne in mind by the Governor.

Section 22 (5). etc. Women visiting justices may be appointed for visiting women prisoners only. They are not to have the power to summon witnesses, to administer oaths, to try prison offences or to impose punishments. No comment.

Section 28. Separation of prisoners into classes. The Home Office makes this a text for a sermon as to the treatment of juvenile offenders. In addition to their comments, see also Rule 21. ? Invite the Governor's attention to the circular of the 11th September 1930

(copy below) to which a reply is still awaited. *This deals with the whole question & pending a reply to it there is no point in taking up delay*

Section 29. This provides for prisoners being confined in irons in certain cases if necessary for safe

custody

custody, and in accordance with such rules as may be prescribed. This is a new section, but there is a reference to Section 107 of the old Ordinance which enabled the Commissioner, subject to the approval of the Governor, to direct the manner in which prisoners are to be secured.

Rule 24 (22) makes it one of the duties of the Superintendent of a prison to report to the Commissioner every occasion on which he orders a prisoner to be put into leg irons, the duration of the order, and the reason occasioning it. I think it is not necessary to comment on this provision. It seems necessary that the Superintendent of a prison should have power to put prisoners in irons if he thinks it necessary for their safe custody.

As to the 12 does not concern it

Section 32, and Section 34 to 38. Are new provisions regarding medical matters explained in the Attorney General's comments. Dr. Stanton has seen and has no comments.

Section 33. As to the removal of lunatic prisoners. The Home Office (page 3 of their Memo.) make a point as to this and it would seem that some amendment of the first line of the section is required. Perhaps it might be suggested to the Governor that it should read as follows: - "if any prisoner shall appear to be of unsound mind, etc."

Section 40 to 42. Remission of sentences and licences to be at large.

The Home Office (page 4 of the Memo.) have various comments. The Governor's attention should be drawn to them, and he should be asked to consider an amendment to meet the first point. It ^{might} be added that the other observations will ~~no doubt be borne in mind.~~ ^{be taken into consideration}

Sections 58 to 61 correspond to Sections 87 to 90 and

93 of ^{Chapter} page 37.

In Sections 58 and 59 provision for hard labour is omitted, and provision for a reduced diet is introduced. There are now to be three forms of diet, the ordinary, the reduced and the penal diet. The new scales are shown in Rule 23. See further on this point in paragraph 4 of No. 2 on 16145/30 (flagged). Unless Dr. Stanton has any comments on these scales ? no comment by the Secretary of State is required.

Dr Stanton is satisfied ✓

Section 61. This section relates to corporal punishment, a matter dealt with in Sections 89 and 94 of the old Ordinance, Chapter 37. The old Section 89 limited corporal punishment in the case of juveniles to 12 strokes with a light cane. There is no mention in the new Section 61 of ~~juveniles~~ or of persons under the age of 16 years, but no corporal punishment exceeding 12 strokes can be imposed without confirmation by the Governor ^{on} a medical certificate. The advice of the General Department is that the flogging of juveniles should definitely be limited by law to 12 strokes (see para. 2 of circular of the 13th August, 1908). Suggest an amendment, or addition to this section accordingly.

The section brief follows the Royal Com. which also contains no provision for limitation of 12 strokes in the case of juveniles 1/17/11

The words "mutiny or incitement to mutiny" disappear in this section, but the words "any act of grave misconduct or insubordination" which appear also in the present law) would seem to cover such cases. No comment

Section 64. as to the power of the Commissioner to punish offences of subordinate officers; (a), (b), (c), and proviso (b) are new, but seem unobjectionable. No comment,

Printing errors.

Three small printing errors have been noted. In Section 14 (2) the words "and" should appear before the words "an officer" in line 3. In Section 22 (3) the word "and" should appear at the end of (d) instead of at the end of (c). In Section 57 (21) the word "walls" should apparently be "wells".

The new Rules.

The Home Office make three points & I have no further comments:-

Rule 11. The Home Office (page 3 of Memo) remark on the provision that in reckoning the length of service of a subordinate officer no account shall be taken of any period of imprisonment which he himself has served. The Home Office point out that ^{in England} a prison officer who was himself imprisoned would immediately be dismissed. The provision certainly seems to be rather odd (apart from its bad English). The Governor's attention might be drawn to the point.

Rule 23. As already noted under Section 59 above, Dr. Stanton should see these dietary scales.

Rule 24 (25) The Home Office suggest that some enquiry should be made as to the educational possibilities, especially as regards the younger prisoners. ? the Governor should be asked for his comments on the point.

Rule 25 (5) The Home Office point out that similar provision in English prison rules has recently been repealed. The Governor's attention should be drawn to the point.

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Rule 25 (5) The Home Office point out that similar provision in English prison rules has recently been repealed. The Governor's attention should be drawn to the point.

Omissions from new Ordinance.

The following is a list of the sections and parts of sections of Chapter 37, which do not appear in the new Ordinance :-

Sections 5, 6, 16, 18 (paragraph 2), 28 to 40, 43, (first 3 lines), 44 (first 2 lines), 45 (2), 57, 58, 60, 66 (last 7 lines), 71 (last 4 lines), 76, 86, 90, 92, 93 (d), 94(d) and proviso (k), 95 (proviso), 96 to 100, 102, 103, 104 (first 3 lines). The majority of these omissions relate to terms of service for subordinate prison staff, which are dealt with in the Rules. Of the other Sections the following may particularly be named:-

date first 3 lines of S.104, see proviso to new S.63.

1084

Section 16, which provided that notice of the death of a prisoner must be given immediately to a medical officer, and the nearest magistrate empowered to hold an inquests. Compare, however, Rule 24 (12), which makes similar action one of the duties of the Superintendent. ? no comment.

Section 43, first part. Every prisoner, male or female, shall be searched on admission by a prison officer of his or her own sex and not in the presence of other prisoners, and all prohibited articles taken from him or her. ? Not worth commenting on. ^{u 512}

See S. 15
Kaefu

Section 48 Prisoners if sentenced to imprisonment at a station in which there is no prison shall be removed as soon as possible to a proper prison. ? Not worth commenting upon

See 213
See 213
See 213
See 213

Section 58. Cells or wards to be lighted at night and be under constant supervision. ? Not worth commenting on.

See S. 69(A)
But no rules made

Section 60. No cell shall be used for solitary confinement unless it is furnished with a means of enabling a prisoner to communicate at any time with a prison officer. ? Enquiry should be made ^{at} for the reason for omission.

See S. 69(b)
But no rules made

See 177

See Rule 25
para (b) of 90
and 95 ✓

Section 90. Solitary confinement may be combined with penal diet, but penal diet shall not be combined with hard labour. ? Enquire reason for omission.

Section 95 The following proviso is omitted :-
"Provided that nothing in this Ordinance shall be considered to exempt any prisoner from being proceeded against for any offence by the ordinary course of law, and provided that no prisoner shall be punished twice for the same offence.
? Enquire reason for omission.

h

Any communication on the subject of this letter should be addressed to—

THE UNDER SECRETARY OF STATE,
HOME OFFICE,
LONDON, S.W.1.

and the following number quoted—

582,436/2.



HOME OFFICE,
WHITEHALL.

35

RECEIVED
17 JUN 1931
COL. OF

15th June, 1931.

Sir,

I am directed by Mr. Secretary Clynes to express his regret at the delay in replying to your letters of the 6th January and 20th February last (16281/30) regarding the Kenya Prisons Ordinance of 1930 and to send you, for the information of Lord Passfield, a copy of a memorandum by the Prison Commissioners together with a specimen of the form of report referred to therein.

The copies of the Ordinances of 1914 and 1926 which you forwarded are returned herewith.

I am,

Sir,

Your obedient Servant,

A. L. Bicknell

The Under-Secretary of State,
Colonial Office.

15
12 DEC 1934
C-24
and form of report in my

56

MEMORANDUM.

The Prison Commissioners have examined the Ordinance of the 3rd September, 1930, relating to Prisons in the Colony and Protectorate of Kenya, and also the Rules made by the Governor and Council on the 28th December, 1930.

In the absence of knowledge of local circumstances, of the habits and character of the prisoners, and of the native officers and of the nature of the prisons, the Prison Commissioners feel it difficult to make useful comments on these provisions: but they submit the following remarks for the consideration of the Colonial Office.

JUVENILE PRISONERS.

The Ordinance provides in Section 28 that persons under 16 years of age shall "as far as the prison accommodation renders it practicable, be kept apart from adults". In the Kenya Prison Report for 1929 it is stated that 248 juvenile convicts passed through the prisons, that 54 were sentenced to terms of from two to five years in reformatories and were transferred to Kapete, that 41 served short sentences of imprisonment, and that 133 underwent sentences of banishment only. In this country the committal to prison of persons under 16 is, generally speaking, forbidden - the only exception being for persons between the ages of 14 - 16 if the Court certifies that the offender is of so unruly a character or so depraved a character that he cannot be safely or properly detained in a place of detention for children. The Prison Commissioners do not know whether there is in Kenya any limit of age below which children cannot be committed to prison, and unless the Colonial Office are in possession of this information they may think it desirable to enquire what is the age of the youngest persons under 16 committed to adult prisons, and why it is necessary to commit children or persons under 16 to prison for short terms.

DUTIES OF MEDICAL OFFICER.

Section 20 of the Ordinance of 1914 provided that the Medical Officer or his subordinate "shall visit the prison daily". The new Ordinance provides in Section 21(3) that the Medical Officer shall examine daily every prisoner in solitary confinement or in hospital or reported to him as being sick but it is not clear whether a daily visit is always required or whether such a visit may be premitted on any day when there are no prisoners in solitary confinement or hospital or reported as sick. Section 69 of the Ordinance says that the Governor in Council may make rules with respect to "the medical inspection of prisons" but there appear to be no provisions on this subject in the rules of 28th December, 1930; and the provisions in Section 61(4) of the Ordinance that "a sentence of corporal punishment shall not be carried out except in the presence of a medical officer or, if no such medical officer is available, of a European officer of the Colony" seem to imply that at some prisons, at any rate, the daily attendance of a medical officer is not practicable. In this country there are at many prisons part-time medical officers, but they are required to visit the prison at least once every day. It is also provided in the English Prison Rules that before a prisoner is set to any kind of labour the Medical Officer must certify his fitness for that form of labour, and the Medical Officer must also certify a prisoner's fitness for any sort of punishment or restraint.

