

**CHAPTER 21:03 - PRISONS: SUBSIDIARY LEGISLATION**  
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**PRISONS (DECLARATION OF PRISON) ORDER**

*(under section 3)*

*(6th March, 1981)*

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Declaration of Serowe New Prison

S.I. 17, 1981.

**1. Citation**

This Order may be cited as the Prisons (Declaration of Prison) Order.

**2. Declaration of Serowe New Prison**

The building situated at Serowe and commonly known as Serowe New Prison, together with its grounds, precincts and appurtenances, is hereby declared to be a prison.

**PRISONS (DECLARATION OF PRISON) ORDER (1998)**

*(under section 3)*

*(9th April, 1998)*

PARAGRAPH

1. Citation
2. Declaration of Letlhakane State Prison

S.I. 25, 1998.

**1. Citation**

This Order may be cited as the Prisons (Declaration of Prison) Order.

**2. Declaration of Letlhakane State Prison**

The buildings and grounds within the fenced boundary 5.4 kilometres east of Letlhakane Village Main Kgotla are hereby declared to be a Prison to be known as "Letlhakane State Prison".

**PRISONS (DECLARATION OF PRISON) ORDER (2001)**

*(under section 3)*

*(25th May, 2001)*

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Declaration of Tshane State Prison

S.I. 19, 2001.

**1. Citation**

This Order may be cited as the Prisons (Declaration of Prison) Order.

**2. Declaration of Tshane State Prison**

The buildings and grounds within the fenced boundary in Tshane Village, situated adjacent to the showgrounds and lying west of the main road leading to the Kgotla, are hereby declared to be a Prison to be known as "Tshane State Prison".

**PRISONS (BOTSWANA OFFICERS ASSOCIATION) REGULATIONS**

*(under sections 35(3) and 147)*

*(20th June, 1980)*

**ARRANGEMENT OF REGULATIONS**

**REGULATION**

1. Citation
2. Establishment of Botswana Prison Officers Association
3. Establishment of Prisons Divisions
4. Establishment of Branch Boards
5. Annual meeting of Branch Board
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9. Central Committee
10. Preparation of agenda for Central Conference
11. Procedure following Central Conference
12. General provisions relating to procedure
13. Official permission to attend Central Conference or meeting of Central Committee or Branch Board

S.I. 91, 1980.

**1. Citation**

These Regulations may be cited as the Prisons (Botswana Prison Officers Association) Regulations.

**2. Establishment of Botswana Prison Officers Association**

(1) An association, to be called the Botswana Prison Officers Association (and hereinafter referred to as "the Association"), is hereby established.

(2) The object of the Association shall be to enable prison officers to meet in order to consider and bring to the notice of the Commissioner matters affecting the welfare and efficiency of the Service.

(3) The Association may consider the general principles governing appointments, promotions, transfers, matters of discipline and salaries within the Service with a view to improving conditions within the Service as a whole; but the Association shall not consider individual cases concerning these matters.

(4) The Association shall be independent of and not associated with any association or other body outside the Service.

(5) No person other than a prison officer shall become a member of the Association in any capacity whether honorary or otherwise.

(6) Every prison officer shall be entitled to become a member of the Association if he is below the rank of Assistant Commissioner.

(7) A member of the Association who ceases to be a prison officer or is promoted to the rank of Assistant Commissioner of Prisons or above shall thereupon cease to be a member of the Association.

(8) No fee shall be payable as a condition of membership of the Association.

### **3. Establishment of Prisons Divisions**

For the purposes of these Regulations, the following divisions, to be called Prisons Divisions, are hereby established-

- (a) the Northern Division, comprising all that part of Botswana lying north of the Tropic of Capricorn; and
- (b) the Southern Division, comprising all that part of Botswana lying south of the Tropic of Capricorn.

### **4. Establishment of Branch Boards**

(1) A board, to be called the Branch Board, is hereby established for each Prisons Division.

(2) Each Branch Board shall consist of nine members of whom-

- (a) three shall be senior officers elected from among themselves by senior officers for the time being serving in the Prisons Division for which the Board is established;
- (b) three shall be junior officers elected from among themselves by junior officers for the time being serving in that Prisons Division; and
- (c) three shall be subordinate officers elected from among themselves by subordinate officers for the time being serving in that Prisons Division.

(3) The members of the Association for the time being serving in each Prisons Division shall, between 1st July and 31st August, immediately after the commencement of these Regulations, elect from among themselves, in accordance with this regulation, members of the Branch Board established for that Division.

(4) Every member of a Branch Board shall retire from the Board on the third 31st August following his election to the Board but shall be eligible for re-election to the Board.

(5) Notwithstanding subregulation (4), of the original members of each Branch Board (not including such a member who has retired in accordance with this subregulation and been re-elected to the Board)-

- (a) three chosen at the Board's annual meeting in the month of September, following immediately after the commencement of these Regulations, by ballot of all the members of the Board present thereat, shall retire on the second 31st August, immediately after the commencement of these Regulations;
- (b) three chosen at the Board's annual meeting in the following second September immediately after the commencement of these Regulations, by ballot of all the members of the Board present thereat, shall retire on the third 31st August, following immediately after the commencement of these Regulations; and
- (c) three shall retire on the fourth 31st August, following immediately after the commencement of these Regulations.

(6) The three members of each Branch Board retiring in accordance with subregulation (5)(a) or (b) shall consist of one senior officer, one junior officer and one subordinate officer.

(7) The members of the Association for the time being serving in each Prisons Division shall, in the second month of September, immediately following after the commencement of these Regulations, and in every subsequent September, elect from among themselves, in accordance with this regulation, members of the Branch Board established for that Division to fill the vacancies created by retirement from the Board in accordance with subregulation (4) or (5), as the case may be.

(8) The election prescribed by subregulation (3) and every subsequent election prescribed by subregulation (7) shall be by secret ballot conducted by the Commissioner or by such prison officer or prison officers as he may designate for that purpose.

(9) Notwithstanding the other provisions of this regulation, a member of a Branch Board shall immediately cease to be a member thereof on-

- (a) his resignation from the Board;

- (b) his ceasing to serve in the Prisons Division for which the Board is established;
- (c) promotion whereby he ceases to be a junior officer and becomes a senior officer or ceases to be a subordinate officer and becomes a junior officer;
- (d) reduction in rank whereby he ceases to be a senior officer and becomes a junior officer or ceases to be a junior officer and becomes a subordinate officer; or
- (e) his ceasing to be a member of the Association.

(10) Notwithstanding the other provisions of this regulation, if a vacancy occurs in the membership of a Branch Board (otherwise than by retirement in accordance with subregulation (4) or (5)), the Commissioner may, after consulting each remaining member of the Board, appoint a member of the Association of an appropriate rank for the time being serving in the Prisons Division for which the Board is established to fill the vacancy.

(11) Every prison officer who is appointed a member of a Branch Board under subregulation (10) shall assume the term of the member in respect of whom the vacancy in question occurred unless that member was an original member whose term had not yet been fixed under or by virtue of subregulation (5), in which last case the new member shall be treated for the purposes of subregulation (5) as if he were that original member.

#### **5. Annual meeting of Branch Board**

(1) Each Branch Board shall hold an annual meeting in September of every year which in the second year after the commencement of these Regulations and in subsequent years, shall be held after the election prescribed by regulation 4(7).

(2) The annual meeting of a Branch Board shall be held-

- (a) in the case of the Branch Board established for the Northern Division at Francistown; and
- (b) in the case of the Branch Board established for the Southern Division at Gaborone.

(3) At each annual meeting of a Branch Board, the members of the Branch Board present thereat shall-

- (a) elect from among themselves a Chairman and a Secretary of the Board;
- (b) formulate and consider a resolution in respect of any matter concerning the Association which any member of the Association for the time being serving in the Prisons Division for which the Board is established has required, by notice in writing received not later than seven clear days before the commencement of the meeting, to be considered by the Board and in respect of any matter concerning the Association raised for discussion at the meeting by a member of the Board present thereat; and
- (c) elect from among the members of the Board delegates to the next Central Conference in accordance with regulation 8.

(4) A vote shall be taken by the members of the Board present upon every resolution such as is referred to in subregulation (3)(b) and, where a majority of the votes cast are in favour, a copy of the resolution shall be forwarded by the Secretary of the Board to the Secretary of the Central Committee.

#### **6. Special meeting of Branch Board**

Where the Commissioner is informed in writing by a majority of the members of a Branch Board that they wish to consider any matter concerning the Association before the next annual meeting of the Board and the Commissioner is of the opinion that exceptional circumstances exist, he may authorize the Board to hold a special meeting for the purposes of considering that matter.

#### **7. Chairman and Secretary of Branch Board**

(1) The Chairman and the Secretary of a Branch Board shall each hold office as such until the election of a new Chairman or Secretary, as the case may be, at a subsequent annual meeting of the Board:

Provided that the office of Chairman or of Secretary shall immediately become vacant on-

- (i) his retirement from the Board in accordance with regulation 4(4) or (5) or his ceasing, for any other reason, to be a member of the Board;
- (ii) his resignation from the office; or
- (iii) the passing at a special meeting of the Board, by the members of the Board present thereat, of a resolution of no confidence in him.

(2) If the office of Chairman or of Secretary of a Branch Board becomes vacant between annual meetings of the Board, the Commissioner may, after consulting each member of the Board, appoint one of them to fill the vacancy:

Provided that, where the office becomes vacant in consequence of a resolution of no confidence passed at a special meeting of the Board, by the members of the Board present thereat, those members shall immediately proceed to elect from among themselves a new Chairman or Secretary, as the case may be.

## **8. Central Conference**

(1) A conference of the Branch Boards, to be called the Central Conference, shall be held at Gaborone in March of each year.

(2) The Central Conference shall consist of six delegates from each Branch Board elected from among themselves by the members of the Board at its annual meeting immediately preceding the Central Conference.

(3) The delegates to the Central Conference from each Branch Board shall consist of two senior officers, two junior officers and two subordinate officers.

(4) The Commissioner shall appoint from among the delegates to the Central Conference a Chairman and a Secretary of the Conference.

(5) At the Central Conference, the delegates to the Conference shall consider and vote upon every resolution included in the agenda for the Conference and shall formulate, consider and vote upon a resolution in respect of any other matter concerning the Association referred to it by the Commissioner; but the delegates to the Central Conference shall have no further or other business without the authority of the Commissioner.

