

CHAPTER XXV

PRISONERS SENTENCED TO DEATH

25.1) *When any person is sentenced to death by a Court of Sessions, the sentence shall not be executed unless it is confirmed by the High Court.*

[See Section 366 of CRPC, 1933 A.D.]

25.2) *When the sentence has been confirmed by the High Court, the Court of Sessions shall issue a warrant to the Superintendent of the Prison in which the Prisoner is confined to cause the sentence to be carried into effect.*

[See Section 413 of CRPC, 1933 A.D.]

25.3) *If a woman sentenced to death is found to be pregnant, the High Court shall order the execution of the sentence to be postponed and may if it thinks fit commute it to sentence for life.*

[See Section 416 of CRPC, 1933 A.D.]

Search of condemned prisoners on admission

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

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

[Section 30 (1) (2) of J&K Prisons Act, 1920 A. D.]

Cell to be examined

25.5) Every cell, in which any convict who is under sentence of death is at any time to be confined, shall, before such convict is placed in it, be examined by the Deputy Superintendent, or other officer appointed in that behalf, who shall satisfy himself that it is secure and contains no article of any kind which the prisoner could by any possibility use as a weapon of offence or as an instrument with which to commit suicide, or which is, in the opinion of the Superintendent, inexpedient to be permitted to remain in such cell.

25.6) When there are two or more condemned prisoners confined in a jail at the same time, in cells situated at some distance from one another, a separate guard shall be placed over each cell, but if the cells are contiguous, one Warder shall be posted to guard a maximum of four prisoners.

25.7) For any number of cells in excess of four, an extra guard shall be posted even when the cells are contiguous.

25.8) With two rows of cells facing and within a reasonable distance of each other, one Sentry may be given charge of any number of cells up to four on one side and four on the other.

25.9) When two or more cells are occupied, the Sentry shall walk up and down past them, so that each prisoner guarded may be brought into view at short intervals.

25.10) The Sentry shall be relieved every two hours.

Guarding

25.11) The condemned prisoner shall be under observation by a Sentry on a twenty-four hour basis. Convicts shall not be employed on this duty.

25.12) The Sentry shall in no case be given more than two hours duty at a stretch. The strength of the guards may be regulated accordingly.

Note :- When required, the Superintendent may appoint extra prison guards.

25.13) The Sentry shall be equipped with a regulation baton. He should not be armed with a fire-arm, bayonet or any sharp weapon. The Sentry shall be posted in front of the grated door of the cell. The key of the cell lock shall be kept with the Sentry / prison guard on duty so as to be immediately available in case of emergency. The lock must be such as cannot be opened by any other key in use in the prison. The Sentry / woman prison guard shall be so posted that the prisoner sentenced to death shall be under continuous watch. A prisoner sentenced to death shall not be taken out of his cell unless the requisite number of guards are present.

25.14) If an attempt to commit suicide by the prisoner is noticed, the Sentry on duty shall raise alarm for help and enter the cell.

25.15) The special guard on prisoners sentenced to death shall allow no one to approach the cell or communicate with the prisoners except the Superintendent and other officials authorized by the Superintendent.

Search

25.16) The prisoner shall be thoroughly searched :-

- (i) immediately on opening of the cell in the morning in the presence of the Assistant Superintendent ;
- (ii) every time the contingent of guards on the duty is changed in the presence of the guard Commander ; and
- (iii) before lock-up in the presence of the Assistant Superintendent.

Restriction on removal

25.17) Prisoners sentenced to death shall not be removed to the prison hospital for treatment without the special sanction of the Inspector General. The Superintendent may, however, order the removal of a prisoner to the prison hospital, in anticipation of sanction, if the Medical Officer of the prison certifies that prisoner is in danger of death and requires treatment in the prison hospital. If a prisoner who is sentenced to death is removed to a prison hospital he shall be segregated from all other prisoners in the hospital and a special guard should be posted according to requirements.

Special treatment.

25.18) A prisoner sentenced to death shall not be put in fetters or handcuffed unless he is so violent as to be dangerous to the guard or to himself. If it is deemed necessary to put on fetters or handcuffs, the reasons for such action shall be reported to the Inspector General.

25.19) The Superintendent is authorized to issue suitable diet to prisoners sentenced to death after consultation with the Medical Officer.

25.20) Prisoners sentenced to death should be allowed facilities of exercise in the open air in the court, one hour in the morning and one hour in the evening under proper security arrangements. The guard should be present when the prisoner is taking exercise. The period of exercise should be regulated in accordance with the opinion of the Medical Officer.

Interviews

25.21) Prisoners under sentence of death should be granted interviews with their family / relatives / friends / legal advisors, once a week or more often when found

necessary. The prisoner should remain in the cell at the time of interview. An Assistant Superintendent shall remain present. All precautionary and security measures shall be taken. A prisoner sentenced to death may be visited by a Minister of faith to which he belongs.

Facilities

25.22) A Prisoner sentenced to death may be allowed the following facilities in the discretion of the Superintendent :-

- (i) religious books ;
- (ii) religious pictures ;
- (iii) rosary and essential religious emblems in accordance with security measures; and
- (iv) newspapers, books ; and
- (v) stationery articles.

25.23) In case of prisoners who have no private cash, the Superintendent is authorised to incur an expenditure upto a maximum of Rs. 25 per month for giving certain facilities like smokes, tea, etc. from the prison canteen.

25.24) The Superintendent is authorised to incur an expenditure upto a maximum of Rs. 100 in a deserving case for the purpose of giving all reasonable solace to the prisoner, for instance securing the presence of his near relatives before his execution.

