

Prisons Act, 1894

Chapter XI - Prison-offences

The following acts are declared to be prison-offences when committed by a prisoner:--

- (1) such wilful disobedience to any regulation of the prison as shall have been declared by rules made under section¹[59] to be a prison-offence;
- (2) any assault or use of criminal force;
- (3) the use of insulting or threatening language;
- (4) immoral or indecent or disorderly behaviour;
- (5) wilfully disabling himself from labour;
- (6) contumaciously refusing to work;
- (7) filing, cutting, altering or removing handcuffs, fetters or bars without due authority;
- (8) wilful idleness or negligence at work by any prisoner sentenced to rigorous imprisonment;
- (9) wilful mismanagement of work by any prisoner sentenced to rigorous imprisonment;
- (10) wilful damage to prison-property;
- (11) tampering with or defacing history-tickets, records or documents;
- (12) receiving, possessing or transferring any prohibited article;
- (13) feigning illness;
- (14) wilfully bringing a false accusation against any officer or prisoner;
- (15) omitting or refusing to report, as soon as it comes to his knowledge, the occurrence of any fire, any plot or conspiracy, any escape, attempt or preparation to escape, and any attack or preparation for attack upon any prisoner or prison-official; and
- (16) conspiring to escape, or to assist in escaping, or to commit any other of the offences aforesaid.

1. Substituted by the A. O.1937, for "60".

Section 46 - Punishment of such offences

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

- (1) a formal warning.
Explanation. --A formal warning shall mean a warning personally addressed to a prisoner by the Superintendent and recorded in the punishment-book and on the prisoner's history-ticket;
- (2) change of labour to some more irksome or severe form¹ [for such period as may be prescribed by rules made by the ² [StateGovernment]];
- (3) hard labour for a period not exceeding seven days in the case of convicted criminal prisoners not sentenced to rigorous imprisonment;
- (4) such loss of privileges admissible under the remission system for the time being in force as may be prescribed by rules made by the ³ [State Government];
- (5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen, for a period which shall not exceed three months;
- (6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the³ [State Government];
- (7) imposition of fetters of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by the ³ [State Government];
- (8) separate confinement for any period not exceeding⁴ [three] months;

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

per diem and to have his meals in association with one or more other prisoners;

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

Provided that such restriction of diet shall in case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence nor until after an interval of one week;

(10) cellular confinement for any period not exceeding fourteen days:

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

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

⁵ [* * *]

⁵ [(11)] penal diet as defined in clause (9) combined with ⁶ [cellular] confinement

⁷ [* * *];

⁵ [(12)] whipping, provided that the number of stripes shall not exceed thirty:

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

1. Inserted by Act 17 of 1925, Section 2.

2. Substituted by the A. O. 1937, for "Governor General in Council" and again by the A. O. 1950, for "Provincial Government".

3. Substituted by the A. O. 1937 for "Governor General in Council" and again by the A. O. 1950, for "Provincial Government".

4. Substituted by Act 17 of 1925, Section 2, for "six".

5. Clause (11) rep. and Clauses (12) and (13) renumbered as Clauses (11) and (12) respectively by Act 17 of 1925, Section 2.

6. Substituted by Act 17 of 1925, Section 2, for "solitary".

7. The words "as defined in clause (11)" omitted by Act 17 of 1925, Section 2.

Section 47 - Plurality of punishments, under section 46

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

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

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

penal diet awarded singly be combined with any period of penal diet awarded in combination with ²[cellular] confinement;

³[(3) cellular confinement shall not be combined with separate confinement, so as to prolong the total period of seclusion to which the prisoner shall be liable;]

(4) whipping shall not be combined with any other form of punishment except cellular or separate confinement ⁴[and] loss of privileges admissible under the remission system;

⁵[(5) no punishment will be combined with any other punishment in contravention of rules made by the ⁶[State Government.]]

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

1. Section 47 renumbered as sub-section (1) of that section by Act 17 of 1925, Section 3.

2. Substituted by Act 17 of 1925, Section 3, for "solitary"

3. Substituted by Act 17 of 1925, Section 3, for exception (3).

4. Substituted by Act 10 of 1914, Section 2 and Sch. I, for "or".

5. Inserted by Act 17 of 1925, Section 3.

6. Substituted by the A. O. 1937 for "Governor General in Council" and again by the A. O. 1950, for "Provincial Government".

Section 48 - Award of punishments under sections 46 and 47

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

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

Section 49 - Punishments to be in accordance with foregoing sections

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

Section 50 - Medical Officer to certify to fitness of prisoner for punishment

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

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

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

Section 51 - Entries in punishment-books

(1) In the punishment-book prescribed in section 12 there shall be recorded, in respect of every punishment inflicted, the prisoner's name, register number and the class (whether habitual or not) to which he belongs, the prison-offence of which he was guilty, the date on which such prison-offence was committed, the number of previous prison-offences recorded against the prisoner, and the date of his last prison-offence, the punishment awarded, and the date of infliction.

(2) In the case of every serious prison-offence, the names of the witnesses proving the offence shall be recorded, and, in the case of offences for which whipping is awarded, the superintendent shall record the substance of the evidence of the witnesses, the defence of the prisoner, and the finding with the reasons therefor.

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

Section 52 - Procedure on committal of heinous offence

If any prisoner is guilty of any offence against prison-discipline which, by reason of his having frequently committed such offences or otherwise, in the opinion of the Superintendent, is not adequately punishable by the infliction of any punishment which he has power under this Act to award, the Superintendent may forward such prisoner to the Court of the District Magistrate or of any Magistrate of the first class ¹ [or Presidency Magistrate] having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and, upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46:

² [Provided that any such case may be transferred for inquiry and trial by the District Magistrate to any Magistrate of the first class and by a Chief Presidency Magistrate to any other Presidency Magistrate: and]

Provided also that no person shall be punished twice for the same offence.

1. Inserted by Act 13 of 1910, Section 2.

2. Substituted by Act 13 of 1910, Section 2, for the first proviso.

Section 53 - Whipping

(1) No punishment of whipping shall be inflicted in installments, or except in the presence of the Superintendent and Medical Officer or Medical Subordinate.

(2) Whipping shall be inflicted with a light ratan not less than half an inch in diameter on the buttocks, and in case of prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

Section 54 - Offences by prison-subordinates

(1) Every Jailer or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous notice in writing of his intention for the period of two

months, or who shall wilfully overstay any leave granted to him, or who shall engage without authority in any employment other than his prison-duty, or who shall be guilty of cowardice, shall be liable, on conviction before a Magistrate, to fine not exceeding two hundred rupees, or to imprisonment for a period not exceeding three months, or to both.

(2) No person shall under this section be punished twice for the same offence.