(6) No Central Conference shall last for more than two days without the consent in writing of the Commissioner.

(7) The Secretary of the Central Conference shall keep a record of its proceedings and shall forward a copy thereof in duplicate to the Commissioner within 30 days immediately after the end of the Central Conference.

(8) The presence of six delegates to the Central Conference shall constitute a quorum of the Conference.

## **9. Central Committee**

(1) In addition to appointing a Chairman and a Secretary of the Central Conference in accordance with regulation 8(4), the Commissioner shall designate two other delegates to the Conference who, together with the Chairman and the Secretary, shall constitute a committee of the Association, to be called the Central Committee.

(2) The Central Committee shall remain in being until the appointment by the Commissioner of a new Central Committee from among the delegates to the next Central Conference.

(3) The Chairman and the Secretary of the Central Conference shall be the Chairman and the Secretary respectively of the Central Committee.

(4) The Central Committee shall hold a meeting immediately after the end of the Central Conference and a further meeting the following January.

(5) The Commissioner may refer any matter concerning the Association to the Central Committee for its consideration and may, for this purpose require the Central Committee, in writing, to hold a special meeting.

(6) Where the Commissioner refers any matter to the Central Committee under subregulation (5), the Committee shall consult the members of the Branch Boards on the matter

and thereafter cause a report in writing on the matter to be prepared and delivered to the Commissioner setting out the Committee's views.

(7) The Committee may, after consulting the members of the Branch Boards, submit representations in writing to the Commissioner on any matter concerning the Association.

(8) The Central Committee may, with the consent in writing of the Commissioner, hold a special meeting to consider any matter concerning the Association referred to it as a matter of urgency by the Secretary of a Branch Board that has been raised by any member or group of members of the Association for the time being serving in the Prisons Division for which the Board is established and shall cause a report in writing on the matter to be prepared and delivered to the Commissioner setting out the Committee's views.

(9) No meeting of the Central Committee shall last for more than two days without the consent in writing of the Commissioner.

(10) Notwithstanding the other provisions of this regulation, a member of the Central Committee shall immediately cease to be a member thereof on-

- (a) his resignation from the Committee; or
- (b) his ceasing to be a member of the Association.

(11) If a vacancy occurs in the membership of the Central Committee between Central Conferences, the Commissioner may appoint, from among the delegates to the immediately preceding Central Conference, a member of the Association to fill the vacancy and, where the member in respect of whom the vacancy occurred was the Chairman or the Secretary of the Central Committee, the Commissioner may appoint a member of the Central Committee to fill the vacancy in the office of Chairman or of Secretary, as the case may be, which member may be the member appointed under this subregulation to fill the vacancy in membership.

(12) The office of Chairman or of Secretary of the Central Committee shall immediately become vacant on his resignation from the office whereupon the Commissioner may appoint another member of the Committee to fill the vacancy.

(13) The presence of two members of the Central Committee shall constitute a quorum of the Committee.

#### **10. Preparation of agenda for Central Conference**

(1) At its meeting in January, the Central Committee shall consider every resolution of a Branch Board a copy of which has been forwarded to the Secretary of the Central Committee in accordance with regulation 5(4):

Provided that no such resolution shall be considered unless a copy of it has been received by the Secretary of the Central Committee not later than 1st December immediately preceding the meeting.

(2) On considering a resolution of a Branch Board in accordance with subregulation (1), the Central Committee shall either include the resolution in a draft agenda for the Central Conference, with or without such amendments as it thinks desirable, or reject the resolution for such inclusion, in which last case the Secretary of the Central Committee shall forthwith inform the Secretary of the Board concerned, in writing, of the reasons for the rejection.

(3) The Central Committee having prepared a draft agenda for the Central Conference in accordance with subregulation (2), the Secretary of the Central Committee shall deliver a copy thereof to the Commissioner not later than 30 days immediately before the date on which the Central Conference is due to commence.

(4) The Commissioner shall consider the draft agenda delivered to him in accordance with subregulation (3) and may approve the draft agenda either as it stands or after making such amendments, including the deletion of any resolution or the insertion of a new resolution, as he thinks desirable, whereupon the draft agenda, as so approved, shall be the agenda for the Central Conference.

(5) Before approving the draft agenda under subregulation (4), the Commissioner shall take into account any representations in respect thereof which may be made to him by any

prison officer of or above the rank of Assistant Commissioner and shall, for this purpose, make the draft agenda, as prepared by the Central Committee, available to every such officer for his perusal.

(6) Where the Commissioner deletes a resolution included in the draft agenda prepared by the Central Committee, he shall forthwith inform the Secretary of the Central Committee, in writing, of the reasons for the deletion and the Secretary of the Central Committee shall cause those reasons to be given to the Central Conference.

#### **11. Procedure following Central Conference**

(1) Within 14 days immediately after the end of the Central Conference, the Central Committee shall cause to be prepared and delivered to the Commissioner a memorandum setting out every resolution voted upon by the delegates to the Conference, whether the resolution was or was not passed by the delegates, the number of votes cast for the resolution, the number of votes cast against the resolution and the number of abstentions in respect thereof.

(2) On receipt of the memorandum referred to in subregulation (1), the Commissioner shall carefully consider all the resolutions therein set out and the related voting figures and-

- (a) may take such action within his lawful powers as he considers appropriate to give effect to any resolution passed by the delegates to the Central Conference; and
- (b) shall refer to the Minister any resolution which, in his opinion, requires the Minister's consideration.

(3) Where the Commissioner takes action under subregulation (2)(a) to give effect to a resolution, he shall forward to the Secretary of the Central Committee a report in writing setting out the details of that action and the Secretary of the Central Committee shall forthwith take steps to bring the contents of the report to the attention of the members of the Association.

#### **12. General provisions relating to procedure**

(1) The Chairman at the Central Conference or the Chairman at a meeting of the Central Committee or of a Branch Board shall have both an original and a casting vote.

(2) Every prison officer of or above the rank of Assistant Commissioner shall be entitled to attend the Central Conference and any meeting of the Central Committee or of a Branch Board:

Provided that-

- (i) no such officer shall take any part in the proceedings thereof unless invited to do so by a majority of the delegates or members, as the case may be, present and voting thereat; and
- (ii) where such an officer is invited to take part in the proceedings thereof, he shall not vote on any question.

(3) Subject to these Regulations, the Central Conference, the Central Committee and the Branch Boards shall each regulate its own procedure.

#### **13. Official permission to attend Central Conference or meeting of Central Committee or Branch Board**

Except where in special circumstances a prison officer is required for duty for which no substitute is reasonably available, he shall be given official permission to attend the Central Conference or any meeting of the Central Committee or of a Branch Board which he is otherwise entitled to attend as a delegate to the Central Conference or as a member of the Central Committee or of the Branch Board, as the case may be, and, where he does so attend with official permission, he shall be deemed to do so as part of his duty as a prison officer.

#### **ESTABLISHMENT OF NATIONAL PAROLE BOARD ORDER**

*(under section 84)*

*(23rd November, 1984)*

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Establishment

S.I. 141, 1984.

**1. Citation**

This Order may be cited as the Establishment of National Parole Board Order.

**2. Establishment**

There is hereby established a National Parole Board.

**PRISONS REGULATIONS**

*(under section 147)*

*(27th August, 1965)*

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**PART I**  
***Preliminary (regs 1-3)***

**1. Citation**

These Regulations may be cited as the Prisons Regulations.

**2. Interpretation**

In these Regulations, unless the context otherwise requires-

**"long sentence prisoner"** means a prisoner who is sentenced to imprisonment for a period exceeding six months or for consecutive periods the total of which exceeds six months;

**"short sentence prisoner"** means a prisoner who is sentenced to imprisonment for a period of six months or less.

**3. Manner in which Regulations shall be applied**

These Regulations shall be applied, due allowance being made for differences in character and amenability to discipline in various types of prisoners, in accordance with the following principles-

- (a) discipline and order shall be maintained with fairness but firmness, and with no more restriction than is required for safe custody and to ensure a well-ordered community life;
- (b) in the control of prisoners, prison officers should seek to influence them, through their own example and leadership, so as to enlist their willing co-operation;
- (c) at all times the treatment of convicted prisoners shall be such as to encourage their self-respect and sense of personal responsibility, so as to rebuild their morale, to inculcate in them the habit of good citizenship and hard work, to encourage them to lead a good and useful life on discharge and to fit them to do so.

**PART II**

***Classification of Prisons and Prisoners (regs 4-10)***

**4. Classes of prisons**

The Commissioner may set aside prisons or parts of prisons for the detention of particular classes of prisoners.

**5. Classification of prisoners**

(1) With a view to facilitating the training of prisoners and minimizing the danger of contamination, prisoners shall be classified having regard to their age, character and previous history in the following classes-

- (a) Young Prisoner Class, which shall consist of convicted prisoners under the apparent age of 18 years or young convicted prisoners of whatever age who in the opinion of the officer in charge should not, having regard to their age and character, be classed with adult prisoners;
- (b) Star Class, which shall consist of convicted prisoners not being in the Young Prisoner Class who are first offenders or well behaved prisoners and who the officer in charge is satisfied have no vicious tendencies or habits;
- (c) Ordinary Class, which shall consist of all convicted prisoners who are not in the Young Prisoner Class or Star Class;
- (d) Unconvicted Class, which shall consist of all unconvicted prisoners.

(2) Arrangements shall be made at all prisons to provide, as far as practicable, for effective segregation of the various classes of prisoners from each other at all times.

**6. Transfer of prisoners between classes**

(1) The officer in charge may in his discretion at any time remove from the Young Prisoners Class a prisoner of 18 years of age or over whom he regards as unsuitable by character for that class, and may place him in the Star Class.

(2) The officer in charge may in his discretion at any time remove from the Star Class to the Ordinary Class a prisoner whose character has shown him to be unfit to associate with other prisoners of the Star Class.

(3) The Commissioner may require each class of convicted prisoner to wear a distinguishing badge or uniform.

#### **7. Institution of other classes**

The Commissioner may institute such other classes as may in his opinion be necessary for improving the method of classification, and he may in his discretion authorize in particular cases, or at particular prisons, departure from the provisions of regulation 6.