Observation

25.25) The Assistant Superintendent in charge should daily record his observations of a prisoner under sentence of death.

Note:- The record may prove useful for psychological study and research purposes.

Insanity

25.26) If any prisoner awaiting sentence of death shows signs of insanity which, in the opinion of the Medical Officer, are not feigned, or requires observation to determine whether they are feigned or not, the circumstance shall at once be reported to

Government, under intimation to the Inspector General for orders along with the following documents :-

- (i) the Nominal Roll of the prisoner ;
- (ii) a copy of the warrant under which he is confined (in duplicate) ;
- (iii) the Medical Officer's certificate in the prescribed form ; and
- (iv) the medical history sheet (in duplicate) ;

Note :- A copy of the judgement should also be sent as soon as possible.

25.27) If Government orders the appointment of a Special Medical Board, for the purpose of examining the mental condition of a convict sentenced to death, the convict shall be kept under observation in the prison by the Mental Specialist in charge of the nearest Mental Hospital / Civil Surgeon for a period of ten days or longer if considered necessary prior to his examination by the Medical Board.

25.28) The Superintendent and the Medical Officer of the prison in which the convict may be confined shall give all facilities to the Mental Specialist / Civil Surgeon for a physical examination of the convict including serological tests and for the observation of the convict without his knowledge.

25.29) As soon as possible after the Medical Board is appointed and the convict is placed under observation, the Superintendent of the prison shall collect information about the convict through the police or other sources and place it at the disposal of the Mental Specialist / Civil Surgeon.

25.30) The history of the convict shall be obtained from institutions or individuals with whom he has had contacts. The Mental Specialist shall furnish the Superintendent of the prisons with a questionnaire for collecting the information. Factual material concerning the mental condition of the convict shall be obtained either from records or from eye-witnesses including the officer who arrested him. For the purposes of an estimation of the convict's state of mind just prior to, at the time of and soon after the commission of the offence, reports shall be obtained from eyewitnesses including relatives of the convict.

Note:- Evidence regarding the behaviour of the prisoner at the time of the trial and especially during examination in Court will be available from the proceedings of the Court including the evidence and the summing up and judgement. Reports on the convict shall be obtained from individuals who have been in contact with

him during this remand and subsequent detention in the prison. While collecting this information, the utmost care shall be taken to see the object with which it is collected is not divulged. It should also be remembered that the relatives of the convict are likely to be specially interested and the information supplied by them shall be used with the greatest care.

25.31) As soon as the Medical Specialist / Civil Surgeon is ready with his report, he shall request the Superintendent / Director of Health Services to fix a date for the Special Medical Board.

25.32) The Medical Specialist / Civil Surgeon shall place all the records before the Medical Board. The President of the Board shall forward the proceedings of the Medical Board to the Secretary, Home Department, through the Inspector General.

Pregnancy

25.33) If the Medical Officer considers a woman prisoner sentenced to death to be pregnant, the matter shall at once be brought to the notice of the Inspector General for orders of Government for commutation of the death sentence or for postponement of execution till delivery and the capital sentence shall not be carried out before the orders of Government are received.

25.34) When a woman prisoner sentenced to death declares herself to be pregnant, Medical Officer is unable to certify the truth or otherwise of the statement, he shall state the interval of the time necessary to enable him to satisfy himself on the point. The Superintendent should report the case to the Government for further orders.

25.35) When execution of a capital sentence on a woman prisoner has been suspended under either of the last two preceding paragraphs, the sentence shall not afterwards be executed without the express orders of Government for which the Superintendent shall apply.

Appeal facilities

25.36) The Deputy Superintendent shall explain to the convict his right of appeal and the facilities available and shall record the statement of the prisoner whether he wishes to appeal and to have his appeal forwarded by the prison authorities. If he desires to do, the Deputy Superintendent shall at once get the appeal prepared for him as far as possible in his own words and shall forward it under registered cover to the Registrar of the High Court. The Deputy Superintendent shall explain to the prisoner the procedure relating to petition for special leave to appeal to Supreme Court and

the facilities available. If the prisoner desires to appeal or apply for special leave to appeal, the intention shall be recorded and he should be helped to prepare the necessary petitions which should be immediately forwarded to the Registrar, Supreme Court, under intimation to the Government in the Home Department and to the Inspector General.

Stay of execution - petition for mercy

25.37) Execution of prisoner sentenced to death should be stayed in the following cases after the date of execution has been fixed by Government :-

- (i) in the case a prisoner desiring to send an appeal to a Higher Court, if he has not done so previously,
- (ii) in the case of prisoner desiring to send mercy petition, if he has not done so, and
- (iii) in case of telephonic orders for execution received from competent authorities, if confirmation thereof has not been received.

25.38) On receipt of an intimation from the State Government that appeal or application to the Supreme Court has not been lodged within the period prescribed by the Supreme Court Rules, the execution of the sentence shall not thereafter be postponed, unless a petition for mercy has been submitted by or on behalf of the convict.

25.39) Immediately on receipt of intimation of the confirmation by the High Court of a sentence of death on a prisoner or of the dismissal by the Supreme Court of the prisoner's appeal or his application for special leave to appeal, the Superintendent shall personally inform the prisoner that if he desires to submit a petition for mercy, it should be submitted in writing within seven days.