Section 21(3) of the Ordinance provides that the medical officer shall examine daily every prisoner in solitary confinement but there appears to be no provision that a prisoner shall be examined before being subjected to dietary punishment, or seen by the medical officer while undergoing such punishment, nor that a medical officer shall see any prisoner who is in irons. (See Section 29 of the Ordinance).

Handwritten notes:
 A. B. C.
 D. E. F.
 G. H. I.
 J. K. L.
 M. N. O.
 P. Q. R.
 S. T. U.
 V. W. X.
 Y. Z.

The wording of Section 33 of the Ordinance seems to require amendment. It provides that "if any prisoner shall become or be found of unsound mind in any prison, the superintendent shall forthwith report to the medical officer." Presumably the question whether any prisoner is of unsound mind is a question for the medical officer, and the Section means that the Superintendent shall call the special attention of the medical officer to any prisoner who shows signs of being of unsound mind.

See
9/15/56/32
K...

EDUCATION.

Rule 24(25) provides that the Superintendent shall "use his best endeavours to promote the education of the prisoners"; but there is no indication of the methods by which education is to be provided or what form of education is intended. Some enquiry as to the educational possibilities - especially as regards the younger prisoners - seems desirable.

ENGAGEMENT OF SUBORDINATE OFFICERS.

In all prison administration efficiency depends largely on the character and training of the subordinate officers. The English Prison Commissioners have no knowledge of the kind of prison officer who can be recruited in Kenya, nor of the training which they undergo before taking up their duties in the prisons. They notice, however, that No. 11 of the Rules of 28th December states that in reckoning the service of any subordinate officer for purposes of discharge, there shall be excluded therefrom all periods during which he has been absent from his duties owing to "imprisonment". Does this imply that a man may continue to be a prison officer even after he has committed an offence for which he is sentenced to imprisonment? In the English Prison Service if an officer were convicted of an offence punishable by imprisonment, he would at once be dismissed from the Service.

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See
Part 5/31
Annex

REMISSION.

See
9/4/56/32
General

Section 40 of the Ordinance says that every criminal prisoner under sentence of imprisonment for 6 months or more may, after the completion of 6 months imprisonment, earn a remission of one-seventh of the remaining period. Section 42 says that the Commissioner may grant to any prisoner under sentence of imprisonment for a term of three years or upwards who has completed two-thirds of any such sentence, and has been of good behaviour while undergoing his sentence, licence to be at large. Presumably, therefore, the grant of absolute remission in Section 40 ~~is not meant to~~ apply to prisoners to whom Section 42 applies. If this is so, should not the wording of Section 40 be amended?

Section 41 says the sentence of a prisoner sentenced to imprisonment for life shall be specially considered at the end of fifteen years. It is not clear whether this Rule is to be read as applying only to persons actually sentenced by Courts to imprisonment for life, or whether it applies also to persons serving commuted death sentences. In this country there is no fixed period at which the case of a prisoner of either class is reviewed with the intention of deciding the date of release. Where the prisoner has had a life sentence passed by a Court, which very rarely happens nowadays, his case would be considered probably at 15 years and, if it were not then decided to release him, he would probably be released after 20 years. The cases of prisoners under commuted death sentences are dealt with individually on the facts of each case, the longest period of detention being usually 20 years but shorter periods being fixed for special reasons.

In both classes of cases there is provision for obtaining information every 4 years as to the convict's general condition (see specimen form for reports enclosed) and upon the receipt of such reports, as also upon the receipt of petitions, letters or

other representations, the case may of course be reviewed. The principal object of such reports, however, is to keep the Prison Authorities and the Secretary of State informed concerning convicts serving long terms whose cases and condition may not come to notice by way of petitions, letters or complaints.

CIVIL DEBTORS IN PRISON.

No.25(5) of the Rules of 28th December reproduces one of the English Prison rules which was made in 1899. This rule, however, has just been repealed, as it was considered to be impracticable and ambiguous. There is usually no opportunity in a prison of allowing a debtor to work at his own trade or profession unless his trade happens to be one of the usual prison industries. If he is employed on one of the prison industries, it is difficult to determine what are his "earnings", and it is not clear whether the words "cost of his maintenance" mean merely the cost of his food, or whether they include other items of prison expenditure.

16281/30 Kenya

5-41

C. O.

- Mr. Chamberlain *17/2*
- Mr. Allen *17/2*
- Mr.
- Mr. Tomlinson.
- Sir C. Bottomley.
- Sir J. Shuckburgh.

Ans'd to 8

C. D.	
R	18 FEB
D	19 4

20 Feb 1931

- Sir G. Grindle.
- Permt. U.S. of S.
- Parly. U.S. of S.
- Secretary of State.

DRAFT.

Le 4/3/31
H.O.

3

Extract from Gazette 20/2/31 p. 4065-81

Sir,

with reference to the letter from this Dept. of the 6th ~~Jan~~ ^{Jan 1931} in which the obsn. of the Pains Comm^{rs}. were invited on the Pains Ordinance recently passed by the Kenya Legislature, I am able to transmit to you ~~the~~ ^a copy of Rules which have been made under the Ordinance as foreshadowed in para. 3 of the despatch No. 599 of the 15th Sept. / from the Gov. of Kenya, a copy of which ~~was~~ accompanied the letter under reference.

2. Lord P. would be much obliged if the Pains Comm^{rs}. when making their obsn. on the Ordinance would also furnish any comments which they have to offer on the Rules. To despatch with regard to them has been received from the ~~Gov.~~ ^{High Comm.} of Kenya and it would be ~~observed~~ ^{concluded} that they ~~are~~ ^{have} been ~~attended~~ ^{attended} from the ~~official~~ ^{official} Secretary. I am,

GOVERNMENT NOTICE No. 742

THE PRISONS ORDINANCE, 1930.

RULES.

IN EXERCISE of the powers conferred upon him by section 69 of the Prisons Ordinance, 1930, His Excellency the Governor in Council has been pleased to make the following Rules:—

1. These Rules may be cited as "the Prisons Rules, Short title. 1930."

2. In these Rules, unless the context otherwise requires— Interpretation.
"the Commissioner" means the Commissioner of Prisons;

"the Department" means the Prisons Department;

"the Ordinance" means the Prisons Ordinance, 1930.

Enlistment, Discharge, Service and Discipline of Subordinate Officers.

3. Every subordinate officer shall be enlisted for the first term of his engagement to serve for three years, or such less period as may from time to time be fixed by the Governor, the term to be reckoned from the day on which the recruit shall have been approved for service and taken on the strength of the Department **First term of engagement.**

4. Any subordinate officer of good character who at any time has completed, or who is within three months of completing the term of his engagement, may with the approval of the Commissioner re-engage to serve for a further term of three years or less from the expiration of such term of engagement **Re-engagement and continuance in service.**

(1) Any subordinate officer of good character who has completed at least twelve years' service may, with the approval of the Commissioner re-engage for any period or periods until he shall complete a total period of twenty-one years' service reckoning from the time of his first enlistment

(2) Upon completing such period of twenty-one years' service, any subordinate officer may, if he shall so desire, and with the approval of the Commissioner continue in the Department in the same manner in all respects as if the term of his service were still unexpired except that it shall be lawful for him to claim his discharge at the expiration of any period of three months after he has given notice to the officer in charge of the prison at the place at which such subordinate officer is stationed, of his wish to be discharged

5. (1) Any Asiatic subordinate officer will be eligible for leave in accordance with Regulations from time to time laid down for the non-European staff in the service of the Colony **Conditions of leave and re-engagements.**

(2) Any African subordinate officer who, being entitled to his discharge at the end of his period of service, re-engages for further service, may, with the approval of the Commissioner be permitted to proceed on furlough for a period not exceeding one month for each year of service in respect of which no furlough shall have been granted and not exceeding in any case three months, and will receive during that period the half pay of his rank.

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(3) Upon completing such period of twenty-one years service, any subordinate officer may if he shall so desire and with the approval of the Commissioner continue in the Department in the same manner in all respects as if the term of his service were still unexpired except that it shall be lawful for him to claim his discharge at the expiration of any period of three months after he has given notice to the officer in charge of the prison at the place at which such subordinate officer is stationed, of his wish to be discharged

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copy to H.O. 20 FEB 1931

(3) If a subordinate officer offers to re-enlist within three months after having received a certificate of discharge, he shall, if the Commissioner approves of his re-enlistment, be entitled to the advantages to which he was entitled, with regard to rank, grade, or gratuity at the time of his discharge. If, however, a longer period than three months from the date of his discharge has elapsed, then it shall be discretionary with the Commissioner subject to the approval of the Governor to allow the service, or part of the service, of such person previous to the date of such re-enlistment to reckon towards gratuity; the question of the rank in which the officer may re-enlist shall be left to the discretion of the Commissioner.

(4) If any subordinate officer who has served as a subordinate officer in the similarly constituted prison department of the Uganda Protectorate or the Nyasaland Protectorate or the Tanganyika Territory or in the King's African Rifles, or the Kenya Police, is enlisted in the Department within six months of having received a certificate of discharge from the appropriate authority he shall be allowed to count his period of service in such protectorate or territory or in the King's African Rifles or the Kenya Police as the case may be as if it had been served in the Department, provided that the Governor so directs.

Declaration on enlistment.

6. Every subordinate officer enlisting as aforesaid shall, previous to his being approved, make the following declaration by oath in his native language in such manner as he may declare to be most binding on his conscience:—

"I, A. B., do most solemnly and sincerely declare and promise that I will be faithful and bear true allegiance to His Majesty King George V, his heirs and successors, for a period of three years and for such other period or periods as I may re-engage to serve, and will obey all orders of the Governor and of the officers placed over me, and subject myself to all Ordinances, rules and regulations relating to the prison service now in force, or which may from time to time be in force, within the said period or periods. And I hereby declare that I have not at any time served in any capacity in any of His Majesty's forces or prison services."