#### **8. Earnings scheme**

(1) Useful work performed under the provisions of Part VII shall be work constituting the earnings scheme hereby prescribed for the purposes of section 96 of the Act.

(2) The rates of earnings for each grade are prescribed in the First Schedule.

#### **9. Eligibility for earnings scheme**

(1) Prisoners eligible under these Regulations to participate in the scheme referred to in regulation 8 may be classified by the Commissioner in the following grades-

*Grade A* - prisoners who in his opinion are of exemplary conduct and skilled in their trade;

*Grade B* - prisoners who in his opinion are of good conduct and are semi-skilled in their trade;

*Grade C* - all prisoners eligible to participate in the earnings scheme who are not Grade A or Grade B.

(2) Prisoners engaged in collective work shall be graded in Grade C but may receive additional payment for work completed in excess of a fixed task:

Provided that no such prisoner shall earn more than a Grade A prisoner.

(3) The Commissioner may vary the grade of any prisoner.

(4) Any variation made under subregulation (1) shall be noted in his record.

#### **10. Purchases under earnings scheme**

(1) Prisoners shall not, without the authority of the Commissioner, be authorized to handle any amounts which they may have earned and purchases shall be made on their behalf by the officer in charge.

(2) Payments made to prisoners under these Regulations shall be limited to the purchase of such luxuries, including cigarettes, tobacco and snuff, as the officer in charge may determine.

### **PART III**

#### ***Medical Officers and the Health of Prisoners (regs 11-20)***

#### **11. Inspection of prisons**

(1) A medical officer shall not less than once each week inspect every part of the prison and, in particular, the sanitation and the facilities provided for washing and cooking, in order to ascertain whether any condition exists which is likely to be injurious or dangerous to the health of the prisoners.

(2) A medical officer shall immediately report in writing to the officer in charge any condition in the prison which, in his opinion, is likely to be injurious or dangerous to the health of the prisoners.

#### **12. Medical examination of classified convicted prisoners**

(1) A medical officer shall, if circumstances permit, examine each convicted prisoner and classify him for the purposes of labour as-

(a) fit for all types of labour;

(b) fit for light labour; or

(c) unfit for any type of labour.

(2) A medical officer shall endorse the labour classification of each prisoner on his record.

#### **13. Report on and treatment of sick prisoners**

A medical officer shall-

(a) examine all prisoners who complain of illness;

- (b) treat all sick prisoners;
- (c) notify the officer in charge of all cases of serious illness or infectious or contagious disease; and
- (d) make in writing to the officer in charge such recommendations regarding the treatment, isolation or care of a sick prisoner as he thinks fit.

**14. Form of medical report on prisoners under sentence of death, etc.**

(1) For the purposes of section 60 of the Act the report of a medical officer shall be in the form prescribed in the Second Schedule.

(2) An officer in charge shall immediately submit any report made by a medical officer in terms of this section to the Commissioner, together with any comments which he may wish to make.

**15. Report by medical officer if he is of the opinion that the life of a prisoner is likely to be endangered, etc.**

If a medical officer is of the opinion that-

- (a) the life of a prisoner is likely to be endangered by his further confinement in prison;
- (b) a sick prisoner is unlikely to survive his sentence;
- (c) a prisoner is totally and permanently unfit to undergo prison discipline; or
- (d) the mental health of a prisoner appears likely to become impaired by his further confinement in prison,

he shall submit a report in writing giving his opinion and the reasons for his opinion to the officer in charge who shall immediately forward it to the Commissioner for transmission to the Minister.

**16. Pregnancy of female prisoners**

(1) A medical officer shall notify the officer in charge in writing of any woman prisoner who is pregnant.

(2) The officer in charge shall, in the case of an unconvicted prisoner who is pregnant, report the fact to the court in which criminal proceedings against her have been instituted.

**17. Safe keeping of drugs, etc.**

A medical officer, in conjunction with the officer in charge, shall make such arrangements and take such precautions as may be necessary for the safe keeping of any drugs, poisons and surgical instruments in any prison so that no unauthorized person shall have access to them.

**18. Attendance at corporal punishment**

A medical officer shall attend the infliction of all corporal punishment. He shall examine the prisoner carefully before he is caned and shall give such written orders as he may consider necessary. If he considers the prisoner in a fit state to undergo the punishment he shall give a certificate to that effect to the officer in charge. In cases in which he may direct that the punishment should not be carried out or only partially carried out he shall report his reasons for such direction in writing to the officer in charge.

**19. Prevention of spread of disease**

A medical officer shall promptly give directions in writing for the segregation of any prisoner whom he may find or suspect to be suffering from any infectious or contagious disease or mental affliction and shall immediately take any steps to prevent the spread of any such infectious or contagious disease and shall inform the officer in charge of the steps taken.

**20. Post-mortem examinations**

In any case of the death of a prisoner otherwise than from natural causes a medical officer shall hold a post-mortem examination and forward his report to the officer in charge.

**PART IV**

***Accommodation in and General Management of Prisons (regs 21-29)***

**21. Sleeping accommodation**

(1) Prisoners shall sleep in communal wards or in separate cells, as the officer in charge directs in the case of each prisoner.

(2) Prisoners appearing to be under 18 years of age, whether male or female, shall be kept apart as far as practicable from adults, and confined in separate buildings or in a separate part of the prison.

(3) A medical officer shall certify the number of prisoners that may sleep in one ward or cell.

#### **22. Cleanliness of prisons**

The prison and every room and part thereof shall be kept clean, and every prisoner shall keep his cell, ward, utensils, books and other articles issued for his use, and his clothing and bedding, clean and every prisoner shall keep his cell, ward, utensils, books, and sweep the yards, passages and other parts of the prison as he may be ordered.

#### **23. Punishment cells**

The Commissioner may from time to time set aside in any prison cells for the confinement of prisoners undergoing punishment for prison offences; every such cell shall be certified as fit to be used for such purpose by a medical officer.

#### **24. Search of prisoners**

(1) Subject to section 69 of the Act every prisoner may be searched when taken into custody by a prison officer, on admission into prison and at such times as the officer in charge directs, and all unauthorized articles shall be taken from him.

(2) The searching of a prisoner shall be conducted in as seemly a manner as is consistent with the necessity for discovering concealed articles.

#### **25. Unclaimed prisoners' property**

If any prisoner is discharged from prison and fails to claim his property within six months from his discharge, or if any prisoner dies in prison and his personal representatives or relatives do not claim his property within six months of his death, the officer in charge may, if in his opinion such property is of no value, destroy it, or if he considers it possible to sell it he shall sell it and devote the proceeds to the welfare of the prisoners in the prison generally.

#### **26. Recording of particulars**

The name, age, weight, and particular marks, and such other measurements and particulars as may be required in regard to a prisoner, shall upon his admission, and from time to time, be recorded in such manner as the Commissioner directs.

#### **27. Fingerprints**

On admission into prison, every convicted prisoner shall have his fingerprints taken unless already taken and forms attached to committal warrant.

#### **28. Information for prisoners to be provided in cells or wards**

Every prisoner on admission to prison shall be provided in his cell or ward with such information as to the regulations concerning the disciplinary requirements of the prison, to earnings and privileges and to the proper methods of submitting petitions to the President and of making complaints as to food, clothing, bedding and other necessities.

#### **29. Officer in charge to ensure that information is understood**

(1) The officer in charge shall, personally or through such officer as he may appoint, ensure as soon as possible after admission into prison, and in any case within 24 hours, that every prisoner who can read has read the information so provided.

(2) Where a prisoner cannot read or has difficulty in understanding the information so provided, it shall be so explained to him that he may understand his rights and obligations.

### **PART V**

#### ***Treatment of Prisoners (regs 30-51)***

#### **30. Use of force**

(1) No prison officer shall punish any prisoner unless authorized to do so under the Act or these Regulations.

(2) No prison officer shall deliberately act in a manner calculated to provoke a prisoner.

(3) If a prison officer strikes or uses force against a prisoner, he shall have the prisoner

as soon as possible examined by a medical officer, and shall immediately report the incident to the officer in charge.

### **31. Clothing**

(1) Every convicted prisoner shall be supplied with and shall wear such prison clothing as may be directed.

(2) Additional or alternative clothing may be supplied to a prisoner on the recommendation of a medical officer, or by order of the officer in charge.

### **32. Bedding**

(1) Every prisoner shall be supplied with bedding adequate for warmth and health.

(2) Additional or alternative bedding may be supplied to a prisoner on the recommendation of the medical officer.

### **33. Cleanliness of clothes and bedding**

(1) The clothes of a prisoner shall be changed and washed at least weekly, and bedclothes shall be washed and aired as often as the officer in charge may direct.

(2) The prison clothing and bedding discarded by a prisoner on discharge shall be thoroughly washed, dried and disinfected before being returned to store or reissued.

### **34. Food**

(1) Every prisoner shall be entitled to a sufficient quantity of plain, wholesome food, in accordance with the scale set out in Part I of the Third Schedule:

Provided that regard shall be had to the mode and standard of life of a prisoner before he was admitted into prison and if the officer in charge after consultation with a medical officer is satisfied that the prisoner is not accustomed to the type of diet laid down in the scale he may order that the prisoner shall be given a diet other than that specified.

(2) A copy of the diet scales shall be displayed in some conspicuous part of the prison.

(3) The diet of a prisoner who persistently wastes his food may be reduced by the officer in charge after obtaining the written advice of a medical officer.

(4) A prisoner ordered to be on spare diet shall have substituted for his ordinary diet the punishment diet set out in Part II of the Third Schedule unless a medical officer otherwise recommends.

### **35. Restriction on alcohol and tobacco**

(1) No prisoner shall under any pretence whatever be allowed any spirits, wine, beer or other intoxicating or stupefying drink, drug or matter, except such, and in such quantities, as may be directed in particular cases by a medical officer by order in writing.

(2) Subject to these Regulations no prisoner shall be allowed to smoke or have in his possession any tobacco except in accordance with regulation 10 and such orders as may be given by the officer in charge with the approval of the Commissioner.

### **36. Cleanliness of prisoners**

(1) Every prisoner shall, unless exempted by the officer in charge or a medical officer, take a bath or shower on admission and thereafter as ordered by the officer in charge.

(2) Subject to the provisions of subregulations (3), (4) and (5), all convicted prisoners sentenced to imprisonment for any period exceeding one month shall have their hair cut short and their beards, whiskers and moustaches, if worn, trimmed close, and those who have no hair on their faces, or a moustache only, shall be shaved as often as may be necessary to preserve a clean and decent appearance.