25.40) If the prisoner submits a petition within the period of seven days prescribed above, it should be addressed to the Governor of the State and to the President of India and despatched by registered post with acknowledgement due, to the Secretary to Government, Home Deptt. together with a covering letter bearing in red ink, the words 'Death Sentence', 'Petition for Mercy' and 'Urgent' reporting the date fixed for the execution and certifying that the execution has been stayed pending receipt of the orders of the Government on the petition. If no reply is received within 15 days from the date of despatch of the Petition, the Superintendent shall send an express letter to the Secretary to the State Government drawing attention to the fact but he shall in no case carry out the execution before receipt of reply from the State Government.

25.41) If at any time before the execution of the sentence it comes to the knowledge of the Superintendent that exceptional circumstances have arisen which plainly demand a reconsideration of the sentence, he should report the circumstances by wireless to the State Government and ask for its orders and shall defer execution of prisoner till Government orders are received.

Communication to have special marking

25.42) The words 'Death sentence' should be inserted before the address in telegrams relating to capital sentence.

25.43) In all cases receipts of orders communicating the rejection of petitions shall invariably be acknowledged by registered letter. The orders of Government postponing the execution shall immediately be acknowledged by telegram by repeating the orders.

25.44) Telephonic orders regarding prisoners shall be got confirmed by dialing back to Government .

25.45) A distinctive red envelope with the words 'Death Sentence' and 'Immediate' marked on the top left and right hand corners respectively, shall be used in death sentence cases. All Superintendents shall make special arrangements to ensure that communications received in these distinctive envelopes are received in the prison at any time of the day or night either by the Deputy Superintendent or in his absence by the Assistant Superintendent in charge who:-

- (i) shall note the time and date of receipt in the receipt register, and
- (ii) shall immediately place the communication before the Superintendent or in his absence the officer next below him, for orders.

25.46) The Superintendent shall see that prompt replies and acknowledgements are furnished where these are required and that in the case of orders staying execution acknowledgements are promptly sent to Government by special messenger or telegram and well in advance of the time fixed for execution of the sentence.

Action on final confirmation of sentence

25.47) The State Government shall fix the date of execution if Mercy Petition is rejected.

25.48) On receipt from the Government of final confirmation and date of execution of the prisoner sentenced to death :-

- (i) the prisoner and his relatives will be informed about the date of execution by the Superintendent, and
- (ii) the prisoner's will may be prepared in accordance with his wish.

25.49) No prisoner sentenced to death shall be executed on a public holiday.

Arrangement for execution

25.50) On receipt of the final date of execution of the prisoner, the Superintendent shall be authorised to fix the time of execution sufficiently in advance. A report intimating the time of the execution shall be sent to Government, the Inspector General and the Sessions Judge.

Note :- The execution shall take place early in the morning before it gets bright. The latest time of the day for different seasons will be in accordance with orders passed separately by the Government.

25.51) The Executive Engineer shall arrange the inspection of the gallows every quarter and before the date of hanging as would be intimated by the Superintendent.

25.52) The Medical Officer shall report in the medical report about the drop to be given to the prisoner at least four days before the date on which the prisoner is to be executed.

25.53) The Medical Officer of the prison shall work out the details of the length of the drop to be given to a prisoner on principles shown below :-

- (i) if the prisoner weighs less than 100 lbs. or 45 kgs, he should be given a drop of 8 feet or 2.5 mtrs. ;
- (ii) if the prisoner weighs from 100 to 133 lbs. or 45 to 60 kgs, he should be given a drop of 7 feet 6 inches or 2.3 mtrs. ;
- (iii) if the prisoner weighs more than 133 lbs. or 60 kgs, but not more than 166 lbs. or 75 kgs, he should be given a drop of 7 feet or 2.2 mtrs. ;
- (iv) if weighing more than 166 lbs. or 75 kgs, but not more than 200lbs. or 91 kgs, he should be given a drop of 6 feet 6 inches or 2 mtrs.;
- (v) if weighing more than 200 lbs. or 91 kgs, he should be given a drop of 6 feet 1.83 mtrs. ;

Provided that so long as the extreme limits of 6 feet or 1.83 mtrs on the one hand and 8 feet or 2.5 mtrs on the other hand are adhered to. If owing to physical peculiarity of the prisoner, the Medical Officer is of opinion that the drop should be increased or decreased, effect should be given to the Medical Officer's opinion.

Note :- The above calculations are based on the assumption that the execution rope will be made of cotton yarn / manila of 1 inch to 1-1/2 inches or 2.59 to 3.81 cms diameter.

25.54) The following measures shall be adopted regarding the fixing of the length of the rope to permit the required drop. The height of the prisoner to the angle of the jaw immediately below the left ear shall be accurately measured, as should also be the height from the drop shutter, when fixed in position, to the lower portion of the ring in the beam to which the rope will be affixed. These two measurements will determine the distance when the prisoner is standing in position on the drop, from the point of the latter's jaw to the ring in the beam. The measurement of the prisoners neck shall also be carefully taken, the neck measurement and the height measurement to angle of jaw being carried out immediately after the prisoner has been admitted. The length of rope for any given drop shall be the length of that drop plus the distance from the angle of the prisoner's jaw to the ring in the beam.

25.55) The gallows shall be inspected and the rope tested in the presence of the Superintendent the evening before the execution ; he being personally responsible that these arrangements are properly made. A new rope need not necessarily be used for every execution but the Superintendent shall see that the rope is carefully tested. As a rule, a dummy or a bag of sand weighing 1-1/2 times the weight of the prisoner hung and dropped between 6 and 8 feet or 1.83 and 2.50 mtrs. will afford a safe test of the rope . Two spare ropes for each prisoner shall always be kept ready in reserve on the scaffold to meet an accident.