.....
(Signature or mark of recruit.)

Declared at this day of 19...

Before me

.....
(Signature of Superintendent of Prison.)

The declaration by oath shall be made before a superintendent and be signed or marked by the recruit and shall be preserved as part of the enlistment papers of such recruit.

Prolongation of service in case of war, etc.

7. Any prison officer whose period of service expires during a state of war, insurrection or hostilities, may be detained and his service prolonged for such further period, not exceeding twelve months, as the Governor may direct.

Discharge on completion of service

8. Subject to the provisions of Rule 4 (3) and of the last preceding Rule, every subordinate officer who has completed his period or periods of engagement of service, shall be discharged by the officer in charge of the prison at the place at which such subordinate officer is stationed, unless at the

*In a case where a man has served as mentioned and is nevertheless enrolled, this paragraph to be deleted.

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expiration of any period he is undergoing punishment for, or stands charged with, the commission of any offence, and in case he is undergoing such punishment, or is charged with any such offence, his service may be prolonged and his discharge deferred until such punishment shall have terminated, or until he has undergone his trial and any punishment awarded in respect of the offence with which he is charged.

9. Every subordinate officer until he has received a certificate of discharge shall remain subject to all the provisions of the Ordinance and to all the Rules and Regulations made in pursuance thereof.

Subordinate officers subject to all regulations until formal discharge.

10. Any subordinate officer may be discharged by a superintendent, subject to confirmation by the Commissioner at any time during the currency of any term of engagement.

Discharge when unfit for service or on being dismissed or on purchase of discharge.

- When pronounced by a medical officer mentally or physically unfit for further service.
- When sentenced to be dismissed from the prison service for misconduct.
- If the superintendent shall consider that he is unlikely to become an efficient officer.
- On reduction of establishment.
- On purchase of a discharge at the following rates:

Asiatics		Africans		
£	s	£		
6	0	4		during the first year of service.
4	10	3		during the second year of service.
3	0	2		during the third or any subsequent year of service.

and on refunding the whole or such portion of the cost, if any, incurred by the Government in bringing such subordinate officer to the Colony as the Commissioner shall determine.

11. In reckoning the service of any subordinate officer for purposes of discharge, either in the case of limited engagement, or for the total period of twenty-one years' service, there shall be excluded therefrom all periods during which he has been absent from his duty for any of the following causes—

Rules for reckoning service for purposes of discharge.

- Imprisonment for any cause save that of detention awaiting any trial which results in the acquittal or discharge of the prisoner.
- Desertion for any period.
- Absence without leave exceeding forty-eight hours.

English

12. (1) Gratuities at the following rates, in lieu of pension shall be granted to subordinate officers on discharge after a continuous good service extending to a period of twelve years viz—

Gratuities on discharge.

	£	s
Chief warders	25	00
Bergeant warders	10	00
Corporal warders	7	00
Lance-corporal warders and warders	5	00
Female warders	5	00

and at the following rates after total continuous good service extending to twenty-one years, viz. :-

	£	s.
Chief warders	40	00
Sergeant warders	15	00
Corporal warders	9	10
Lance-corporal warders and warders	7	10
Female warders	7	10

For the purposes of this Rule, the service of a subordinate officer who has enlisted under Rules (4) or (5) respectively shall, subject to the provisions of such Rules, be deemed to be continuous.

(2) No increased rates of gratuities shall be paid in respect of any period of service in excess of a total service of twenty-one years and no subordinate officer, who has received a gratuity on discharge after twelve years' service shall, in the event of his afterwards enlisting, receive in respect of his service after such re-enlistment any higher gratuity, than may, together with such first gratuity, be equal to the gratuity which he would have earned by continuous service for twenty-one years.

(3) When any subordinate officer is discharged as medically unfit for further service or on account of reduction of establishment, before completing such continuous service of twelve years or twenty-one years as aforesaid, he may receive such proportion of the gratuity which he would have if he had completed the period of service he is then passing through as the Commissioner may in his discretion determine and, in the event of the death of a subordinate officer, before receipt by him of such gratuity, it shall be lawful for the Governor to direct and cause the amount thereof to be paid to or for the benefit of the widow or widows, or child or children or to any next of kin of the subordinate officer so dying, on such conditions, and if to or for the benefit of more than one person, in such proportions as the Governor shall deem fit.

(4) Any gratuity which would have been due and payable to any subordinate officer had he taken his discharge under the provisions of these Rules shall, in the event of his re-engaging for a further term and dying in the service before completion of such term, be deemed for the purposes of these Rules to be his personal property in the charge of the Treasurer and shall be paid out and distributed by the Treasurer or such other person as he may appoint in accordance with the provisions of these Rules.

(5) Whenever any subordinate officer ceases to belong to the prison service, all powers and authorities vested in him shall immediately cease and determine, and he shall, before a certificate of discharge is delivered to him, deliver over his arms, ammunition, accoutrements, uniform, and other appointments which are the property of the Government, to such person at such time and place as shall be directed by the superintendent or officer in charge of the prison at which such subordinate officer is stationed at the time of ceasing to belong to the prison service.

(6) All articles of clothing, accoutrements, appointments, and other necessaries which shall have been supplied to any subordinate officer for the execution of his duty are the property of the Government, and shall be returned by such subordinate officer on his discharge.

Disposal of gratuity on death during service.

Consequence of discharge or dismissal.

Articles of clothing, etc. are the property of Government.

16. No pay shall accrue or become due to any subordinate officer in respect of any period during which he is undergoing any sentence of imprisonment or is detained in a prison guard room or cell awaiting any trial which results in his conviction either for any offence against discipline or for any other crime.

Pay not to accrue during imprisonment under sentence.

17. If any prison officer thinks himself wronged in any matter by any other prison officer, he may complain thereof to the Commissioner through his superior officer, and if he thinks himself wronged by the Commissioner either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the Governor, and the Commissioner or the Governor upon any complaint being made in pursuance of this Rule shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of.

Mode of complaint by a prison officer.

18. (1) All fines imposed under the Ordinance by a prison officer upon a subordinate officer for offences under the Ordinance or any Rules thereunder shall be recovered by stoppages from the offender's pay due at the time of committing such offence, or thereafter accruing due, and not from any other source or in any other manner.

Fines to be recovered by stoppages.

(2) The amount of stoppages shall be in the discretion of the officer authorised to impose fines but shall in no case exceed one-half of the daily pay of the offender, and whenever more than one order of stoppage is enforced for any cause against the same person, so much only of his pay shall be stopped as shall leave him a residue of at least one-half of his daily pay.

(3) When more than one order of stoppage is made upon the same person, the enforcement of the later order or orders shall, if necessary, be postponed until the earlier orders are discharged.

(4) All fines imposed under the Ordinance by a prison officer and all stoppages of pay and the proceeds of sale of any prohibited article seized including money at any prison shall be paid over to the Treasurer to be placed to the credit of a fund to be styled the Prison Rewards and Fines Fund.

Disposal of fines.

(5) No payment shall be made from the Prison Rewards and Fines Fund except upon the authority of the Treasurer.

(6) The Treasurer may, on the recommendation of the Commissioner, sanction payments from the Prison Rewards and Fines Fund for any of the following purposes, that is to say:-

- Assistance to the wives or families of a deceased subordinate officer or to a subordinate officer discharged as an invalid, who may be in immediate want.
- Payment to a subordinate officer as rewards for special services when such payments cannot otherwise be met out of the funds of the Colony.
- Replacing property in respect of which stoppages have been credited to the fund.
- Such other purpose as may from time to time be approved by the Treasurer.

(7) Annual statements of receipts and expenditure on account of the Prison Rewards and Fines Fund shall be rendered by the Commissioner to the Treasurer.

and at the following rates after total continuous good service extending to twenty-one years, viz. :-

	£	s.
Chief warders	40	00
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For the purposes of this Rule, the service of a subordinate officer who has enlisted under Rules (4) or (5) respectively shall, subject to the provisions of such Rules, be deemed to be continuous.

(2) No increased rates of gratuities shall be paid in respect of any period of service in excess of a total service of twenty-one years and no subordinate officer, who has received a gratuity on discharge after twelve years' service shall, in the event of his afterwards enlisting, receive in respect of his service after such re-enlistment any higher gratuity, than may, together with such first gratuity, be equal to the gratuity which he would have earned by continuous service for twenty-one years.

(3) When any subordinate officer is discharged as medically unfit for further service or on account of reduction of establishment, before completing such continuous service of twelve years or twenty-one years as aforesaid, he may receive such proportion of the gratuity which he would have if he had completed the period of service he is then passing through as the Commissioner may in his discretion determine and, in the event of the death of a subordinate officer, before receipt by him of such gratuity, it shall be lawful for the Governor to direct and cause the amount thereof to be paid to or for the benefit of the widow or widows, or child or children or to any next of kin of the subordinate officer so dying, on such conditions, and if to or for the benefit of more than one person, in such proportions as the Governor shall deem fit.

13. Any gratuity which would have been due and payable to any subordinate officer had he taken his discharge under the provisions of these Rules shall, in the event of his re-engaging for a further term and dying in the service before completion of such term, be deemed for the purposes of these Rules to be his personal property in the charge of the Treasurer and shall be paid out and distributed by the Treasurer or such other person as he may appoint in accordance with the provisions of these Rules.

14. Whenever any subordinate officer ceases to belong to the prison service, all powers and authorities vested in him shall immediately cease and determine, and he shall, before a certificate of discharge is delivered to him, deliver over his arms, ammunition, accoutrements, uniform, and other appointments which are the property of the Government, to such person at such time and place as shall be directed by the superintendent or officer in charge of the prison at which such subordinate officer is stationed at the time of ceasing to belong to the prison service.

15. All articles of clothing, accoutrements, appointments, and other necessaries which shall have been supplied to any subordinate officer for the execution of his duty are the property of the Government, and shall be returned by such subordinate officer on his discharge.