(3) The hair of female prisoners shall not be cut on admission or afterwards unless a medical officer considers it to be necessary for health and cleanliness or the prisoner expresses a desire to have her hair cut.

(4) The hair of prisoners awaiting trial and prisoners awaiting the hearing of an appeal shall be kept, as far as cleanliness permits, in the same state as it was on admission.

(5) During the last month of imprisonment the hair of a prisoner shall be allowed to grow if the prisoner so desires and it is consistent with cleanliness and health.

### **37. Exercise**

All prisoners, other than those in close confinement, shall take regular physical exercise in accordance with instructions issued by the officer in charge.

### **38. Visits and letters**

(1) Communications, other than communications with legal advisers, between prisoners and other persons shall be allowed only in accordance with this regulation and the officer in charge may restrict such communication still further if he thinks it necessary for the maintenance of discipline and order in the prison and the prevention of crime, and shall restrict such communication still further if the Minister so directs.

(2) Except as provided in subregulations (3), (4) and (5) and the following provisions in this Part, visits and letters shall be granted by the following provisions-

- (a) short term prisoners shall be entitled to write and receive one letter every four weeks, and to receive one visit of 20 minutes' duration every four weeks or to write and to receive one letter in lieu;
- (b) long-term prisoners shall be entitled to write and receive one letter every three weeks, and to receive a visit of 20 minutes' duration every four weeks or to write and to receive one letter in lieu.

(3) On admission, a prisoner shall be entitled to write and receive a "reception letter" and to receive a visit of 15 minutes' duration, and on transfer to another prison a prisoner shall be entitled to write and receive a "transfer letter".

(4) The Commissioner may, as a privilege for any prisoner or class of prisoner, allow such additional letters and visits as he may determine.

(5) The officer in charge may allow a prisoner to write a special letter and to receive a reply or to receive a special visit in any of the following circumstances-

- (a) the death or serious illness of a near relative;
- (b) business or family affairs of an urgent nature; or
- (c) the arrangement of employment or assistance on release.

### **39. Transfer of prisoner to enable him to be visited**

Where a prisoner has served for a period of three years and, owing to the distance from his home, has not received any visits from relatives or friends during such imprisonment, the Commissioner may in his discretion order the temporary transfer of such long sentence prisoner to the prison nearest his home and permit such prisoner to be visited by friends or relatives, not exceeding three in number at any one time, for such period as the Commissioner may direct, provided the work, conduct and progress of the prisoner merit such privilege.

### **40. Postponement of privileges of letters and visits**

(1) The privilege of writing and receiving letters and receiving visits may, at the discretion of the officer in charge, be postponed at any time in case of misconduct, but shall not be subject to forfeiture.

(2) When a prisoner who becomes entitled to a letter or visit is at the time undergoing punishment, the officer in charge shall defer the privilege to a suitable time.

### **41. Visits to sick prisoners**

If a prisoner dangerously ill desires to be visited by a near relative or friend, the officer in charge may give an order in writing for the admission of that relative or friend.

### **42. Conditions relating to visits**

(1) Not more than three persons shall be allowed to visit a prisoner at one time.

(2) All visits to prisoners shall take place during the normal working hours of the prison and between such hours as the officer in charge may direct.

(3) A prison officer of a rank detailed by the officer in charge, together with an interpreter in the case where the prison officer does not understand the language spoken, shall be within sight and hearing during the whole of every visit, unless the officer in charge by an order in writing otherwise directs.

(4) The prison officer detailed to supervise visits shall demand the name and address of every visitor to a prisoner and, when he has any grounds for suspicion, he may search or cause to be searched male visitors and may direct a female officer to search female visitors, but such search shall not be in the presence of any prisoner or of another visitor; and, in the case of any visitor refusing to be searched, such visitor shall be ordered to leave the prison.

(5) Any prison officer ordering a visitor to leave a prison shall make a record thereof in writing.

(6) No ex-prisoner shall be allowed to visit a prisoner, except with the written permission of the officer in charge.

#### **43. Letters to be read**

(1) Every letter to or from a prisoner shall be read by the officer in charge or by a responsible officer deputed by him and it shall be within the discretion of the officer in charge or the deputed officer to stop any letter on the grounds that its contents are objectionable or that it is of inordinate length; and in the case of an outgoing letter, the prisoner shall be informed and given the opportunity to rewrite the letter.

(2) No prisoner shall be permitted to write a letter to or receive a letter from a prisoner or an ex-prisoner without the permission in writing of the officer in charge.

#### **44. Visits by legal practitioners and diplomatic representatives**

(1) A prisoner who, after conviction, has given notice of appeal shall be given reasonable facilities to see his legal practitioner concerning the appeal in the sight, but not in the hearing, of a prison officer.

(2) A prisoner who has been ordered to be repatriated to a place outside Botswana shall be given all reasonable facilities to see his legal practitioner and a representative of his country concerning the order for repatriation in the sight, but not in the hearing, of a prison officer.

(3) Reasonable facilities shall be accorded to the legal practitioner of a prisoner who is conducting any litigation, civil or criminal, to which the prisoner is a party to see the prisoner with reference to such proceedings in the sight, but not in the hearing, of a prison officer.

(4) The legal practitioner of any prisoner may, with the permission of the officer in charge, see a prisoner concerning any other legal business, but shall see him in the sight and hearing of a prison officer.

(5) The legal practitioner of a prisoner may be accompanied by another person under his direct and immediate control for the purpose of interpreting or the making of a note.

#### **45. Visits and letters: certain special cases**

The provisions of these Regulations relating to visits and letters shall apply to all classes and categories of prisoners:

Provided that-

- (i) an officer in charge may in his discretion allow an unconvicted prisoner to see relatives and friends and to receive and read letters as often as he considers desirable; and
- (ii) a prisoner committed to prison in default of the payment of a fine shall be allowed to have an interview with his friends on any weekday during working hours of the prison, or to communicate by letter with them for the purpose of providing for the payment of the fine or part thereof which would procure his release from prison, and every such prisoner shall on his admission be informed of this regulation.

#### **46. Visits by police officers and process servers**

(1) On production of an order from a magistrate or a senior officer of police, a police officer may, at any reasonable time, visit a prison and interview any prisoner for any of the following purposes-

- (a) identifying offenders;
- (b) taking statements considered necessary for any investigation;
- (c) any other purpose authorized in writing by the Commissioner.

(2) The officer in charge shall direct whether a visit by a police officer to a prisoner shall

take place in or out of the hearing or sight of a prison officer.

(3) Any person duly authorized by a court shall be permitted to enter a prison during working hours in order to serve any legal process on a prisoner.

(4) For the purposes of this regulation "senior officer of police" means the Commissioner, Deputy Commissioner, Senior Assistant Commissioner, Assistant Commissioner, Senior Superintendent, Superintendent or Assistant Superintendent of the Botswana Police Force.

#### **47. Religion and religious instruction**

(1) Every prisoner on admission shall be required to state his religion and religious denomination, and he shall be treated as a member of such religion and denomination until such time as a minister of religion at the request of a prisoner certifies in writing that he belongs to another religious denomination.

(2) The officer in charge shall make such arrangements as he considers practicable for the holding of religious services in the prison and for the religious instruction of prisoners.

#### **48. Education**

(1) The officer in charge shall take all steps that he considers practicable to arrange evening educational classes for the prisoners in his charge, and shall permit prisoners in their leisure time to pursue courses approved and arranged by him and to practise handicrafts, and special attention shall be paid to the education of illiterate persons.

(2) Whenever possible there shall be a library in each prison, and prisoners shall be permitted to borrow books from the library in accordance with such directions as the Commissioner may from time to time make.

(3) The officer in charge may arrange for lectures, concerts and debates for prisoners to take place outside the hours of labour.

(4) At each prison facilities shall be provided for physical training, games and recreation, both physical and mental, particularly in the case of young prisoners and prisoners serving long sentences.

#### **49. Prison visitors**

The Commissioner may, on the recommendation of the officer in charge, appoint a sufficient number of prison visitors of either sex for the purpose of visiting prisoners regularly during their imprisonment and for conducting such classes as may be approved.

#### **50. Prisoner to have facilities to appeal**

An officer in charge shall ensure that every prisoner is given opportunity, and reasonable facilities therewith, to-

- (a) note and prosecute an appeal against conviction and, additionally or alternatively, sentence; or
- (b) submit a statement on review in accordance with the provisions of the Magistrates' Courts Act.

#### **51. Petitions**

(1) Subject to the provisions of subregulation (3) an officer in charge shall permit a prisoner to submit a petition to the Minister with respect to any matter relating to his imprisonment or in mitigation of sentence.

(2) The Minister may, if he thinks fit, transmit any petition made to him in terms of subregulation (1) to the President for his consideration and decision.

(3) No petition referred to in subregulation (1) shall be made-

- (a) in mitigation of sentence, if an appeal by the prisoner to a court is pending;
- (b) within 12 months of the rejection of a similar petition by the prisoner;
- (c) if the decision on a petition already submitted by the prisoner is pending.

(4) A prisoner may submit a petition to the Commissioner with respect to any matter affecting his imprisonment at any time.

(5) An officer in charge shall forward to the Commissioner for his decision or, as the

case may be, for transmission to the Minister any petition under this regulation, together with a report on the prisoner giving his full particulars, a medical report, if the circumstances of the case require, and any comments which the officer in charge may wish to make.

(6) The Commissioner shall give notice of the decision come to on any petition submitted by a prisoner in terms of this regulation to the officer in charge who shall-

- (a) cause a note of the decision to be entered on the record of the prisoner; and
- (b) inform the prisoner of the decision.

(7) A prisoner shall acknowledge that he has been informed of the decision on his petition by affixing his signature or mark against the note of the decision entered on his record.

## **PART VI**

### ***Discipline of Prisoners (regs 52-56)***

#### **52. Clothing, bedding, etc., during punishment**

(1) A prisoner undergoing solitary confinement shall be supplied with such clothing and bedding as the Commissioner shall from time to time direct.

(2) No prisoner shall be sentenced to solitary confinement for an aggregate of more than 90 days in one year.

(3) In any case where a prisoner is sentenced to two periods of solitary confinement, the two sentences shall be separated by a period not less than the longer of the two sentences.