25.56) Wax / butter shall be applied to the loop of the rope After testing , the ropes and other equipment shall be securely locked in a steel box and shall be kept under seal in charge of the Deputy Superintendent.

Venue and presence of officers and others

25.57) All executions shall take place at the prison to which the warrant is directed, unless expressly ordered otherwise. They shall usually be carried out in a special enclosure attached to or within the walls of the prison.

25.58) The Superintendent, Deputy Superintendent, Assistant Superintendent in charge and Medical Officer shall be present at all executions. An Executive Magistrate

deputed by the District Magistrate shall attend the execution and countersign the warrant. If the prisoner so desires, the Minister of his faith may be allowed, at the discretion of the Superintendent, to be present at the place of execution, subject to the requirements of security and prison discipline.

25.59) Relatives of the prisoner / other prisoners shall not be allowed to witness the execution. The Superintendent may permit only such persons as social scientists, psychologists, psychiatrists, etc., who are conducting research. The Superintendent's discretion shall prevail in the matters relating to grant of permission to witness execution. As a matter of general policy, other persons shall not be permitted to be present.

25.60) A police guard of not less than ten constables and two Head Constables or an equal number from the prison Armed Guards shall be present at every execution. The Superintendent of Police will supply the guard on application, where no armed guard of the prison exists.

25.61) Prisoners of all categories shall be kept locked up until the execution is over.

Execution

25.62) The Superintendent, the Executive Magistrate, the Medical Officer and the Deputy Superintendent will visit the prisoner in his cell before the hour fixed for execution. The Superintendent and the Executive Magistrate shall then identify the prisoner as the person named in the warrant and read over to him a translation of the warrant in his mother tongue. Any other documents requiring attestation by the prisoner such as his will etc. shall be signed and attested in the presence of Superintendent and the Executive Magistrate. The hands of the convict shall be pinioned behind his back.

25.63) A cotton cap with flap shall be put on the prisoners face just before he enters the gallows-enclosure.

Note:- The prisoner should not be allowed to see the gallows.

25.64) On the arrival of the prisoner at the scaffold, he shall be made over to the batch of executioners.

Note:- The required number of executioners may always be posted at the Head-Quarters / Central Prison / Prison where executions have to be carried out. The executioners shall be trained in all matters pertaining to execution of prisoners. At fixed intervals, the executioners shall be required to practice on dummies.

25.65) The duty of the executioner or executioners shall be :-

- (i) to place the prisoner exactly under the part of the beam to which the rope is attached,
- (ii) to strap the prisoner's hands tightly, and
- (iii) to put the noose round the neck quite tightly, the knot or metal eye being just in front of and below the angle of the jaw, so as to run up behind the ear when the prisoner falls and receives the jerk. Care must be taken to adjust the rope so that the part to which the metal eye belongs shall pass in front of the throat. The noose should be kept tight, having adjusted by means of stiff leather washer on the rope. The flap of the cap should hang in front free from the rope.

25.66) The Superintendent shall see that rope round the neck of the prisoner is adjusted properly and the knot laced in the proper position.

25.67) The operations mentioned above should be done simultaneously and as quickly as possible. On completion of all these operations the Superintendent shall give a signal on seeing which the executioner in charge shall push the lever to let down the trap-door.

25.68) The body shall remain suspended for half an hour and shall then be taken down only after the Medical Officer has certified that the life is extinct.

Note :- For each execution, the executioner shall be paid requisite execution fees.

Disposal of body

25.69) The body of the executed prisoner shall be disposed of according to the religious requirements.

25.70) If the executed prisoner's relatives make a written application for performing the last rites, the Superintendent may in his discretion allow such request, provided that the relatives give an undertaking in writing that they will not make a public demonstration for cremation / burial, etc. In cases where the Superintendent thinks that there is a likelihood of public demonstration, he has the authority to refuse such permission. In cases of disposal of the body of executed prisoner, in whose case there is likelihood of public demonstration, the Superintendent shall consult the District Magistrate and arrangements for the disposal of the body shall be made according to the requirements of the situation. In such event, the Superintendent shall act in accordance with the instructions of the District Magistrate.

25.71) The body of the executed prisoner shall be taken out of the prison with all solemnity. A municipal hearse or ambulance shall be used for the transportation of the body to the cremation / burial ground. The Superintendent is authorised to incur all reasonable expenditure required for the transport and the disposal of the dead body.

Subsequent action

25.72) The Superintendent shall return the warrant to the Court which issued it with an endorsement in the following form which shall be countersigned by the Medical Officer and the Executive Magistrate :-

“I hereby certify the sentence of death passed on
by the Court of Sessions and confirmed by the High Court, has been duly executed and
the said was hanged by the neck until he was dead at
..... on the

(Sd.)

Medical Officer.

(Sd)

Executive Magistrate.

(Sd.)

Superintendent”.

25.73) The Superintendent shall submit the execution report to the Inspector General.



CHAPTER XXVI

CIVIL PRISONERS

Statutory provisions

26.1) *"A civil prisoner shall be permitted to obtain, subject to certain restrictions,, food, clothing, bedding or other necessaries."*

[Section 31 of the J&K Prisons Act, 1920 A. D.]

26.2) *" The Superintendent shall supply clothing and bedding to a civil prisoner unable to provide himself with these articles."*

[Section 33 of the J&K Prisons Act, 1920 A. D.]

26.3) *"(I) Civil prisoners may, with the Superintendent's permission work and follow any trade or profession".*

[Section 34 (1) of the J&K Prisons Act, 1920 A. D.]