16. No pay shall accrue or become due to any subordinate officer in respect of any period during which he is undergoing any sentence of imprisonment or is detained in a prison guard room or cell awaiting any trial which results in his conviction either for any offence against discipline or for any other crime.

Pay not to accrue during imprisonment under sentence

17. If any prison officer thinks himself wronged in any matter by any other prison officer, he may complain thereof to the Commissioner through his superior officer, and if he thinks himself wronged by the Commissioner either in respect of his complaint not being redressed or in respect of any other matter, he may complain thereof to the Governor and the Commissioner or the Governor upon any complaint being made in pursuance of this Rule shall cause such complaint to be inquired into, and shall, if on inquiry he is satisfied of the justice of the complaint so made, take such steps as may be necessary for giving full redress to the complainant in respect of the matter complained of.

Mode of complaint by a prison officer

18. (1) All fines imposed under the Ordinance by a prison officer upon a subordinate officer for offences under the Ordinance or any Rules thereunder shall be recovered by stoppages from the offender's pay due at the time of committing such offence or thereafter accruing due and not from any other source or in any other manner.

Fines to be recovered by stoppages

(2) The amount of stoppages shall be in the discretion of the officer authorised to impose fines but shall not exceed one-half of the daily pay of the offender and when ever more than one order of stoppage is enforced for any cause against the same person, only one of the pay shall be stopped as shall leave him a residue of at least one-third of his daily pay.

(3) When more than one order of stoppage is made upon the same person the enforcement of the later order or orders shall, if necessary, be postponed until the earlier orders are discharged.

19. (1) All fines imposed under the Ordinance by a prison officer and all stoppages of pay and the proceeds of sale of any prohibited article seized including money at any prison shall be paid over to the Treasurer to be placed to the credit of a fund to be styled the Prison Rewards and Fines Fund.

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Disposal of gratuity on death during service.

Consequence of discharge or dismissal.

Articles of clothing, etc are the property of Government.

Classification of Prisons into Grades.

20. Prisons within the Colony are hereby classified into the following grades :—

- (a) First Class Prisons—for detention of all prisoners.—The prisons at Nairobi, Mombasa and Kisumu.
- (b) Second Class Prisons—for detention of medium term and short term prisoners.—The prisons at Eldoret, Nakuru and Nyeri.
- (c) Third Class Prisons—for detention of short term prisoners.—The prisons at Eldama Ravine, Embu, Fort Hall, Kakamega, Kapenguria, Kapsabet, Kericho, Kiambu, Kilifi, Kipini, Kisii, Kitale, Kitui, Kwale, Lamu, Machakos, Malindi, Meru, Naivasha, Narok, Rumuruti, Thika and Voi.

Classification of Prisoners.

21. In addition to the various classes of prisoners set forth in section 28 of the Ordinance, the following divisions shall be made, viz. :—

- A. Long Term Prisoners.—Sentenced to 3 years or more.
- B. Medium Term Prisoners.—Sentenced to over 6 months and less than three years.
- C. Short Term Prisoners.—Sentenced to 6 months or less.

Each of these three classes will be sub-divided as follows :—

First Offender.

Recidivist, i.e. a prisoner who has been awarded more than one sentence exceeding six months.

And again into :—

Adults—21 years of age or over.

Young Prisoners.—From 16 to 21 years of age.

Juveniles.—Under 16 years of age.

As far as the accommodation of the prison permits, these various classes and divisions of prisoners should be kept separate, and should wear distinguishing marks on their prison clothing.

Prison Management.

22. The following Rules shall apply to the management of prisons within the Colony :—

- (1) Prisons throughout the Colony shall be unlocked at 5.30 a.m. each morning, provided that in prisons situated in the highlands the hour for unlocking shall be 6 a.m.
- (2) After the morning meal, labour gangs will be formed and distributed for work.
- (3) Gangs employed on labour outside the prison should depart at 6.30 a.m., and if working at a greater distance than half-mile from the prison their midday meal must be sent to them.

Unlocked

Labour distribution

In prisons unlocked at 6 a.m. outside gangs need not depart till 7 a.m.

- (4) There will be one hour's rest from 12 noon till 1 p.m. Midday meal when the midday meal should be served.
 - (5) At 4 p.m. work inside the prison should cease. Outside gangs should cease work in time for them to return to the prison by 4 p.m. Hour when work ceases.
 - (6) Where bathing facilities exist the prisoners should bathe daily after work and before the evening meal is served. Bathing.
 - (7) At 5 p.m. the evening meal shall be served, and at 6 p.m. after roll-call at which an assistant superintendent or chief officer or in third class prisons the head warden should be present, the prisoners will be locked up for the night in their respective cells or wards. Evening meal and lock up.
 - (8) Prisoners working outside the prison are not to be employed at a distance more remote from it than three miles. Outgangs.
 - (9) In inclement and wet weather prisoners will not be sent to work outside, but if the weather clears up before noon they may be despatched as usual.
 - (10) No warden should be given charge of more than five prisoners as an isolated working party outside the prison. When prisoners are working in gangs of more than five prisoners the proportion of wardens to prisoners shall be at the discretion of the superintendent. Escort for outgangs.
 - (11) On Saturdays, prison labour shall cease at 12 noon, and on Saturday afternoons or on Sundays the prisoners should be weighed and have clean clothing or underclothing supplied to them. Weighing of prisoners.
 - (12) Each prisoner's weight should be entered in his record sheet, and should any serious falling off in weight be observed the attention of the medical officer should be directed to it.
 - (13) On Saturday afternoons any prisoner requiring it should have his head shaved or hair cut. Haircutting.
 - (14) All wards and cells shall be disinfected, and cleaned every morning, the walls and ceilings swept, and where necessary whitewashed, and thorough ventilation should be effected by leaving the doors open where possible. The night soil buckets should be removed and emptied every morning after the gangs have been distributed. They should be in the open during the day, and replaced in the afternoon in a clean condition. Clean drinking water in buckets should also be placed in each association ward before lock up. Sanitation.
- In fine weather the sleeping mats and blankets of the native prisoners should be placed in the sun, and aired every morning for some hours, and after being well shaken they should be neatly folded and returned to the cells or wards before noon. The bedding of European prisoners should also be regularly aired, in such manner as the superintendent may direct.

Classification of Prisons into Grades.

20. Prisons within the Colony are hereby classified into the following grades:—

- (a) First Class Prisons—for detention of all prisoners.—The prisons at Nairobi, Mombasa and Kisumu.
- (b) Second Class Prisons—for detention of medium term and short term prisoners.—The prisons at Eldoret, Nakuru and Nyeri.
- (c) Third Class Prisons—for detention of short term prisoners.—The prisons at Eldama Ravine, Embu, Fort Hall, Kakamega, Kapanguria, Kapsabet, Kericho, Kiambu, Kilti, Kipini, Kisii, Kitale, Kitui, Kwale, Lamu, Machakos, Malindi, Meru, Naivasha, Narok, Rumuruti, Thika and Voi.

Classification of Prisoners.

21. In addition to the various classes of prisoners set forth in section 28 of the Ordinance, the following divisions shall be made, viz.:—

- A. Long Term Prisoners.—Sentenced to 3 years or more.
- B. Medium Term Prisoners.—Sentenced to over 6 months and less than three years.
- C. Short Term Prisoners.—Sentenced to 6 months or less.

Each of these three classes will be sub-divided as follows:—

First Offender.

Recidivist, i.e. a prisoner who has been awarded more than one sentence exceeding six months.

And again into:—

Adults.—21 years of age or over.

Young Prisoners.—From 16 to 21 years of age.

Juveniles.—Under 16 years of age.

As far as the accommodation of the prison permits, these various classes and divisions of prisoners should be kept separate, and should wear distinguishing marks on their prison clothing.

Prison Management.

22. The following Rules shall apply to the management of prisons within the Colony:—

Unlock

- (1) Prisons throughout the Colony shall be unlocked at 5.30 a.m. each morning, provided that in prisons situated in the highlands the hour for unlocking shall be 6 a.m.

Labour distribution

- (2) After the morning meal, labour gangs will be formed and distributed for work.
- (3) Gangs employed on labour outside the prison should depart at 6.30 a.m., and if working at a greater distance than half-mile from the prison their midday meal must be sent to them.

In prisons unlocked at 6 a.m. outside gangs need not depart till 7 a.m.

- (4) There will be one hour's rest from 12 noon till 1 p.m. Midday meal. when the midday meal should be served.
- (5) At 4 p.m. work inside the prison should cease. Outside gangs should cease work in time for them to return to the prison by 4 p.m. Hour when work ceases.
- (6) Where bathing facilities exist the prisoners should bathe daily after work and before the evening meal is served. Bathing.
- (7) At 5 p.m. the evening meal shall be served, and at 6 p.m. after roll-call at which an assistant superintendent or chief officer or in third class prisons the head warder should be present, the prisoners will be locked up for the night in their respective cells or wards. Evening meal and lock up.
- (8) Prisoners working outside the prison are not to be employed at a distance more remote from it than three miles. Outgangs.
- (9) In inclement and wet weather prisoners will not be sent to work outside, but if the weather clears up before noon they may be despatched as usual.
- (10) No warder should be given charge of more than five prisoners as an isolated working party outside the prison. When prisoners are working in gangs of more than five prisoners the proportion of warders to prisoners shall be at the discretion of the superintendent. Escort for outgangs.
- (11) On Saturdays, prison labour shall cease at 12 noon, and on Saturday afternoons or on Sundays the prisoners should be weighed and have clean clothing or underclothing supplied to them. Weighing of prisoners.
- (12) Each prisoner's weight should be entered in his record sheet, and should any serious falling off in weight be observed the attention of the medical officer should be directed to it.
- (13) On Saturday afternoons any prisoner requiring it should have his head shaved or hair cut. Haircutting.
- (14) All wards and cells shall be disinfected, and cleaned every morning, the walls and ceilings swept, and where necessary whitewashed, and thorough ventilation should be effected by leaving the doors open where possible. The night soil buckets should be removed and emptied every morning after the gangs have been distributed. They should be in the open during the day, and replaced in the afternoon in a clean condition. Clean drinking water in buckets should also be placed in each association ward before lock up. Sanitation.