(4) Whenever a prisoner is sentenced to undergo solitary confinement for a period exceeding three days on a spare diet, he shall be given full diet on every fourth day.

(5) A prisoner sentenced to solitary confinement shall-

- (a) see only prison officers, a medical officer, ministers of religion and official visitors;
- (b) have only such physical exercise as a medical officer shall certify as necessary;
- (c) be visited once a day by the officer in charge; and
- (d) be visited at intervals of not more than three hours during the day and night by a prison officer appointed to carry out such duty.

#### **53. Mechanical restraint of prisoners**

(1) No prisoner shall be placed in handcuffs or other mechanical restraint as a punishment, and a prisoner shall be so restrained only if it is necessary to prevent his escape or to prevent him doing injury to himself or to another person.

(2) No means of mechanical restraint shall be used which have not been approved by the Minister.

(3) An order to place a prisoner under mechanical restraint shall-

- (a) be made only in case of urgent necessity;
- (b) be made by the most senior prison officer present;
- (c) not be continued for longer than 96 hours without the permission of the Commissioner;
- (d) be notified immediately to a medical officer; and
- (e) be entered in such journals and books as the Commissioner directs.

(4) The officer in charge may order any refractory or violent prisoner to be temporarily confined in a separate cell or special cell.

#### **54. Prevention of escapes**

Prison officers shall use the greatest vigilance to prevent the escape of any prisoner, and no ladders, planks, ropes, chains or anything likely to facilitate escape shall be left unsecured in any prison.

#### **55. Action on report of escapees**

On receiving the report of the escape of a prisoner, the officer in charge shall-

- (a) order the prison and its neighbourhood to be searched at once;
- (b) circulate notification of the escape and of the prisoner's description to the police in such a manner as the Commissioner may determine; and
- (c) notify the Commissioner.

#### **56. Treatment of escapees**

(1) Prisoners who during a previous detention in lawful custody have escaped or attempted to escape will be considered and treated as potential prison breakers, unless exempted personally by the officer in charge for any special reason.

(2) The period during which an escaped prisoner is at large shall not be counted as part of the sentence he was undergoing at the time of his escape.

## **PART VII**

### ***Employment of Prisoners (regs 57-62)***

#### **57. Employment of prisoners**

(1) Every convicted prisoner shall be required to engage in useful work, all of which so far as is practicable shall be performed either in association with other prisoners or by himself outside the cells, and no prisoner shall be employed on any work not authorized by the Commissioner or the officer in charge:

Provided that a medical officer may excuse a prisoner from work on medical grounds.

(2) The officer in charge, or an officer detailed by him, shall allot to each prisoner the labour for which he is best suited, the first consideration being to give each prisoner the best training which his sentence, his capacity and the resources of the prison will permit.

(3) If at any time it appears to the Commissioner or to the officer in charge that it is desirable for the maintenance of good order or discipline, or in the interest of the convicted prisoner, that he should not be employed in association with others, the officer in charge may arrange for him to work temporarily in a cell, and not in association.

(4) It shall be within the discretion of the officer in charge to arrange for a convicted prisoner ordered to work alone to be employed in association again whenever he considers this desirable, and he shall do so if the medical officer so advises on medical grounds, or at the expiration of one month unless further authority for him to be kept separate is given from month to month by the Commissioner.

#### **58. Work of unfit prisoners**

A prisoner certified not to be fit for ordinary labour by the medical officer may be employed on light labour such as sewing, gardening, laundry work, cleaning and whitewashing the prison, conservancy, and any such similar services as the officer in charge may from time to time direct.

#### **59. Work of female prisoners**

Female prisoners shall be employed only in association with female prisoners and on work suitable for them.

#### **60. Hours of work**

The hours of labour for prisoners shall be those directed by the Commissioner.

#### **61. Record of work**

At each prison a record of the daily work of the prisoners shall be kept in such form as the Commissioner may direct.

#### **62. Holidays**

(1) Except where the Commissioner otherwise directs, prisoners shall not be required to do any work, other than keeping the prison clean and preparing food, on Sundays and public holidays.

(2) The officer in charge may, in his discretion, make special arrangements for the observation by any class of prisoners of religious and national festivals peculiar to such class of prisoners.

## **PART VIII**

### ***Remission of Sentence (regs 63-67)***

#### **63. Calculation of remission**

(1) Whenever a capital sentence is commuted to a sentence of imprisonment for a term of years, the sentence so commuted shall, for the purpose of the remission system, be deemed to be, and shall be treated as, a sentence passed by a court.

(2) Whenever a capital sentence is commuted to a sentence of imprisonment for a term of years, the sentence of imprisonment shall, for the purpose of remission, be deemed to have commenced at the date the sentence of death was passed.

**64. Remission system to be explained to prisoners**

The officer in charge shall ensure that the remission system is explained to all prisoners on admission, and when for any reason remission is forfeited, the officer in charge shall ensure that a prisoner is made fully aware of such forfeiture.

**65. Record of remission to be kept**

A record shall be kept for each prisoner earning remission showing the sentence, the remission allowed and any forfeiture of remission. The earliest possible date of release shall be recorded as well as the latest possible date of discharge.

**66. Report to Commissioner of admission of certain prisoners**

The officer in charge shall report to the Commissioner the admission of all prisoners sentenced to a term of six years or over or sentenced to be detained during the President's pleasure.

**67. Commissioner's report to be forwarded to Minister in January of each year**

(1) The officer in charge shall before the 15th of January of each year submit a report to the Commissioner in respect of such prisoners referred to in regulation 66, and thereafter at intervals of one year from the date of such submission.

(2) Each report shall include-

- (a) a statement by the officer in charge on the work and conduct of each prisoner; and
- (b) a statement by the medical officer on the mental and bodily condition of each prisoner, with particular reference to the effect of imprisonment on his health.

(3) On receipt of the report from the officer in charge, the Commissioner shall himself report upon the prisoner referred to and make any recommendation he may desire and forward it to the Minister.

**PART IX**

***Treatment of Special Classes of Prisoners (regs 68-79)***

**68. Appellant prisoners**

(1) An appellant prisoner shall be kept, so far as the officer in charge considers practicable, apart from the other classes of prisoners.

(2) Paper and other writing materials to such extent as may appear reasonable to the officer in charge shall be furnished to an appellant prisoner for the purpose of communicating with friends or preparing his appeal.

(3) Any confidential written communication prepared for his legal practitioner may be delivered personally to the legal practitioner or his clerk, without previously being examined by a prison officer.

(4) All other written communications shall be dealt with as letters.

(5) An appellant prisoner when appearing in court shall wear his own clothing, and if his own clothing cannot be used the officer in charge shall supply him with clothing different from prison clothes.

**69. Unconvicted prisoners**

(1) Unconvicted prisoners may be permitted during their period of exercise to associate together in an orderly manner under such conditions as the Commissioner may direct, but they shall be kept apart from other classes of prisoners.

(2) When in the opinion of the officer in charge it is practicable and safe, employment may be provided for unconvicted prisoners, should they elect to perform it, and they shall be paid in accordance with a scale to be fixed by the Commissioner; but in case of misconduct during employment further employment may be refused to any such prisoner.

(3) An unconvicted prisoner on remand or awaiting trial shall be allowed to see a registered medical practitioner appointed by himself or his relatives or friends or legal

practitioners on any week day during working hours in the prison, in the sight, but not in the hearing, of the officer in charge or any officer detailed by him.

(4) When an unconvicted prisoner wears his own clothing in prison, a medical officer may, for the purpose of preventing the introduction or spread of infectious disease, order that the clothing be disinfected, and during the process of disinfection the prisoner shall be supplied with prison clothing.

(5) An unconvicted prisoner charged with a capital offence shall be kept under special observation at all times.

(6) All letters written or received by an unconvicted prisoner charged with a capital offence shall be carefully examined by the officer in charge personally.

(7) Any privilege allowed under this regulation may at any time be withdrawn by the officer in charge if he is satisfied that there has been abuse thereof.

#### **70. Search of prisoner under sentence of death**

(1) The officer in charge of a prison shall ensure that every prisoner under sentence of death is thoroughly searched by a prison officer as soon as is reasonably practicable after sentence of death is passed on him.

(2) The officer in charge of a prison-

- (a) shall ensure that every prisoner under sentence of death is searched twice daily by a prison officer; and
- (b) shall take every reasonable step to ensure that no article with which he might do himself harm comes into the possession of a prisoner under sentence of death.

#### **71. Search of cell occupied by prisoner under sentence of death**

The officer in charge of a prison shall ensure that a cell allocated to a prisoner under sentence of death is thoroughly examined and searched by a prison officer immediately before it is first occupied by the prisoner and thereafter-

- (a) on every occasion the prisoner leaves the cell, immediately after he leaves the cell; and
- (b) on every occasion the prisoner re-enters the cell, immediately before the prisoner re-enters the cell.

#### **72. Restriction on entering cell occupied by prisoner under sentence of death**

No prison officer shall unlock, enter or remain in a cell in which a prisoner under sentence of death is confined unless he is accompanied at all times by another prison officer:

Provided that, where a prison officer reasonably believes that life or health would otherwise be endangered, he may unlock, enter and remain in a cell in which such a prisoner is confined without being accompanied at all times by another prison officer.

#### **73. Transfer of prisoner under sentence of death to prison where sentence to be executed**

(1) Upon sentence of death being passed on a prisoner who is confined in a prison other than the prison at which the sentence is to be executed, the Commissioner shall forthwith cause the prisoner to be removed under sufficient escort to the prison at which the sentence of death is to be executed.

(2) Where a prisoner under sentence of death is admitted to the prison at which the sentence is to be executed following his removal to that prison in accordance with this regulation, the officer in charge of the prison shall forthwith report the admission in writing to the Commissioner and the report shall state-

- (a) the date on which the sentence of death was passed;
- (b) the place at which the sentence of death was passed; and
- (c) the nature of the offence for which the sentence of death was passed.

#### **74. Guarding prisoner under sentence of death**

(1) A prisoner under sentence of death, once confined in the prison at which the sentence is to be executed, shall not be removed from that prison for any purpose without the

permission of the Commissioner except as provided by standing orders made under section 27 of the Act.