26.4) *Civil prisoners may, with certain reservations, receive the whole of his earnings .*

[See Section 34 (2) of the J&K Prisons Act, 1920 A.D]

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

[Section 40 of the J&K Prisons Act, 1920 A. D.]

Civil Prisoners to be segregated

26.6) Civil prisoners may be detained in a portion of the jail specially set apart for use as a ward for such prisoners.

Maintenance of certain prisoners from private sources

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

diet of civil prisoners

26.8) Civil prisoners who are supplied with prison diet, shall, unless the scale of subsistence allowance (if any) permits of a more liberal scale, be provided with diet on the ordinary scale prescribed in respect of convicts who are not subjected to labour.

26.9) Civil prisoners who are not provided with prison diet may be allowed at the discretion of the Superintendent to cook their food at places provided for the purpose. Civil prisoners not provided with prison diet and allowed to cook may be permitted to use their own cooking utensils.

Supply of food to civil prisoners when subsistence allowance is provided

26.10) Every civil prisoner for whom a subsistence allowance is provided may be supplied with food, clothing, bedding and other necessaries by his relatives or friends at such hours as the Superintendent may from time to time fix in that behalf. When any civil prisoner is supplied with food, clothing and other necessaries by his friends, the subsistence allowance shall be credited to his account.

26.11) Whenever any such prisoner is not supplied with food by his relatives or friends, the Deputy Superintendent shall supply him with good and wholesome food according to the prisoner's own choice, provided the daily cost does not exceed the daily subsistence allowance received on account of such prisoner. If the daily cost of food is less than the sum allowed, the balance shall be made over to the prisoner.

Articles to be delivered to the Deputy Superintendent and to be examined

26.12) Every article of any kind whatsoever at any time supplied for the use of any civil prisoner shall be delivered to the Deputy Superintendent or other officer appointed by the Superintendent in that behalf, and shall be examined before it is made over to the prisoner, and any such article may, for any sufficient reason, withheld by the Superintendent from such prisoner.

Certain article not to be given

26.13) No drug of any kind, shall, without the order of the Medical officer, be given to any civil prisoner.

Articles through whom purchased

26.14) All articles purchased for any civil prisoner, otherwise than from jail supplies, shall be purchased through or under the orders of the Deputy Superintendent or any other officer appointed by the Superintendent.

Restriction on transfer of food and clothing

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

Monthly allowance fixed by the Court

26.16) Where a judgement-debtor is committed to a prison in execution of a decree, the Court shall fix for his subsistence such monthly allowance as he may be entitled to according to the scales that have been fixed .

26.17) The monthly allowance fixed by the Court shall be supplied by the party on whose application the judgement-debtor has been arrested by monthly payments in advance before the first day of each month.

26.18) The first payment shall be made to the proper officer of the Court for such portion of the current month as remains unexpired before the judgement-debtor is committed to prison and the subsequent payments (if any) shall be made to the officer in charge of the prison.

26.19) Sums disbursed by the decree-holder for the subsistence of the judgement-debtor in the prison shall be deemed to be costs in the suit.

Supply of clothing and bedding

26.20) Every civil prisoner unable to provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as prescribed.

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

Note 1:- The name and address of the decree-holder or his representative may be obtained from the Civil Court which issued the decree. When received, the demand in writing for payment shall be delivered to him.

Note 2:- Instead of paying for the cost of clothing and bedding the decree-holder may supply the same to the Superintendent.

Detention and release of judgement debtor

26.22) Every person detained in the prison in execution of a decree shall be so detained:-

- (i) where the decree is for the payment of a sum of money exceeding five hundred rupees for a period of six months and
- (ii) in any other case for a period of six weeks.

Provided that he shall be released from such detention before the expiration of the said period of six months or six weeks as the case may be:-

- (i) on the amount mentioned in the warrant for his detention being paid to the officer in charge of the prison ;
- (ii) on the decree against him being otherwise fully satisfied;
- (iii) on the request of the person on whose application he has been so detained, or
- (iv) on the omission by the person on whose application he has been so detained to pay subsistence allowance.

Provided also that he shall not be released from such detention without the order of the Court.

Note:- If the judgement-creditor omits to pay the allowance, the prisoner shall be released on the morning of the day for which no allowance is paid.

Supply of furniture and appliances

26.23) As Government only provides subsistence allowance at certain rates for civil prisoners, such articles of furniture and appliances as are permissible, shall be supplied by the Jail.

26.24) Every civil prisoner may be allowed reasonably to supplement at his own expense, the food, furniture and appliances allowed to him at the discretion of the Superintendent.

Extras for civil prisoners how to be charged

26.25) If any extra article of diet is ordered by the Medical Officer for a civil prisoner, on medical grounds, any excess of expenditure over and above what can be met by the daily subsistence allowance, shall be paid by Government.

Release on ground of illness

26.26) At any time after a warrant for the arrest of a judgement-debtor has been issued, the Court may cancel it on the ground of his serious illness.

26.27) Where a judgement-debtor has been arrested, the Court may release him if in its opinion he is in a fit state of health to be detained in the prison.

26.28) Where a judgement-debtor has been committed to the prison he may be released there from:-

- (i) by the Government, on the ground of the existence of any infectious or contagious disease, or
- (ii) by the committing Court or any Court to which that Court is sub-ordinate on the ground of his suffering from any serious illness.

26.29) A judgement-debtor released under this section may be re-arrested, but the period of his detention in the civil prison shall not in aggregate exceed that prescribed by section 58 of the Civil Procedure Code.