In fine weather the sleeping mats and blankets of the native prisoners should be placed in the sun, and aired every morning for some hours, and after being well shaken they should be neatly folded and returned to the cells or wards before noon. The bedding of European prisoners should also be regularly aired, in such manner as the superintendent may direct.

Prison clothing.

(15) Every convicted prisoner on admission to prison will be provided with the prescribed prison dress and bedding, and will be required to wear the prison dress until the expiry of his sentence.

Personal clothing

(16) On discharge of a prisoner his own clothing will be returned to him unless it has been found necessary to destroy it in which case he will be provided with clothing prior to his release.

Sentence labels

(17) Convicted prisoners will wear a label on the left breast of their jackets showing their registered number, date of admission and date of expiry of sentence; and care must be taken to see that these figures are kept in a legible condition.

Exercise

(18) Prisoners employed on sedentary work such as tailoring or matmaking and prisoners confined in punishment cells or under sentence of death shall be permitted to take exercise in the open air daily for an hour.

Days of rest

(19) Unless under exceptional circumstances, which should be reported to the Commissioner, Sundays and all public holidays should be observed as days of rest. On such days facilities should be afforded to prisoners for taking exercise and for washing.

Prison Dietary Scales.

The following scales of diet shall apply to prisons within the Colony—

EUROPEAN.

A		B	
6 a.m.			
Wheaten, Indian, or Oat meal	4 oz.	Wheaten, Indian, or Oat meal (made into Porridge)	6 oz.
Salt	1 "	Salt	1 "
Sugar	1 "	Sugar	1 "
Fresh Milk	1 pint	Fresh Milk	1 pint
12 Noon.			
Meat (fresh)	4 oz.	Meat (fresh)	6 oz.
Potatoes	4 "	Potatoes	4 "
Vegetables	4 "	Vegetables	4 "
Bread	8 "	Bread	8 "
Butter	1 "	Butter	1 "
Salt	1 "	Salt	1 "
6 p.m.			
Meat (fresh)	4 oz.	Meat (fresh)	6 oz.
Potatoes	4 "	Potatoes	4 "
Vegetables	4 "	Vegetables	4 "
Bread	8 "	Bread	8 "
Butter	1 "	Butter	1 "
Salt	1 "	Salt	1 "

NOTE.—Vegetables to consist of either cabbages, cauliflowers, onions, parsnips, carrots, peas, beans or turnips.

Fresh meat to consist of beef or mutton and to be free of bone. A daily ration of $\frac{1}{2}$ oz. tea and 2 oz. sugar to be taken with either the morning or evening meal, will also be issued to all prisoners not undergoing disciplinary punishment.

(A) diet to be given to short term prisoners, women and juveniles.

(B) diet to be given to medium term and long term prisoners, male remands and civil prisoners who are rationed by the Department.

Penal diet: 1 lb. bread and one gallon water daily.

EUROPEAN.			
(A)		(B)	
6 a.m.			
Bread	8 oz.	Bread	8 oz.
Tea	1 "	Tea	1 "
Sugar	1 "	Sugar	1 "
Milk	1 pint	Milk	1 pint
12 Noon.			
Rice	8 oz.	Rice	10 oz.
Beans or Peas	4 "	Beans or Peas	4 "
Ghee	1 "	Ghee	1 "
Onions	1 "	Onions	1 "
Salt	1 "	Salt	1 "
6 p.m.			
Bread	4 oz.	Bread	8 oz.
Potatoes	4 "	Potatoes	4 "
Other vegetables	4 "	Other vegetables	4 "
Fresh meat	4 "	Fresh meat	6 "
Salt	1 "	Salt	1 "

NOTE.—Vegetables and fresh meat to be as defined under European scale.

(A) diet to be given to short term male prisoners, women and juveniles.

(B) diet to be given to medium term and long term male prisoners, male remands and civil prisoners who are rationed by the Department.

Penal diet: 1 lb. bread and 1 gallon water.

If in the opinion of the superintendent a Eurasian prisoner is in ordinary life accustomed to a European scale of living the superintendent may place him on the European dietary scale.

INDIAN, ARAB AND SOMALI.

(A)		(B)		
Wheat flour	16 oz.	Monday	Wheat flour	16 oz.
Beans	8 "	Wednesday	Beans	8 "
Ghee	1 "	Friday	Ghee	1 "
Salt	1 "	Saturday	Salt	1 "
Rice (Halwa)	1 lb.	Tuesday	Rice (Halwa)	1 lb.
Salt	1 "	Thursday	Salt	1 "
Ghee	1 "	Sunday	Ghee	1 "
Potatoes	12 "		Potatoes	12 "
Onions	1 "		Onions	1 "

(A) diet to be issued to short term male prisoners, women and juveniles.

(B) diet to be issued to medium term and long term male prisoners, male remands and civil prisoners who are rationed by the Department.

Penal diet: 8 oz. rice and 1 gallon water.

In lieu of ghee, on Tuesdays, Thursdays, and Sundays a ration of 4 oz. fresh meat (beef, mutton, camel or goat) may be issued instead to long term prisoners and those rationed on B scale.

In prisons situated on the coast 4 oz. salt fish or 8 oz. fresh fish may be substituted instead of a meat ration on one day in the week.

Prison clothing

(15) Every convicted prisoner on admission to prison will be provided with the prescribed prison dress and bedding, and will be required to wear the prison dress until the expiry of his sentence.

Personal clothing

(16) On discharge of a prisoner his own clothing will be returned to him unless it has been found necessary to destroy it in which case he will be provided with clothing prior to his release.

Sentence labels

(17) Convicted prisoners will wear a label on the left breast of their jackets showing their registered number, date of admission and date of expiry of sentence; and care must be taken to see that these figures are kept in a legible condition.

Exercise

(18) Prisoners employed on sedentary work such as tailoring or matmaking and prisoners confined in punishment cells or under sentence of death shall be permitted to take exercise in the open air daily for an hour.

Days of rest

(19) Unless under exceptional circumstances, which should be reported to the Commissioner, Sundays and all public holidays should be observed as days of rest. On such days facilities should be afforded to prisoners for taking exercise and for washing.

Prison Dietary Scales.

The following scales of diet shall apply to prisons within the Colony—

EUROPEAN.	
(A)	(B)
Wheaten, Indian, or Oat meal made into Porridge	Wheaten, Indian, or Oat meal (made into Porridge)
4 oz.	6 oz.
Salt	Salt
1 "	1 "
Sugar	Sugar
1 "	1 "
Fresh Milk	Fresh Milk
1 pint	1 pint
12 Noon.	
Meat (fresh)	Meat (fresh)
4 oz.	6 oz.
Potatoes	Potatoes
4 "	4 "
Vegetables	Vegetables
4 "	4 "
Bread	Bread
8 "	8 "
Butter	Butter
1 "	1 "
Salt	Salt
1 "	1 "
6 p.m.	
Meat (fresh)	Meat (fresh)
4 oz.	6 oz.
Potatoes	Potatoes
4 "	4 "
Vegetables	Vegetables
4 "	4 "
Bread	Bread
8 "	8 "
Butter	Butter
1 "	1 "
Salt	Salt
1 "	1 "

NOTE.—Vegetables to consist of either cabbages, cauliflowers, onions, parsnips, carrots, peas, beans or turnips.

Fresh meat to consist of beef or mutton and to be free from bone. A daily ration of $\frac{1}{2}$ oz. tea and 2 oz. sugar to be taken, with either the morning or evening meal, will also be issued to all prisoners not undergoing disciplinary punishment.

(A) diet to be given to short term prisoners, women and juveniles.

(B) diet to be given to medium term and long term prisoners, male remands and civil prisoners who are rationed by the Department.

Penal diet: 1 lb. bread and one gallon water daily.

EUROPEAN.	
(A)	(B)
Bread	Bread
8 oz.	8 oz.
Tea	Tea
$\frac{1}{2}$ "	$\frac{1}{2}$ "
Sugar	Sugar
1 "	1 "
Milk	Milk
$\frac{1}{2}$ pint	$\frac{1}{2}$ pint
12 Noon.	
Rice	Rice
8 oz.	10 oz.
Beans or Peas	Beans or Peas
4 "	4 "
Ghee	Ghee
1 "	1 "
Onions	Onions
$\frac{1}{2}$ "	$\frac{1}{2}$ "
Salt	Salt
$\frac{1}{2}$ "	$\frac{1}{2}$ "
6 p.m.	
Bread	Bread
4 oz.	8 oz.
Potatoes	Potatoes
4 "	4 "
Other vegetables	Other vegetables
4 "	6 "
Fresh meat	Fresh meat
4 "	$\frac{1}{2}$ "
Salt	Salt
$\frac{1}{2}$ "	$\frac{1}{2}$ "

NOTE.—Vegetables and fresh meat to be as defined under European scale.

(A) diet to be given to short term male prisoners, women and juveniles.

(B) diet to be given to medium term and long term male prisoners, male remands and civil prisoners who are rationed by the Department.

Penal diet: 1 lb. bread and 1 gallon water.

If in the opinion of the superintendent a Eurasian prisoner is in ordinary life accustomed to a European scale of living the superintendent may place him on the European dietary scale.

INDIAN, ARAB AND SOMALI.			
(A)		(B)	
Wheat flour	16 oz.	Monday	Wheat flour
Beans	8 "	Wednesday	Beans
Ghee	1 "	Friday	Ghee
Salt	$\frac{1}{2}$ "	Saturday	Salt
Rice (Halwa)	1 lb.	Tuesday	Rice (Halwa)
Salt	$\frac{1}{2}$ oz.	Thursday	Salt
Ghee	1 "	Sunday	Ghee
Potatoes	12 "		Potatoes
Onions	1 "		Onions

(A) diet to be issued to short term male prisoners, women and juveniles.

(B) diet to be issued to medium term and long term male prisoners, male remands and civil prisoners who are rationed by the Department.