(2) Where a prisoner under sentence of death is removed from the prison at which the sentence is to be executed, the officer in charge of the prison shall-

- (a) provide a sufficient escort;
- (b) take every other reasonable step to prevent the prisoner's escape and to preserve his life and health during his absence from the prison; and
- (c) ensure that the prisoner does not spend any night outside the prison, except as provided by standing orders made under section 27 of the Act.

(3) A prisoner under sentence of death shall not be allowed to work.

#### **75. Visits to prisoner under sentence of death**

(1) The officer in charge of a prison shall ensure that every visit to a prisoner under sentence of death, other than a visit by a minister of religion, takes place in the sight and hearing of at least two prison officers.

(2) When a prisoner under sentence of death requests a visit by a minister of religion of his own religious persuasion, the officer in charge of the prison shall make arrangements for such a visit as soon as it is reasonably practicable to do so.

(3) Subject to any conditions the Commissioner may impose, the officer in charge of a prison shall permit a prisoner under sentence of death to be visited at any reasonable time by his legal advisers and such of his relatives and friends as he may express a wish to see.

(4) The officer in charge of a prison shall ensure that the Minister, the medical officer or other medical practitioner in his place, every minister of religion and every other person authorized by the Commissioner in that behalf have free and unfettered access at any time to a prisoner under sentence of death.

#### **76. Correspondence by prisoner under sentence of death**

The officer in charge of a prison shall ensure that a prisoner under sentence of death is given every reasonable facility to enable him to correspond with his relatives, friends and legal advisers.

#### **77. Formal statement to authorities by prisoner under sentence of death**

(1) Where a prisoner under sentence of death indicates his wish to make a formal written statement to any authority, including a petition to the President, the officer in charge of the prison shall forthwith make arrangements for the statement to be recorded in accordance with this regulation.

(2) Where the prisoner indicates his wish to write the statement himself, the officer in charge shall provide him with the necessary facilities to do so and, once the prisoner has finished writing the statement, the officer in charge shall invite him to subscribe his signature to the statement and shall subscribe his own signature to the statement.

(3) Where the prisoner indicates his wish that another person write the statement for him, the officer in charge shall cause the prisoner's statement to be taken down in writing in the language in which it is made and, as soon as the prisoner has finished making the statement, shall cause it to be read over to the prisoner in his presence and the officer in charge shall then invite the prisoner to subscribe his signature to the statement or to place his thumbprint beneath the statement and shall subscribe his own signature to the statement.

(4) Upon the statement being signed or thumbprinted by the prisoner and signed by the officer in charge in accordance with this regulation, the officer in charge shall forthwith transmit the statement to the Commissioner who, on receipt of the same, shall forthwith transmit it to the authority to whom it is addressed.

#### **78. Execution of death sentence**

(1) The execution of a sentence of death shall be by hanging and shall be carried out in accordance with such directions as the Commissioner may give to ensure that such sentences are executed efficiently, quickly and humanely.

(2) In good time before a sentence of death is executed, the officer in charge of the prison shall ensure that he is familiar with the provisions of the Act which relate to the execution of sentences of death, with this regulation and with any standing orders and directions made or given by the Commissioner relating to the execution of such sentences.

(3) Immediately before a sentence of death is executed, the officer in charge shall ensure that the person charged with the execution is familiar with this subregulation and with subregulation (4) and both the officer in charge and the person charged with the execution shall together satisfy themselves that the appliances to be used for the execution are sound and in good working order and that every reasonable precaution has been taken to ensure the efficient, quick and humane execution of the sentence.

(4) During the course of the execution of a sentence of death the officer in charge and the person charged with the execution shall each take every practicable step open to him to ensure that the sentence is executed efficiently, quickly and humanely.

#### **79. Burial of body of executed prisoner**

(1) For the burial of the body of an executed prisoner, the Government shall provide without charge a coffin and such linen material as is necessary to ensure a decent burial.

(2) No relative or friend outside the Prison Service or any other member of the public shall attend the burial of the body of an executed prisoner.

(3) A minister of religion may be permitted to conduct such brief religious rites at the burial of the body of an executed prisoner as the deceased may have requested; but no further or other ceremony shall take place at the burial.

### **PART X**

#### ***Disciplinary Proceedings against Prison Officers (regs 80-86)***

#### **80. Bar on disciplinary proceedings while criminal proceedings pending**

Where criminal proceedings are instituted against a prison officer before any court within or outside Botswana, no proceedings under the Act in respect of an offence against discipline based on the same facts or substantially the same facts as any offence charged against the prison officer in those criminal proceedings shall be commenced or continued against the prison officer pending the final determination of his guilt or innocence and, where his guilt is finally determined, of the sentence.

#### **81. Acquittal or conviction no bar to disciplinary proceedings for different offence**

Where a prison officer is acquitted or convicted of an offence in criminal proceedings before any court within or outside Botswana, the acquittal or conviction shall not bar the commencement or continuation of proceedings under the Act in respect of an offence against discipline which is a different offence from the offence of which the prison officer has been acquitted or convicted, notwithstanding that the offences are based on the same or similar facts.

#### **82. Charge of alternative disciplinary offence**

At an enquiry under section 47 or 48 of the Act, different offences against discipline may be charged in the alternative.

#### **83. Accused to be given copy of charge**

An enquiry under section 47 or 48 of the Act shall not commence unless the officer accused has been given a copy of the charge at least 24 hours beforehand.

#### **84. Defence of officer accused**

(1) At an enquiry under section 47 or 48 of the Act, the officer accused shall be entitled to defend himself by-

- (a) hearing and questioning every witness who gives evidence against him;
- (b) giving evidence on oath or making an unsworn statement, in which last case he shall not be cross-examined;
- (c) calling any person as a witness whom he thinks necessary:

Provided that the presiding officer or the board, as the case may be, may refuse to permit the officer accused to call a person as a witness and may refuse to summon a

person as a witness on the application of the officer accused, unless he or it is satisfied that such person will materially assist in determining whether the officer accused is or is not guilty of an offence with which he is charged; and every such refusal shall be recorded in the record of the proceedings; and

- (d) after all the evidence has been adduced, addressing the presiding officer or the board last.

(2) At an enquiry under section 47 or 48 of the Act, the presiding officer or the board, as the case may be, may permit the officer accused to be represented by another prison officer; but otherwise the officer accused shall not be represented at such an enquiry.

#### **85. Powers of Commissioner on review in relation to alternative and other offences proved**

On receipt of the record of an enquiry or a certified true copy thereof transmitted to him in accordance with section 47(3) of the Act, the Commissioner may substitute for the finding of guilt recorded and the punishment awarded by the presiding officer in respect of any offence a finding of guilt and such punishment as he considers appropriate in respect of a different offence the commission of which he is satisfied has been proved, whether that different offence was or was not charged.

#### **86. Appeals to Prisons Council**

(1) When an appeal is considered by the Prisons Council under Part VI of the Act, the Council-

- (a) may give the appellant the opportunity to address the Council; and  
(b) shall, whether the appellant is or is not given the opportunity to address the Council, give him the opportunity to make a written submission to the Council:

Provided that neither opportunity shall be given where the Council summarily dismisses the appeal under subregulation (4).

(2) Where the appellant is given the opportunity to address the Council under subregulation (1)(a), the Council may permit a legal practitioner or another prison officer to address the Council on behalf of the appellant; but otherwise the appellant shall not be represented.

(3) Where the Council permits a legal practitioner to address the Council on behalf of the appellant under subregulation (2)-

- (a) the engagement of a legal practitioner shall be at the appellant's own expense; and  
(b) the Attorney-General shall be entitled to address the Council in reply, both on matters of fact and of law, either personally or by an officer subordinate to him acting in accordance with his general or special instructions.

(4) Where the Prisons Council is satisfied that the appellant's grounds of appeal, as indicated in writing to the Council in accordance with section 54 of the Act, are without substance, the Council may summarily dismiss the appeal.

### **PART XI**

#### ***Visiting Committees (regs 87-88)***

#### **87. Appointment of Visiting Committee members**

The members of a Visiting Committee shall be appointed for a period of one year and may be re-appointed for further periods of one year.

#### **88. Officers who are to accompany Visiting Committee members**

Normally neither the officer in charge nor the next senior prison officer shall accompany a Visiting Committee member during a visit of inspection, but the officer in charge, or in his absence the next senior prison officer, shall inform him of any prisoner who wishes to see him and shall afford him every assistance in his inspection, and shall detail a prison officer to accompany him.

### **PART XII**

#### ***Miscellaneous (regs 89-94)***

**89. Visits and inspections**

The Commissioner shall visit and inspect and cause to be visited and inspected all prisons when it is necessary to do so in the interests of good administration.

**90. Badges of rank**

Unless the Commissioner otherwise directs, a prison officer on duty shall wear the appropriate badges of rank prescribed in the Fourth Schedule.

**91. Attestation**

Every person shall, on enlistment in the Service, make a declaration in the form prescribed in the Fifth Schedule.

**92. Training**

A prison officer shall undergo such training at such places and at such times as the Commissioner may determine.

**93. Dismissal of prison officer from Service**

(1) The dismissal from the Service of a prison officer under section 17(a) of the Act on conviction of an offence shall not take effect until the conviction has been finally determined.

(2) Where a prison officer is ordered to be dismissed from the Service under section 17(a) of the Act, the Permanent Secretary, in the case of a senior officer, or the Commissioner, in the case of a junior or subordinate officer, may thereupon interdict the prison officer from duty, whether he has or has not been earlier interdicted under section 52 of the Act, pending the execution of the order for his dismissal.

(3) Section 52 of the Act shall apply, with all necessary modifications, to interdiction under this regulation:

Provided that a prison officer who has been interdicted following the order for his dismissal from the Service under section 17(a) of the Act shall receive during the period of his interdiction under this regulation no salary or such proportion of his salary as the Commissioner may in each case determine.

**94. Presumption as to conviction**

For the purposes of the Act and of these Regulations, upon receipt of a certified true copy of criminal proceedings or of part of such proceedings before any court within or outside Botswana, the Permanent Secretary or the Commissioner, as the case may be, may presume without further proof that any prison officer named therein has been convicted by that court or any conviction of a prison officer named therein has been upheld by that court on appeal, as therein stated, unless the contrary is shown to his satisfaction.