Disposal of balance of diet-money on release

26.30) When a civil prisoner has been released, the balance (if any) of diet-money or sale proceeds of clothing in the Government Treasury, shall, if received from a Civil Court Officer, be returned to the Court, but if received from the decree-holder, it shall be paid to him on his applying for it within 3 years.

26.31) Articles of clothing and bedding etc. supplied to a civil prisoner at the expense of the decree-holder, shall be removed from the prisoner at the time of his release and returned to the decree-holder. If such articles remain unclaimed for three months, these will be sold and the sale-proceeds credited to the Government.

26.32) No civil prisoner shall be compelled to labour.

26.33) Save as provided in clause (1) of the rule, and in section 31 and the proviso to section 46 of the J&K Prisons Act, 1920 A. D., every civil prisoner shall, in regard to discipline, be subject to all rules providing for the discipline of unconvicted criminal prisoners.

Civil prisoners may follow a trade and receive the earnings

26.34) Civil prisoners may, with the Superintendent's permission, work and follow any trade or profession within the limitations of confinement.

26.35) Civil prisoners finding their own implements, and not maintained at the expense of the prison, shall be allowed to receive the whole of their earnings; but the earnings of such as are furnished with implements or are maintained at the expense of the prison shall be subject

to a deduction, to be determined by the Superintendent, for the use of implements and the cost of maintenance.

26.36) Books may be allowed to literate civil prisoners both from the jail libraries and from outside, if they desire to purchase them, with the permission of the Superintendent.

Assistance under solvency Act

26.37) Any prisoner who wished to be declared insolvent under the Act, shall be given every assistance and may be provided with writing material for the purpose by the Superintendent.

CONVICT FUNCTIONARIES

Three grades of Convict Functionaries

27.1) There shall be three grades of Convict Functionaries, namely, Convict-Watchmen, Convict-Overseers and Convict-Warders.

Appointments to be made by the Superintendent

27.2) All appointments to the position of Convict Watchman, Convict-Overseer and Convict-Warder shall be made by the Superintendent. However, the Inspector General may in the interest of administration relax any of the qualifications for such appointments.

Qualification for appointment of Convict Functionaries

27.3) A prisoner who is physically and mentally fit to perform the duties of a Convict-Watchman, Convict-Overseer or Convict-Warder, shall be eligible for appointment to any such office, provided he possesses the following further qualifications, in respect of each such office, namely :—

(1) For a Convict-Watchman, that-

- (i) he is a prisoner of the casual class; save in the case of jails reserved for habitual prisoners, where prisoners of the habitual class shall be eligible for appointment, provided that no habitual prisoner with more than 2 previous convictions shall be appointed as night watchman in the habitual barracks ;
- (ii) his substantive term of imprisonment is not less than twelve months ;
- (iii) he has completed one-third of his substantive sentence;
- (iv) he is a well-behaved and an industrious prisoner ;
- (v) he has, at the time of his appointment, earned at least three fourths of the remission which it was possible for him to obtain ; and
- (vi) he has not been convicted of thuggee, administering poisonous drugs, unnatural offence, kidnapping or abduction for purpose of prostitution, or

any other offence which, in the opinion of the Superintendent, would render it undesirable to appoint him as Convict-Functionary.

(2) For a Convict-Overseer, that—

- (i) he has served as a Convict-Watchman for not less than three months ;
- (ii) he has, at the time of his appointment earned three-fourths of the remission which it was possible for him to obtain ;
- (iii) he has served half his sentence ;
- (iv) his work as a watchman has given satisfaction ; and that
- (v) he has a fixed abode.

(3) For a Convict-Warder, that-

- (i) his substantive sentence is not less than three years and that he is a prisoner of the casual class ; and
- (ii) he has served as a Convict-Overseer for not less than (a) six months in the case of a prisoner whose term does not exceed three years, or one year in other cases.

The General duties of Convict Functionaries

27.4) The general duties of a Convict-Watchman shall be, to—

- (i) patrol the inside of wards and assist in maintaining discipline and order at night ;
- (ii) prevent prisoners from leaving their berth, except with permission and for a necessary purpose ;
- (iii) count the prisoners in his charge frequently , satisfy himself that all are present, and reply when challenged by the outside patrol ;
- (iv) prevent , as far as lies in his power, any breach of jail rules by any prisoners in his charge, and to report the same ;
- (v) report cases of sickness and the use of latrine otherwise than at the times specified in that behalf ;
- (vi) assist in quelling any disturbance and, in case of necessity, defend any official ;

- (vii) perform such task as may be allotted to him during the day and render all proper assistance to the Warder in charge of his group ;
- (viii) when so required, act as a messenger within the jail walls and escort prisoners from one part of the jail to other ; and
- (ix) watch the jail walls and prevent prisoners from lurking near them.

27.5) The duties of a Convict-Overseer shall be to—

- (i) perform all or any of the of the duties of the Convict-Watch man which it may at any time be his duty to perform ;
- (ii) when so required, patrol the outside of wards at night in the manner prescribed ; and
- (iii) see that prisoners keep themselves clean, wash and fold their clothing properly and keep their feeding utensils clean and bright.

27.6) The duties of a Convict-Warder shall be to—

- (i) perform all or any of the duties of a Convict-Watchman or Convict-Overseer which it may at any time be his duty to perform ;
- (ii) take charge of a certain number of prisoner inside the jail, and see that the duties assigned to such prisoners are properly performed ; and
- (iii) take charge of a section of the jail or a work shop enclosure, maintain order and discipline amongst its occupants, exclude there from prisoners who are not, and detain therein prisoners who are in his charge.