Penal diet: 3 oz. rice and 1 gallon water.

In lieu of ghee, on Tuesdays, Thursdays, and Sundays a ration of 4 oz. fresh meat (beef, mutton, camel or goat) may be issued instead to long term prisoners and those rationed on B scale.

In prisons situated on the coast 4 oz. salt fish or 8 oz. fresh fish may be substituted instead of a meat ration on one day in the week.

NATIVE.

A.—Diet to be issued to all medium term and long term prisoners and civil prisoners rationed by the Department :—

Maize (whole), 20 oz. per diem. Maize flour, 4 oz. per diem.

Beans, 6 oz. per diem.

Potatoes, 8 oz. per diem.

Salt, $\frac{1}{4}$ oz. per diem.

Meat, 8 oz. on Tuesday, Thursday and Saturday.

Ghee, 1 oz. on Sunday, Monday, Wednesday and Friday.

Lemons, 2 per week, $\frac{1}{2}$ lemon to be issued Sunday, Monday, Wednesday and Friday.

B.—Diet to be issued to all short term prisoners and remand prisoners :—

Maize (whole), $1\frac{1}{2}$ lb. per diem. Maize flour, 4 oz. per diem.

Beans, 5 oz. per diem.

Ghee, $\frac{1}{2}$ oz. per diem.

Salt, $\frac{1}{4}$ oz. per diem.

Lemons, 2 per week, $\frac{1}{2}$ lemon to be issued Sunday, Tuesday, Thursday and Saturday.

C.—Reduced diet :—

Maize, $1\frac{1}{2}$ lb. per diem.

Beans, 4 oz. per diem.

Ghee, $\frac{1}{4}$ oz. per diem.

D.—Penal diet :—

Maize, 1 lb. and water *ad lib.*

Notes :—

(1) A ration of 8 oz. fresh fish may be issued in lieu of meat.

(2) Equivalents of potatoes : Muhogo, bananas or sugarcane in equal weights.

(3) If lemons are not procurable an issue of 8 oz. green vegetables to be made in lieu of half a lemon. If neither lemons nor green vegetables are procurable, the issue of beans shall be germinated beans, i.e. beans which have been allowed to soak from 24 to 48 hours. Germinated beans must not be soaked for a longer time than is necessary to render them soft.

General Rules relating to Diet.

(1) The food supplied must be wholesome in quality, and prepared and cooked in a cleanly and appetising manner.

(2) The quality and quantity of the rations shall be tested daily by the assistant superintendent, and as often as possible by the superintendent of the prison, the medical officer in charge or the medical subordinate.

The quantities specified in the dietary scales, refer to the weight of the articles in an uncooked state, and a prisoner shall be allowed if he so desires to see his ration weighed.

(3) In no case must hard work and penal diet be combined and in all cases food must be partaken of before the day's work begins. The daily ration must be divided into three meals to be served at regular hours each day.

(5) The use of imported food such as rice should be limited to prisoners who are not natives of the Colony. Its use for natives is deprecated, and with the variety of equivalents now given should scarcely ever be necessary.

(6) The dietary scales now laid down are not to be altered except with the consent of the Commissioner of Prisons, but in the case of an individual prisoner the dietary prescribed may be increased, reduced or otherwise varied, by the superintendent on the recommendation of the medical officer, whenever that officer considers it advisable or necessary in the interests of the prisoner's health. All such alterations must be entered daily in the hospital diet sheet of the prison.

Duties and Responsibilities of Superintendent.

24. The superintendent shall—

(1) Visit and inspect daily all wards, cells, yards, workshops, kitchens and divisions of the prison and every cell or other place in which any prisoner is undergoing punishment or special discipline or charged with any offence and, as far as practicable, shall see every prisoner every day. He shall visit daily all prisoners while employed at labour. In default of such daily visits and inspections he shall record in his journal how far he has omitted them and the cause of such omission.

(2) Take every precaution to prevent the escape of prisoners and shall take care that all officers under his control are well acquainted with their duties in this respect and vigilant in performing them.

(3) Require reports to be made to him accounting for all prisoners in his custody at the closing and opening of the prison, at such hours as they go to or return from labour and at such other times as may be necessary.

(4) Assure himself that the prison is unlocked and locked up at the prescribed times and that prisoners go to and return from their work in an orderly manner under proper escort.

(5) Arrange proper employment for the prisoners and shall see that no prisoner transfers from one party to another without his authority and that the labour on which prisoners are employed is properly entered in the record of each prisoner and that the entry in the record is amended whenever a prisoner's labour is altered.

(6) At least once a week go through every part of the prison at an uncertain hour of the night between the hours of 11 p.m. and 5 a.m., which visits he shall record in his journal stating the hour and the condition of the prison.

(7) See all prisoners newly admitted daily and shall satisfy himself that the prisoners admitted are the persons named in the committal warrants.

(8) Without delay call the attention of the medical officer to any prisoner whose state of mind or body appears to require attention and shall carry into effect the written directions of the medical officer respecting alterations in the discipline, treatment, diet or labour of such prisoner.

(9) Daily supply the medical officer with a list of prisoners under punishment for prison offences.

(10) Without delay, notify the medical officer of the illness of any officer or prisoner in writing and shall supply him daily with a list of the prisoners reported sick.

(11) Visit the prison hospital daily and see all prisoners therein and shall see that proper arrangements exist for the safe custody of the sick prisoners and prisoners employed on hospital duties.

(12) Upon the death of a prisoner, immediately give notice in writing to the Commissioner, to the nearest magistrate empowered to hold inquests, to the District Commissioner and to the Chief Registrar of Natives in the case of registered natives.

(13) Report to the Commissioner in respect of any inquest on a prisoner, the finding and other circumstances which may occur at the inquest.

(14) Enter in a book, called "The Superintendent's Order Book," all his orders relative to the arrangement and discipline of the prison and shall cause such orders to be communicated to the officers concerned.

(15) Hear reports daily at such hour as may be most convenient.

(16) Ensure that any prisoner having a complaint to make or request to prefer to him shall have ample facilities for doing so, and he shall redress any legitimate grievance or take such steps as may seem necessary. All such requests or complaints shall be entered in the prisoner's record together with the superintendent's decision in each case.

(17) Forward to the Commissioner without delay any report or complaint which any officer of the prison wishes to refer to the Commissioner and shall on no account suppress it. He may, however, offer any explanation with it which he may desire to make.

(18) Forward to the Commissioner any report or complaint against an officer with which he is not competent to deal, but in every case the officer shall be permitted to see the charge against him, and the reply to it for the information of the Commissioner.

(19) Inform the visiting justices of any prisoner who expresses a desire to see them.

(20) Ensure that every prisoner under punishment for a prison offence is visited during the day at intervals of not more than three hours by a prison officer.

(21) Attend every corporal punishment inflicted in the prison and shall enter each case and any special circumstances connected with it in his journal.

(22) Report to the Commissioner every occasion on which he orders a prisoner to be put into leg irons, the duration of the order and the reason occasioning it.

(23) Report to the Commissioner every occasion on which he punishes a prison officer, stating the nature of the offence and the punishment awarded.

(24) Keep a journal in which shall be entered the number of prisoners unlocked and locked up, any matters of importance which have occurred during the day, any omissions of duty and the reasons for such omissions.

Use his best endeavours to promote the education of the prisoners and to fit them for return to society and he shall make every effort to obtain employment for them on discharge.

(26) Be responsible for all accounts, stores, furniture, tools, clothing, arms and ammunition kept in his prison. In addition to other records furnished under the Ordinance the superintendent shall keep the following records or as many of them as the Commissioner of Prisons may direct:—

- (1) Admission Register.
- (2) Lock-up Register.
- (3) Discharge Register.
- (4) Ration Register.
- (5) Labour Distribution Register.
- (6) Equipment Ledger.
- (7) Duty Roster (Warders).
- (8) Prisoners' Punishment Book.
- (9) Medical Officer's Day Book.
- (10) Register of Deaths.
- (11) Cash Book.
- (12) Indent Book.
- (13) Supply Issue Book.
- (14) Visiting Justices' Book.
- (15) Remand Register.
- (16) European Prisoners' Property Book.
- (17) Vagrants Register.
- (18) Industry Store Ledger.
- (19) Industry Account Book.
- (20) Inventory of Prisoners' Effects.
- (21) Electric Light Consumption Book.
- (22) Water Consumption Book.
- (23) Withheld Letters Book.
- (24) Superintendent's Journal.

(27) Be responsible for the safe custody of all records, commitment warrants and other documents committed to his care and for money, clothing and other articles taken from prisoners.

Civil Debtors in Prison.

25. (1) A civil debtor prisoner, when not at exercise, will remain in his cell, but will be eligible for employment outside his cell provided that he is not thereby brought into close contact with convicted criminal prisoners. Cellular confinement.
- (2) A civil debtor prisoner will not be compelled to have his hair cut or to be shaved unless the medical officer of the prison certifies that this is necessary. Hair cutting and shaving.
- (3) It shall be the duty of every civil debtor prisoner to make his own bed and to sweep out his cell every morning and to keep the furniture and utensils clean. Cleaning of cell.
- (4) Civil debtor prisoners may exercise daily during such periods as the circumstances of the prison may allow, and during those periods may associate together in an orderly manner. Exercise.
- (5) A civil debtor prisoner shall be required to work either at his own trade or profession, provided his employment does not interfere with the regulations of the prison, or at work of an industrial nature, and he shall be allowed to receive the Employment.

whole of his earnings subject to deductions for the cost of his maintenance, if provided by the prison, and for the use of implements furnished by the prison.

Letters and
visits.

(6) A civil debtor prisoner shall be permitted to receive a visit of a quarter of an hour's duration, and also to write and receive one letter, in each week. Any extension of these privileges shall be at the discretion of the superintendent who should afford all reasonable facilities for enabling the debtor to provide such payments as will procure his release from prison.

(7) Civil debtor prisoners will be subject to any general rules for the government of prisons unless inconsistent with these rules or any other rules relating to civil debtors in prison.

Censorship of Prisoners' Letters.