**FIRST SCHEDULE**

**RATE OF EARNINGS**(*regulation 8*)

The following are the rate of earnings of prisoners in each grade:

GRADE A	75t per month
GRADE B	60t per month
GRADE C	45t per month

**SECOND SCHEDULE**

**REPORT ON PRISONER BY A MEDICAL OFFICER**

(*regulation 14*)

I have examined ..... a  
prisoner under sentence of death <sup>i\*</sup> /charged with a capital offence <sup>ii\*</sup> /in solitary confinement <sup>iii\*</sup>  
. I report as follows:

.....  
.....

.....  
*Medical Officer*

At .....  
Date .....

### THIRD SCHEDULE

(regulation 34)

#### PART I ORDINARY DIET

Maize or sorghum products	675 g Daily
Salt	14 g Daily
Fresh vegetables or Dehydrated vegetables	165 g Daily
Fat	28 g Daily
Sugar	56 g Daily
Tea	100 g Daily
Fresh meat	3 g Daily
Dried Beans (if available)	1,125 kg Weekly
Milk	110 g Weekly
Bread	220 ml Daily
Brown bread	25 g Daily
	100 g Daily

#### NOTES:

- (a) The diet shall be divided between the morning, midday and evening meals;
- (b) meat should be issued, where possible on five days in the week at the rate of 225 g and includes the weight of bone not exceeding 25 per cent;
- (c) a special diet may be prescribed by a medical officer;
- (d) additional rations may be purchased for issue on Christmas Day at such rates approved by the Minister.

#### PART II SPARE DIET

Maize meal 675 g daily.  
Unlimited water.

### FOURTH SCHEDULE BADGES OF RANK (regulation 90)

<i>Rank</i>	<i>Badge</i>
Commissioner of Prisons and Rehabilitation	(a) crest over crest surrounded by laurel wreath; (b) collar gorgettes with silver oak leaf spray; (c) double silver oak leaf spray on peak of cap;
Deputy Commissioner of Prisons and Rehabilitation	(a) two stars over crest surrounded by laurel leaves; (b) collar gorgettes with two interwoven silver sprays; (c) single 20mm silver oak leaf spray on peak of cap;
Senior Assistant Commissioner of Prisons and Rehabilitation	(a) one star over crest surrounded by laurel wreath; (b) collar gorgettes with straight silver spray; (c) single 20mm silver oak leaf spray on peak of cap;
Assistant Commissioner of Prisons and Rehabilitation	(a) crest surrounded by laurel wreath; (b) collar gorgettes with straight silver spray; (c) single 15mm silver oak leaf spray on peak of cap;

Senior Superintendent of Prisons and Rehabilitation	(a) crest over star;
Superintendent of Prisons and Rehabilitation	(b) single 15mm silver band on peak of cap; (a) crest;
Assistant Superintendent of Prisons and Rehabilitation	(b) single 15mm band on peak of cap; (a) three stars;
Cadet Assistant Superintendent of Prisons and Rehabilitation	(a) three stars upon commissioning;
Principal Officer	(a) two bars;
Assistant Principal Officer	(a) one bar;
Cadet Assistant Principal Officer	(a) one bar upon commissioning;
Staff Sergeant (Specialist)	(a) prisons badge mounted on top of three chevrons;
Sergeant	(a) three chevrons;
Warder/Wardress	(a) basic rank.

**FIFTH SCHEDULE  
DECLARATION ON ENLISTMENT**

*(regulation 91)*

I, ..... do swear that I will well and truly serve the Republic and President of Botswana as a member of the Botswana Prison Service and that I will truly and faithfully obey all lawful commands given to me by the President and all the officers placed over me and subject myself to all laws, regulations and standing orders relating to the Prison Service as amended from time to time, during my service.

Place ..... Signed .....  
Date ..... Witness .....

**SIXTH SCHEDULE  
UNIFORM**

WINTER:	khakhi barathea suit with long sleeves
SUMMER:	khakhi barathea suit with short sleeves
SHIRTS:	khakhi terylene
JERSEYS:	khakhi
SHOES/BOOTS:	red
CAPS:	khakhi barathea
TIES:	green
LEATHER BELTS:	red
BELTS WEBBING:	green
BERETS:	khakhi barathea
OVERALLS:	khakhi shirt/green trousers
CEREMONIAL SUIT:	green with cream - white jacket flaps.

**PRISONS (DECLARATION OF PRISON) ORDER (2002)**

*(under section 3)*

*(24th May, 2002)*

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Declaration of Francistown Centre for Illegal Immigrants as a prison

S.I. 32, 2002.

**1. Citation**

This Order may be cited as the Prisons (Declaration of Prison) Order.

**2. Declaration of Francistown Centre for Illegal Immigrants as a prison**

The Francistown Centre for Illegal Immigrants, comprising the buildings and grounds within the fenced boundary covering 282.0805 (two eight two point zero eight zero five) hectares at Gerald Estate adjacent to the Gerald Estate cemetery lying west of the main road leading to Tati Village in Francistown, is hereby declared to be a prison known as "Francistown Centre for Illegal Immigrants".

**PRISONS (DECLARATION OF PRISON) ORDER (2004)**

*(under section 3)*

*(21st May, 2004)*

ARRANGEMENT OF PARAGRAPHS

PARAGRAPH

1. Citation
2. Declaration of Moshupa Boys Prison

S.I. 41, 2004.

**1. Citation**

This Order may be cited as the Prisons (Declaration of Prison) Order.

**2. Declaration of Moshupa Boys Prison**

The buildings and grounds within the fenced boundary covering forty (40) hectares at Moshupa Village Dibotong Ward, adjacent to the Botswana Agricultural Marketing Board office and lying north of the main road leading to Letlhakane Village, are hereby declared to be a prison known as "Moshupa Boys Prison".

**PRISONS (CENTRES FOR ILLEGAL IMMIGRANTS) REGULATIONS**

*(under section 147)*

*(15th October, 2004)*

ARRANGEMENT OF REGULATIONS

REGULATION

1. Citation
2. Interpretation
3. Declaration of a Centre for Illegal Immigrants
4. Officials at a Centre
5. Admission of immigrants at a Centre
6. Duties of officer in charge of holding section
7. Medical officer
8. Powers of medical officer
9. Medical examination of illegal immigrants
10. Removal of sick illegal immigrants to hospital
11. Searching of immigrants
12. Immigrant's property
13. Segregation of male and female illegal immigrants
14. Visits to immigrants at Centres for Illegal Immigrants
15. Duties of immigrants
16. Transfer of immigrants to prisons
17. Death of illegal immigrant
18. Inquest on deceased illegal immigrants
19. Requests and complaints by immigrants
20. General penalty

**1. Citation**

These Regulations may be cited as the Prisons (Centres for Illegal Immigrants) Regulations.

**2. Interpretation**

In these Regulations, unless the context otherwise requires-

"**Commissioner**" means the Commissioner of Prisons and Rehabilitation appointed by the Minister in accordance with section 9 of the Prisons Act;

"**Centre**" means a Centre for Illegal Immigrants declared in accordance with regulation 3;

"**deporting officer**" means an immigration officer working at a Centre;

"**holding officer**" means a prison officer working at a Centre;

"**immigrant**" means any person in Botswana other than a citizen of Botswana;

"**medical officer**" means a person appointed to be the medical officer responsible for a Centre in accordance with regulation 7; and

"**prohibited article**" means any article which is not issued to an illegal immigrant by authority of the officer in charge of the holding section, with the approval of the Commissioner.

**3. Declaration of a Centre for Illegal Immigrants**

The Minister may, by notice published in the *Gazette*, declare any building, enclosure or place, or any part thereof, to be a Centre for Illegal Immigrants.

**4. Officials at a Centre**

(1) The officials at a Centre shall comprise of deporting officers and holding officers, each category being headed by an officer in charge.

(2) The officer in charge of the deporting section at a Centre shall be an officer of the Department of Immigration, designated as such by the Chief Immigration Officer.

(3) The officer in charge of the holding section at a Centre shall be an officer of the Prison Service, designated as such by the Commissioner.

(4) The officer in charge of the holding section at a Centre shall be responsible to the Commissioner for securing the general efficiency of the Centre to which he has been assigned.

(5) The officer in charge of the deporting section at a Centre shall be responsible for the office equipment and machinery used by the deporting officers at the Centre.

(6) The conditions of service of the officials working at a Centre shall be governed by the Act under which they are employed.

**5. Admission of immigrants at a Centre**

(1) An illegal immigrant who has not been charged with a criminal offence may be admitted to a Centre.

(2) An illegal immigrant shall not be admitted to a Centre without a warrant or order for his or her detention.

(3) A warrant or order under subregulation (2) shall be signed by an immigration officer or prison officer who has been authorised to so sign by the Chief Immigration Officer or the Commissioner.

(4) An official at a Centre may admit an illegal immigrant, where a warrant or order for detention under subregulation (2) is incomplete.

(5) A warrant or order for detention shall be deemed to be incomplete where-

- (a) it has not been signed in accordance with subregulation (3);
- (b) it does not bear the official stamp of the office of an immigration officer or prison officer who has signed such warrant or order for detention; or
- (c) it does not specify the period for which an immigrant to be admitted to a Centre, is to be held.

## **6. Duties of officer in charge of holding section**

(1) The officer in charge of the holding section at a Centre shall be responsible for the custody, care and welfare of the illegal immigrants at the Centre.

(2) Upon the admission of an illegal immigrant to a Centre, the officer in charge of the holding section shall record, or cause to be recorded-

- (a) the name of the illegal immigrant;
- (b) the country of origin of the illegal immigrant;
- (c) any property brought to the Centre which belongs to the illegal immigrant; and
- (d) such other information as may be required by the Commissioner.

## **7. Medical officer**

(1) The Permanent Secretary to the Minister for the time being responsible for health shall, in respect of every Centre, appoint a person from among medical practitioners (including Government medical officers) to be the medical officer responsible for that Centre.

(2) The medical officer shall be responsible for the health of all illegal immigrants at the Centre for which he or she is responsible, and shall cause all illegal immigrants at that Centre to be medically examined at such times as he or she considers necessary.

(3) The medical officer shall report, to the officer in charge of the holding section at a Centre and to the Commissioner, any circumstances connected with the Centre or the treatment of illegal immigrants which at any time appear to him or her to require consideration on health or medical grounds.