A Convict Functionary permanently incapacitated

27.7) Should a Convict-Functionary, from any cause, at any time, become permanently incapacitated for all or any of the duties required of him , the Superintendent may reduce him to the next grade (if any) the duties of which he is capable of performing or remove him from position.

Strength of Convict-Functionaries

27.8) The total number of Convict-Functionaries shall be fixed by the Inspector General, subject to a maximum of 10 percent of prisoners.

Jail Panchayat

27.9) *An elected Panchayat of five prisoners (three convicts and two undertrials) shall be constituted in each Institution. The functions to be performed by the Panchayat shall be the following :-*

- (i) *to draw rations from the godowns according to the prescribed scale ;*
- (ii) *to examine the quantity and quality of ration to be issued to the prisoners ;*
- (iii) *to supervise cooking and to ensure equitable distribution of food among the prisoners ;*
- (iv) *to see whether the extra diet prescribed by the Jail Doctor and as entered into the jail record is actually given to the prisoners ;*
- (v) *to make amicable settlements of minor disputes in the prisons among the prisoners ;*
- (vi) *to help the jail staff in the maintenance of discipline among the prisoners ;*
- (vii) *to see if rations and other articles of daily use issued to prisoners are purchased on reasonable and competitive rates (the Superintendent to furnish price list of articles as fixed by the Consumers Co-operative Store Department to the elected body for being displayed at a conspicuous place inside the Jail;*
- (viii) *to assist the jail staff in maintaining cleanliness and hygiene within the jail ;*
- (ix) *to help in promoting socio-cultural and self-improvement activities ; and*
- (x) *to help in promoting sports and games.*

[See Panchayat System introduced vide Home Deptt. Letter No. 104/J/66 Dated 23.03.1968]

27.10) Efforts shall be made by the jail authorities to increasingly use the Jail Panchayat as an instrument of self-management and self-improvement among the prisoners.

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CHAPTER XXVIII

LUNATICS

28.1) In the event of any prisoner confined in any prison showing signs of insanity which, in the opinion of the Medical Officer, are not feigned, the Superintendent shall send such prisoner to the psychiatric annexe of the district hospital for medical observation if such facilities are available. If there are no such annexes, the prisoner shall be placed under observation in the prison. Such supposed lunatics should be carefully watched by both day and night to prevent them from committing suicide or injuring themselves or others.

Classification

28.2) *Lunatics in prisons may be divided into the following five classes namely :-*

- i) *person supposed to be lunatic and detained for observations under the Provisions of Section 16 of the J&K Lunacy Act, 1920 A. D.;*
- ii) *prisoners who have become insane after their conviction and admission to prison;*
- iii) *prisoners incapable of making their defence owing to unsoundness of mind, and detained under relevant provision of the Criminal Procedure Code, 1973;*
- iv) *prisoners who have been tried for a criminal offence and found to have committed an act alleged but who have been acquitted on the ground of having been insane when act was committed and who are detained under relevant provisions of the Criminal Procedure Code ; and*
- v) *recovered criminal lunatics.*

[See J&K Lunacy Act, 1920 A.D.]

Note:- Prisoners falling within class (i) are termed as Civil lunatics, while prisoners falling within classes (ii) to (v) are criminal lunatics.

28.3) A criminal lunatic believed to have recovered shall, if possible, be given some employment with or without pay and with such amount of liberty as the Superintendent may think safe.

28.4) Whenever a person is suffering from, or is under observation for insanity, he shall be confined in a cell and placed under the charge of a guard both day and night.

28.5) The Warder or patrolling officer for the time being on duty, if within easy reach of the cell, or if not, the Warder or Convict Warder in actual charge, shall be provided with the key of the cells in which the lunatic or person under observation is confined.

28.6) On the occurrence of any incident which may lead the Sentry on duty to suspect that the person contemplates suicide, or when help is otherwise needed, such officer shall raise the alarm by blowing his whistle.

28.7) The Sentry on duty (in case there is more than one person in his charge) shall keep on the move, visiting each prisoner at short interval and shall not leave his beat till properly relieved from sunset to sunrise he shall carry a torch.

28.8) As far as circumstances will allow, all insane persons and those under observation for insanity shall be kept in contiguous cells near the hospital and under the orders of the Medical Officer, and shall be allowed only such clothing as, while sufficient in amount for purposes of health and decency, is least likely to be used for the commission of suicide.

28.9) The Medical Officer shall see that the lunatic is provided, before he is despatched, with sufficient clothing, special attention being paid to the covering of the chest and abdomen, and that, in the cold months of the year, the lunatic is also provided with blanket.

28.10) The Superintendent shall see that sufficient food for the lunatic's consumption during the journey is sent with him or that the escort is provided with sufficient funds to purchase food and with clear instructions as to what to purchase.

28.11) The escort shall be distinctly instructed that if the lunatic falls ill or refuses food enroute, he shall be taken to the nearest hospital for treatment.

28.12) When a prisoner is sent to the Mental Hospital all property in the prison belonging to him shall be sent with him and a receipt for the same obtained.

28.13) The observations made by the Medical Officer regarding a lunatic shall be recorded in the Medical Officer's Journal.

28.14) If a supposed lunatic be an undertrial, the Superintendent shall report the circumstances to the trying or committing Magistrate for necessary action under

section 464. Criminal Procedure Code. If the Magistrate orders under section 466 (2), Criminal Procedure Code, that the person should be detained in prison custody, the Superintendent shall inform the Inspector General and forward to him the necessary documents. Thereupon the Inspector General shall move the Government for issue of an order under section 30 of the Prisoners Act for the removal of the prisoner to the appropriate Mental Hospital as soon as accommodation is available. Pending the availability of such accommodation in the said Mental Hospital, the Inspector General will order the removal of the prisoner to a prescribed institution earmarked for the custody of such prisoners. In cases of urgency, the Inspector General may order the transfer of the prisoner to the Mental Hospital in anticipation of Government order, provided that accommodation is previously assured by the Superintendent of the Mental Hospital.