20. (1) Every letter to or from a prison shall be read by the superintendent of the prison or by a prison officer deputed by him, and, if the contents are considered objectionable, it shall not be forwarded, or the objectionable part erased, according to discretion.

(2) Letters from prisoners intended for the press will not be forwarded.

(3) When it is found necessary to withhold an outward-going letter from a prisoner on account of objectionable matter therein he may be given an opportunity of rewriting it, omitting the objectionable matter.

(4) An inward-coming letter addressed to a prisoner containing matter which is considered objectionable shall be returned to the writer with an intimation that the letter may not be submitted with the objectionable matter omitted before it is delivered to the prisoner to whom it is addressed.

(5) The superintendent of a prison shall keep a register of letters to and from prisoners, in which shall be noted any action taken as regards withholding letters or return of letters to the writer for alteration or to be rewritten.

Form of Licence to a Prisoner to be at large.

21. Every licence issued to a prisoner to be at large in accordance with section 42 of the Ordinance shall be in the form in the Schedule hereto.

By Command of His Excellency the Acting Governor in Council

Nairobi

This 28th day of December, 1930.

J. E. S. MERRICK,
Clerk to the Executive Council.

SCHEDULE.

PRISONS
FORM
No. 26.

COLONY AND PROTECTORATE OF KENYA.
PRISONS.

Licence to be at Large.

Granted under the provisions of the Prisons Ordinance 1930, to Convict No. Name convicted at on the day of 19..... of the offence of and sentenced to as recorded in Case File No. of Court.

By virtue of the powers conferred upon me by section 42 of the Prisons Ordinance, 1930, I hereby order and direct that a convict at present undergoing a sentence of in the Prison for the offence of be set at large on the day of 19.....

And this shall be full and sufficient licence for the said to remain at large subject to the conditions set out on the back hereof and to the provisions of the aforesaid Ordinance.

Given under my hand and seal of office this day of 19.....

L.S.

Commissioner of Prisons

DESCRIPTION.

Age
Colour
Height
Build (i.e., stout, medium, slender)
Nationality
Trade or profession
Caste, tribe clan village
District in which born
Father's name
Chief's name

IDENTIFICATION MARKS.

PHOTO.	
Front Face.	Side Face.

FINGER IMPRESSIONS.

Right Hand.

1. Right Thumb	2. R. Fore Finger	3. R. Middle Finger	4. R. Ring Finger	5. R. Little Finger

Left Hand.

6. Left Thumb	7. L. Fore Finger	8. L. Middle Finger	9. L. Ring Finger	10. L. Little Finger

Conditions on which Licence is Granted.

(a) The finger prints of the holder of the licence shall be imprinted thereon, and such holder shall preserve his licence and shall at all times produce it on demand when called upon by a magistrate or police officer to do so.

(b) The holder of such licence shall abstain from any violation of the law.

(c) The holder of such licence shall not habitually associate with notoriously bad characters such as reputed thieves, housebreakers, receivers of stolen property and the like.

(d) The holder of such licence shall not lead an idle or dissolute life without visible means of earning an honest livelihood.

(e) The holder of such licence shall at the time of his discharge from prison inform the superintendent of the prison as to the place where he intends to reside and shall with all convenient speed proceed to such place and shall within 48 hours of arrival at such place report himself personally unless prevented by unavoidable cause to the officer in charge of the nearest police station of the district wherein such place is situated.

(f) The holder of such licence shall, unless prevented by unavoidable cause, thereafter once in every month report himself personally to the officer in charge of the nearest police station of the district in which he is residing and shall, unless prevented by unavoidable cause, on every change of residence within the same district notify, either personally or by letter, such officer in charge as aforesaid; and, on every change of residence from one district to another shall, unless prevented by unavoidable cause, give 48 hours' notice, either personally or by letter to such officer in charge of the police station of the district he is leaving, of his intention to leave, and, so far as is practicable of his exact future address; and shall, unless prevented by unavoidable cause, within 48 hours of his arrival at his destination within the new district where he intends to reside report himself personally to the officer in charge of the nearest police station in such district.

(g) Any other conditions which the Governor in Council may from time to time by Rule prescribe.

(h) A photograph of the holder's front and side face shall be affixed to the licence.

NOTIFICATION TO POLICE.

Date	Station at which Notification made.	Initials of Police Officer to whom made	Date	Station	Initials, etc.

GOVERNMENT NOTICE No. 743.

COLONY AND PROTECTORATE OF KENYA.

Rules made by the Supreme Court with the approval of the Governor under the provisions of the Kenya Order in Council, 1921, Article 9.

PART V.

REFERENCE TO SUPREME COURT ARCHIVES.

Rules of Court No. 6 of 1930.

1. These Rules may be cited as "the Rules of Court (Reference to Archives) (Amendment) No. 6 of 1930."

2. Rule 2 (5) of Part V of the Rules of His Majesty's Supreme Court is hereby amended by the deletion of the words:—

"A person other than the person affected as aforesaid will not ordinarily be permitted to inspect a criminal file and only in very special cases will inspection be granted of anything besides the judgment."

And substituting therefor the words:—

"Provided that the judge or registrar may in his discretion for reasons to be stated by order allow a person other than a person affected as aforesaid to inspect the record of a criminal case. Such order shall state if such inspection shall be limited to the judgment or otherwise."

Nairobi,

15th December, 1930.

J. W. BARTH,

Chief Justice

J. E. R. STEPHENS,

Puisne Judge.

B. DICKINSON,

Puisne Judge.

Nairobi,

20th December, 1930.

Approved:

H. M.-M. MOORE,

Acting Governor.

GOVERNMENT NOTICE No. 744

THE COLONY AND PROTECTORATE OF KENYA.

THE CRIMINAL PROCEDURE CODE.

RULES OF COURT No. 7 of 1930.

IN EXERCISE of the powers conferred by the Criminal Procedure Code, section 189, His Majesty's Supreme Court has made the following Rules:—

(1) These Rules may be cited as "the Criminal Procedure Rules, 1930."

(2) The evidence of each witness in cases coming before the Supreme Court shall be recorded in the manner prescribed by sections 184, 185 and 186 of the Criminal Procedure Code for recording evidence in inquiries and trials by or before a magistrate: Provided that nothing herein shall be deemed to affect the power of a judge to direct that shorthand notes of the proceedings at the trial of any person before the Supreme Court shall be taken when the provisions of the Criminal Procedure Code, section 375, will apply.

(3) Part XX (Record of Evidence) of the Rules of His Majesty's Supreme Court of Kenya (Revised Orders Proclamation Rules and Regulations, Volume 1, page 124) is hereby revoked.

H M Supreme Court of Kenya.

Nairobi.

30th December, 1930.

J. W. BARTH,

Chief Justice.

J. E. R. STEPHENS,

Puisne Judge.

B. DICKINSON,

Puisne Judge.

O. O.

Mr. Eastwood

Mr.

Mr.

Mr. Tomlinson.

Sir C. Bottomley.

Sir J. Shuckburgh.

Sir G. Grindle.

Permt. U.S. of S.

Parly. U.S. of S.

Secretary of State.

DRAFT.

THE U.S. OF S.

HOME OFFICE.

*What has been
and now
submitted KTG
S/S for signature
of his Majesty's pleasure.*

Mr. Gov. 599.15.9.30
no 2

Chp 37

Order no 7 of 1926

Recd.

and no 8

Downing Street,

6 January, 1931.

R
1-JAN
D 5

Sir,

I am, etc., to transmit to

you, ~~to be laid before Mr. Secretary~~
~~Clynes~~, a copy of a despatch from the
Governor of Kenya forwarding ~~the~~ a
Prisons Ordinance recently passed in
the Legislature of the Colony. Copies

of the enclosures to this despatch
are also ~~attached~~ ^{attached} together with
copies of the ~~new~~ ^{Ordinance} which the new
Ordinance repeals. (Chapter 37 of
the Revised Edition ^{of a number by} of Ordinance No.
7 of 1926). ^{N.O.} 2. The S. of S. would be
~~grateful for~~ ^{grateful for} any observations
which the Prison Commissioners may
~~have~~ ^{have} to offer upon ~~this~~ ^{the new} Ordinance.

I am to add that it is proposed
to ask that the Rules made under this
Ordinance ~~should~~ ^{may} be sent home for
the S. of S.'s consideration when
issued.

issued.

If I am ~~to~~ to request that
copies of ~~the~~ ^{the} ~~copy~~ ^{copy} of ~~the~~ ^{the} ~~copy~~ ^{copy} of 1926
may be returned
to this office.

(it is the
mountain
amount
which is
always being
written).

(Signed) A. C. G. PARKINSON.

Mrs. Allen.

Reference your slip below.

- (1) annexed is a copy of the Kenya Prisons Rules, in pamphlet form;
 - (2) they do not appear to contain instructions as to sewing prisoners;
 - (3) sec. 31 of the Nyasaland Prison Rules, 1923 (copy below) provides for the use of iron skin in the case of necessity; and see also section 58 et seq of the Somaliland Prison Manual, below.
- With regard to the question of reduced diet, both Nyasaland and Somaliland have provision for the award of "punishment diet" (? the equivalent of "reduced diet")
- see
 Nyasaland Prison Rules (secs. 35+16);
 Somaliland Manual (sec. 93).

This rule provides for
 both penal &
 reduced diet

1777

Rule 31
 exactly rules
 - 40 from a 4
 No 22 Dec 57 30.

R. V. Mavani
 9 Nov 50
 (Legal)

2a 53

NOTE ON THE KENYA PRISONS ORDINANCE, 1930

There appears to be little in the new Ordinance which is not contained in the old law (forming Chapter 37 of the revised edition of the Laws) as amended by Ordinance No. 9 of 1925.)

The only new matter ^{of any importance} which has been noticed is as follows: -
~~Section 2~~ (no details of juveniles)
Section 15.

Compare ~~Section~~ ^{however} Section 92 of Chapter 37.

Section 22 (5) (W^m Women Working justices can not in parts of 22(7) and 22(2)(c).)