(4) The officer in charge of the holding section at a Centre shall, where advised by the medical officer, report the illness or treatment of an illegal immigrant to-

- (a) the Commissioner;
- (b) the officer in charge of the deporting section;
- (c) the Embassy, Consulate or High Commission representing the illegal immigrants country of origin; and
- (d) the local office of the United Nations High Commission for Refugees.

## **8. Powers of medical officer**

(1) A medical officer may, whether or not an illegal immigrant consents thereto, take or cause to be taken or direct to be taken such action (including the forcible feeding, inoculation, vaccination and any other treatment of the illegal immigrant) as he or she considers necessary to safeguard or restore the health of the illegal immigrant or to prevent the spread of disease.

(2) All actions of a medical officer in exercise of the powers conferred by this section and all actions of an official at a Centre or other person acting under and in accordance with the directions or instructions of a medical officer given under this regulation shall be deemed to be lawful.

## **9. Medical examination of illegal immigrants**

A medical officer or an officer in charge of the holding section at a Centre may order any illegal immigrant at the Centre to submit himself or herself to medical examination when and as often as the medical officer or officer in charge of the holding section considers it necessary.

## **10. Removal of sick illegal immigrants to hospital**

(1) In the case of illness of an illegal immigrant, the officer in charge of the holding section, on the advice of the medical officer, may order the removal of the illegal immigrant to a hospital.

(2) Notwithstanding the provisions of subregulation (1), the officer in charge of the holding section may order the illegal immigrants removal to a hospital at his or her own discretion, in the case of an emergency or in the absence of the medical officer.

(3) Any illegal immigrant removed to a hospital under this regulation shall be deemed to be under detention in the Centre from which he or she was so removed.

## **11. Searching of immigrants**

(1) A holding officer shall search an illegal immigrant on the illegal immigrants first and

every subsequent reception into a Centre.

(2) Any property found in an illegal immigrants possession during a search under subregulation (1) shall be dealt with in accordance with regulation 12.

(3) Holding officers shall conduct routine searches, at regular and irregular intervals, of Centres for Illegal Immigrants and their precincts and of illegal immigrants, to discover and seize prohibited articles as the Commissioner may direct, and such other searches of a Centre and its precincts and of illegal immigrants as the officer in charge of the holding section may direct.

(4) An illegal immigrant shall not be stripped of his or her clothing in the presence of another illegal immigrant, or be searched whilst unclothed in the presence of another illegal immigrant.

(5) Any search of an illegal immigrant shall be carried out by a holding officer of the same sex, and no person of the opposite sex shall be present during the search.

(6) Where a holding officer of the same sex is not available when a search of an illegal immigrant is to be conducted, the search shall be postponed until it may be carried out by an officer of the same sex, who may be a temporary officer recruited for that purpose alone.

(7) Any prohibited article found in the possession of an illegal immigrant at any time shall be confiscated and disposed of in such manner as the Commissioner shall direct:

Provided that where the prohibited article is a dangerous or habit-forming drug, it shall be destroyed if it is not required or as soon as it is no longer required as evidence in any proceedings.

(8) An illegal immigrant who resists a search shall be subjected to a forced search.

(9) Any search of an illegal immigrant shall be carried out with due regard to the decency and dignity of the illegal immigrant.

## **12. Immigrant's property**

(1) The officer in charge of the holding section at a Centre shall place in safe custody, all money, clothing and other property brought into the Centre by any illegal immigrant, or sent to an illegal immigrant for use by the illegal immigrant, which he or she is not permitted to retain, and an inventory shall be made of the same.

(2) The money, clothing and other property placed in safe custody under subregulation (1) shall be returned to an illegal immigrant when he or she is released from a Centre, unless otherwise lawfully disposed of.

(3) All clothing to be placed in safe custody under subregulation (1) shall, where appropriate, be washed and carefully folded before being stored.

(4) Where any clothing of an illegal immigrant is so old, worn out, dirty or tattered as to be, in the opinion of the officer in charge of the holding section, unsuitable for further use, the officer in charge may order the same to be destroyed.

(5) Where the clothing of an illegal immigrant is destroyed under subregulation (4), on the release of the illegal immigrant from a Centre, the officer in charge of the holding section shall, at the public expense, provide the illegal immigrant with such suitable clothing as he or she considers to be adequate to meet the illegal immigrants immediate need for clothing.

## **13. Segregation of male and female illegal immigrants**

(1) Male and female illegal immigrants shall be kept in separate parts of a Centre in such manner as to prevent, as far as it is reasonably practicable to do so, their seeing or conversing or holding any communication with each other.

(2) The part of a Centre allocated to female illegal immigrants shall be secured by locks different from those used to secure the part allocated to male illegal immigrants.

(3) There shall be a female holding officer who shall be responsible, subject to the supervision and control of the officer in charge of the holding section, for the care, superintendence and welfare of all female illegal immigrants at a Centre.

## **14. Visits to immigrants at Centres for Illegal Immigrants**

(1) A Centre may be visited by-

- (a) the Minister;
- (b) the Permanent Secretary; or
- (c) any person authorised by the Commissioner.

(2) An illegal immigrant may be visited by any official from the Embassy, Consulate or High Commission representing his or her country of origin, or by a member of any organisation authorised by the Commissioner.

(3) Illegal immigrants may be visited by relatives and friends between the hours of 8.00 a.m. and 4.00 p.m. each day.

(4) Ministers of religion may, at such hours and in such places as the officer in charge of the holding section may permit-

- (a) be admitted to a Centre to visit illegal immigrants who may be desirous of their services; and
- (b) be permitted to hold religious services within the Centre.

(5) A visitor to a Centre shall enter, in a register kept by the officer in charge of the holding section-

- (a) his or her name, address and telephone number; and
- (b) the name of the illegal immigrant he or she seeks to visit.

#### **15. Duties of immigrants**

(1) An illegal immigrant at a Centre shall-

- (a) clean his or her dormitory;
- (b) wash any bedding items given to the illegal immigrant on admission to the Centre, every two weeks, as well as on the day before he or she is to be deported;
- (c) be responsible for the care of any item issued to him or her by an official at a Centre;

and

- (d) follow any procedures or rules laid down by the officer in charge of the holding section.

(2) An illegal immigrant may be required to grow and nurture vegetables within the Centre.

#### **16. Transfer of immigrants to prisons**

(1) An illegal immigrant who does not comply with any of the requirements under regulation 15 or who is considered to pose a threat to any official or illegal immigrant at a Centre may, with the consent of the Commissioner, be transferred to a prison for detention pending deportation.

(2) The officer in charge of the holding section at a Centre shall inform the officer in charge of the departing section of any transfer under subregulation (1).

(3) The officer in charge of the departing section at a Centre shall be responsible for the deportation of illegal immigrants and, on the admission of such immigrants to the Centre, shall inform them of their appointed or likely dates of deportation.

(4) Where it is not possible to deport an illegal immigrant on an appointed date, the officer in charge of the departing section shall inform the officer in charge of the holding section and the illegal immigrant of-

- (a) the impossibility of deportation on that date; and
- (b) the new likely date of deportation, where possible.

#### **17. Death of illegal immigrant**

(1) Upon the death of an illegal immigrant, the officer in charge of the holding section shall notify-

- (a) the District Commissioner of the district in which the illegal immigrant died;
- (b) the medical officer responsible for the Centre;
- (c) the next-of-kin of the deceased; and
- (d) the Commissioner, who shall notify-
  - (i) the Minister;
  - (ii) the Chief Immigration Officer;

- (iii) the Commissioner of Police;
- (iv) the Embassy, Consulate or High Commission representing the illegal immigrants country of origin; and
- (v) the local office of the United Nations High Commission for Refugees.

(2) The medical officer shall, on the death of an illegal immigrant, record in a register to be kept for that purpose the following particulars so far as they can be ascertained-

- (a) the date on which the deceased was admitted to the Centre;
- (b) the date on which the deceased was last seen before his or her death by the medical officer;
- (c) the date on which the deceased died; and
- (d) the medical officers opinion as to the cause of death.

(3) Upon the death of an illegal immigrant otherwise than from what appears to be natural causes, the medical officer shall hold or cause to be held a post-mortem examination and thereafter, shall record in the register prescribed under subregulation (2), in addition to the matters required by that subregulation-

- (a) an account of the deceased illegal immigrants appearance after death; and
- (b) any remarks which may appear to the medical officer to be required.

(4) Upon the death of an illegal immigrant, the officer in charge of the holding section shall inform the next-of-kin of the deceased that he or she may make his or her own arrangements for the funeral.

(5) Where the next-of-kin of a deceased illegal immigrant chooses to make his or her own arrangements for the funeral, the funeral shall not be at the public expense.

(6) Where the next-of-kin of a deceased illegal immigrant declines to make his or her own arrangements for the funeral, the deceased shall be decently buried at the public expense in the vicinity of the Centre.

#### **18. Inquest on deceased illegal immigrants**

(1) Upon the death of an illegal immigrant while at a Centre for Illegal Immigrants, the officer in charge of the holding section shall take every reasonable step to facilitate the holding of any inquest into the death required by law as soon as practicable.

(2) At the conclusion of any inquest held into the death of an illegal immigrant, the officer in charge of the holding section shall forthwith take steps to obtain a copy of the record of the presiding officer recording his or her opinion as to the cause of death and any other matters relevant thereto and, on receipt of the copy-

- (a) shall forthwith transmit it to the Commissioner; and
- (b) may forthwith transmit it to the next-of-kin of the deceased illegal immigrant.

#### **19. Requests and complaints by immigrants**

(1) An illegal immigrant at a Centre may make a request or complaint to any person, including the Minister or President.

(2) A written request or complaint by an illegal immigrant shall be given to the officer in charge of the holding section, who shall promptly transmit such request or complaint to the addressee.

(3) The officer in charge under subregulation (2) shall notify the Commissioner of the nature of all requests and complaints made by illegal immigrants at a Centre.

(4) The officer in charge of the holding section at a Centre shall inform the officer in charge of the deporting section where a request or complaint, directly or indirectly, deals with an immigrants deportation.

#### **20. General penalty**

Any person who contravenes these Regulations shall be guilty of an offence and on conviction, liable to a fine not exceeding P500.

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<sup>i</sup>Strike out whichever is inapplicable.

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<sup>ii</sup>Strike out whichever is inapplicable.

<sup>iii</sup>Strike out whichever is inapplicable.