Section 29. Compare, however, Section 107 of Chapter 37. (Mention the present of rules)

Sections 32, 34 to 38.

Section 59 (3)
Section 64 (a) (b) and (c) and proviso (b-)

The greater part of Section 69.

The only one of these Sections on which it appears necessary to comment is Section 29 which provides that prisoners may be confined in irons. Although express mention of confinement in irons is for the first time introduced into the law, presumably such confinement has previously been authorised under Section 107 of Chapter 37.

A considerable amount appearing in Chapter 37 has been omitted from the new Ordinance. The following sections and parts of sections of Chapter 37 do not appear :-

Sections 5, 6, and 8 (first paragraph), 16, 18)

Section 16

Section 18 (paragraph 2)

Sections 28 to 40, 43.

Section 42 (first 3 lines.)

Section 44 (first 2 lines.)

Section 45 (2)

(Irons)
(See Mr's report)
Pursue quota of old Ordinance.

Section 29 made in 1890 or 1891 in the Rules. 1870.

Q3 and not underline

And see 07/09.

2a 53

NOTE ON THE KENYA PRISONS ORDINANCE, 1930

There appears to be little in the new Ordinance which is not contained in the old law (forming Chapter 37 of the revised edition of the Laws) as amended by Ordinance No. 9 of 1925.)

The only new matter ^{of any importance} which has been noticed is as follows: -
~~Section 2~~ (no details of juveniles)
Section 15.

Compare, ~~with~~ ^{however} Section 92 of Chapter 37.
Section 22 (5) (^{WOMEN} Women Working just as not ^{in para 1 of 22(7) and 22(2)(c)})

(Irons) Section 29. Compare, however, Section 107 of Chapter 37. (Manner etc prescribed by rules)

(See 14's report)
Please quote
of old Ord.

Sections 32, 34 to 38.
Section 59 (a)
Section 64 (a), (b) and (c) and proviso (b.)
The greater part of Section 69.

The only one of these Sections on which it appears necessary to comment is Section 29 which provides that prisoners may be confined in irons. Although express mention of confinement in irons is for the first time introduced into the law, presumably such confinement has previously been authorised under Section 107 of Chapter 37.

A considerable amount appearing in Chapter 37 has been omitted from the new Ordinance. The following sections and parts of sections of Chapter 37 do not appear :-

- Sections 5, 6, and 8 (first paragraph), 16, 18)
- Section 16
- Section 18 (paragraph 2)
- Sections 28 to 40, 43.
- Section 42 (first 3 lines.)
- Section 44 (first 2 lines.)
- Section 45 (2)

See new Ordinance
in 1930 or there
about.
There is nothing
in the Rules.
1930.

Q3 and not
underline

first para
07/28.



*C) to set lines
not on after the
date, not
underlined*

- ~~Sections 57, 58 and 60,~~
- ~~Section 66, (last 7 lines.)~~
- ~~Sections 67 to 70,~~
- ~~Section 71 (last 4 lines.)~~
- ~~Section 76,~~
- ~~Section 86,~~
- ~~Section 90,~~
- ~~Section 92,~~
- ~~Section 93 (d),~~
- ~~Section 94 (d),~~
- ~~Section 94 (proviso)~~
- ~~Section 95 (proviso)~~
- ~~Section 96 - 100, and~~
- ~~Section 102,~~
- ~~Section 103,~~
- ~~Section 104 (first 3 lines)~~

The greater part of these omissions relate to the terms of service of subordinate officers. The Prison Commissioners will no doubt advise regarding the remaining omissions, some of which appear undesirable. It may, however, be noted that it is proposed to issue rules under Section 69 of the new Ordinance, and these rules ^{will no doubt} ~~may~~ cover the omissions. It is proposed to ask the Governor to send home copies of all rules issued. *There is no provision for authentication or for dissemination*
from as per Art 37 of the Constitution of India
 It is to be noted that all provision for hard labour disappears from the Ordinance.

*Not subject of
Ballance*

*See sec
69(10)*

Three small printing errors have been noted :-

See Section 14 (2). The word "and" should appear before the words "an officer" in line 3.

See Section 22 (2). The word "and" should appear at the end of (d) instead of at the end of (c)

Section 57 (21). The word "walls" should apparently be

*See - see
57(19) in
(21) + a 9(21)
Col 37*

KENYA.

o. 599



GOVERNMENT HOUSE,
NAIROBI,
KENYA.

15th September, 1930.

RECEIVED
13 OCT 1930
COL. OFFICE

My Lord,

I have the honour to transmit the accompanying two authenticated copies of an Ordinance intituled "the Prisons Ordinance, 1930," which passed its third reading in the Legislative Council on the 23rd July and to which I duly assented in His Majesty's name on the 3rd September, 1930.

2. A legal report, prepared by the Attorney General is also enclosed, together with twelve printed copies of the Ordinance.

3. It will be observed that the Ordinance consolidates, and amends in certain respects, Chapter 57 of the revised Edition of the Laws of Kenya. Those sections of the former Ordinance, however, which relate to the enlistment, discipline and discipline of the Native Warder Staff have been omitted from the new Ordinance and will be replaced by rules which are at present in course of preparation. As soon as the necessary rules have been considered and approved it is proposed that the new Ordinance and Rules shall be brought into force simultaneously.

I have the honour to be,
My Lord,
Your Lordship's most obedient, humble
servant,

Edwara Guig
GOVERNOR.

THE RIGHT HONOURABLE LORD PASSFIELD, P.C.,
SECRETARY OF STATE FOR THE COLONIES,
DOWNING STREET,
LONDON, S.W. 1

copy 4/mull 6 H.O. 9 JAN 1931
12 DEC 1931
revised 424

0/55

LEGAL REPORT
THE PRISONS BILL, 1930.

56

The object of this Bill is to consolidate and amend the law relating to prisons in the light of experience gained since 1914, in which year the existing Ordinance was enacted.

Apart from amendments, which are specifically dealt with hereunder, the Bill is mainly a re-enactment of the existing law, but the sections have been arranged in more convenient order and the phraseology has been varied in many instances with a view to simplification.

Certain provisions relating to enlistment, discharge and discipline of subordinate officers of prisons existing in the present Ordinance have been deleted, and such provisions will be made by Rules under this Bill. This procedure will not only simplify the law but will bring it into line with prisons legislation in England.

Clause 32 is a new provision which provides that, in the event of a contagious or infectious disease occurring in any prison, it shall be lawful to remove any of the prisoners from such prison to another place, although such place may not have been declared to be a prison under the Ordinance.

Clause 34 provides powers for the removal to a Government hospital of any prisoner who may be seriously ill, and who is confined in a prison where suitable accommodation is not available.

Clauses/

clauses 35, 36, 37 and 28 deal with the duties of the medical officer in charge of any Government hospital to which a prisoner may have been removed, in pursuance of the provisions of Clause 34 in regard to the custody of such prisoner.

A comparative table showing the differences between the Prisons Ordinance (Chapter 37) and the new legislation is attached.

In my opinion, His Excellency the Governor may properly assent to this Bill in the name and on behalf of His Majesty.

Nairobi,
31st July, 1930.

Adamson
ATTORNEY GENERAL.

THE PRISONS BILL, 1950.
COMPARATIVE TABLE.

58

Section of Bill.	Section of Chapter 37.	Section of Bill.	Section of Chapter 37.
1	1	27	44
2	2	28	53, 54, 55, 56, 57, 58 and 60.
3	3		
4	4	29	New (but see 107)
5	27	30	92
6	7	31	7 45
7	8, 10 and 11	32	New
8	8, 12 and 13	33	46
9	14	34, 35, 36 } 37 and 38 }	New.
10	8	39	67, 68 69 and 70
11	9 and 15	40	80, 81 and 82
12	22		
13	23	41	83
14	24	42	108
15	New	43	109
16	25	44	110
17	59	45	111
18	41	46	112
19	101	47	113
20	18	48	114
21	19, 20 and 21	49	64 and 65
22	77, 78 and 79	50	66
23	42	51	26
24	43	52	84 and 86
25	43	53	85
26	42	54	71, 72 73 and 74

Section of Bill.	Section of Chapter 37.	Section of Bill.	Section of Chapter 37.
55	75	64	106
56	61, 62 and 63	65	17
57	91	66	50
58	87, 90 and 93	67	51, 52
59	94	68	47, 48 and 49
60	88	69	116
61	89 and 94	70	84
62	95	71	New - Repeal
63 (last sentence)	104 106		

*of minutes
Select Com.*

A SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL APPOINTED TO CONSIDER AND REPORT ON THE PROVISIONS OF A BILL TO CONSOLIDATE AND AMEND THE LAW RELATING TO PRISONS, TO PROVIDE FOR THE ORGANISATION, DISCIPLINE, POWERS OF DUTIES OF PRISON OFFICERS, AND FOR MATTERS INCIDENTAL THERETO.

60
END

Your Excellency,

We the Members of the Select Committee have the honour to report that we recommend that the above Bill be amended in the following respects:-

1. That clause 18 be amended by deleting the words "accoutrements, appointments and other necessaries" in lines 41 and 42 and substituting therefor the words "arms, ammunition and equipment" and by deleting the words "of either description" in lines 44 and 45.
Note. The marginal note to the clause should be amended by substituting the word "equipment" for the word "accoutrements".
2. That clause 19 be amended by inserting the word "him" after the word "bring" in line 50, and by deleting the words "of either description" in line 52.
3. That clause 22 be amended by inserting the following as sub-clause (5)
(5) "Women visiting justices may be appointed only for that part of each prison which is set aside for the detention of female prisoners"
and by renumbering sub-clauses (5) and (6) as (6) and (7).
4. That clause 52 be amended by deleting the words "of either description" in lines 9 and 10.
5. The marginal note to clause 13 requires amendment, by substituting the word "receive" for the word "make".

We have the honour to be,

Your Excellency's obedient servants,

A.D.A. MACGREGOR Chairman.

C.G. HOWELL.

C.G. DURHAM.

R.W.B. ROBERTSON-EUSTACE.

MOMBASA, 18th JULY 1930.