28.15) If the supposed lunatic be a person detained or imprisoned under any order or sentence of Court, the Superintendent shall apply to the Magistrate of the District in which such order or sentence was passed, for a descriptive roll in the prescribed form, the order or the judgement of the Court and the certificate signed by a competent Medical Officer regarding the prisoner's insanity. These documents should be forwarded forthwith to the Inspector General for moving the Government in the appropriate department for issue of order under section 30 of the Prisoners Act for removal of the prisoner to the Mental Hospital as soon as accommodation is available.

Note :- For procedure in case of supposed lunatic awaiting sentence of death, reference should be made to Chapter LVII.

28.16) In all cases a certificate in the prescribed form regarding the prisoners fitness to travel should also be enclosed.

28.17) If any prisoner becomes insane after admission into a prison or a criminal lunatic is admitted into a prison, a report, regarding his case shall immediately be submitted by the Superintendent to the Inspector General with a view to obtaining the order of Government for removal of the person to a Mental Hospital. With this report, the following documents shall be forwarded in duplicated :—

- (i) descriptive roll in the prescribed form ;
- (ii) a certificate signed by the competent Medical Officer regarding prisoner's unsoundness of mind ;
- (iii) a certificate regarding the prisoner's fitness for transfer ; and
- (iv) descriptive roll.

28.18) On receipt of the Government order for removal of the prisoner to a Mental Hospital or writ, warrant or order from the court, for such removal, the Superintendent shall ascertain from the Superintendent of the Mental Hospital the probable date on which the latter will be ready to receive the lunatic. When the date of transfer is thus fixed in consultation with the Superintendent of the Mental Hospital, the Superintendent of the prison shall forward the criminal lunatic along with the following documents :—

- (i) a copy of the Court's reception or detention order ;
- (ii) a copy of the history sheet ;
- (iii) a duplicate copy of the Medical officer's certificate regarding fitness of the prisoner for transfer ;
- (iv) original warrant of imprisonment ;
- (v) copies of the orders of the Court requiring the attendance of the prisoner ;
- (vi) prisoner's remand card ;
- (vii) P. R. slips, if any ; and
- (viii) a list of all Government properties-clothing, bedding, utensils, etc. prisoner's private clothing and other properties to be taken with the prisoner.

Note:- The lunatics are known to be violent, dangerous, or having suicidal tendencies, etc. A statement of actual facts should be entered in the Medical Officer's certificate.

28.29) Intimation of the despatch of lunatic for admission to the Mental Hospital, with details about the date and hour of arrival at the railway station, should invariably be sent beforehand by wire to the Superintendent of the hospital.

28.30) Special instructions may be issued by the Government relating to the treatment of recovered criminal lunatics and their transfer from the Mental Hospitals to prisons prior to their ultimate release. Lunatics so transferred shall be treated strictly in accordance with the orders of Government passed in each case. In suitable cases, the Government may consider remission of the unexpired portion of their sentences.

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CHAPTER XXIX

DETENUS

29.1) 'Detenu' means any person ordered to be detained and committed to a place of detention by any authority acting in exercise of powers conferred by J&K Public Safety Act, 1978.

29.2) 'Place of detention'—a jail or any other secure place in which a detenu is ordered to be lodged.

Classification

29.3) Detenu may be divided into Special, class A, class B, and class C according to their high official rank, stature in life, public importance, education, reputation, status in society and the standard of living to which they were accustomed immediately before their detention. A Special class detenu shall be entitled to such amenities, privileges and concessions as the Government may specify.

29.4) The Government may decide the class in which a detenu shall be placed provided that when the Government do not specify the class in which a detenu is to be placed, he shall be deemed to have been placed in 'C' class.

Accommodation

29.5) Detenus may be kept in single rooms or association barracks, separate from ordinary prisoners. The Superintendent shall always have the power to confine any particular detenu separately if he considers it desirable to do so on grounds of health or for administrative or other reasons.

Food and toilet

29.6) The Superintendent may spend per day per detenu a sum not exceeding the amount specified by the Government from time to time for each class of the detenus to meet the requirements of food and toiletry items as approved.

29.7) A detenu may intimate to the Superintendent his choice of the articles of food or toiletry both for each day and for each month as he may desire and as may reasonably be convenient to supply provided that the cost or average cost per day of the article so chosen by him shall not exceed the amount which the authorities are permitted to spend as in para 29.6 above.

29.8) Cooked food shall not be allowed to be imported from outside the place of detention except with the written permission of the Superintendent.

Clothing etc.

29.9) The Superintendent may spend every three months a sum not exceeding what may be specified from time to time for each class of detenus for the purchase of clothes, bed sheets, pillow covers, bath towels, shoes and chappels for a detenu of that class.

29.10) Where the Superintendent is satisfied that due to climatic conditions of a place where a detenu is kept, the sum specified above for a period of three months is insufficient, he may spend such additional sum during the said period of three months as he may consider reasonable but such additional sum shall be adjustable against the sum admissible for the next three months.

29.11) A detenu may intimate to the Superintendent his choice of the quality and quantity of these articles, as far as these may be reasonably convenient to supply provided that the total cost of articles including tailoring charges chosen shall not exceed the amount which the Superintendent is permitted to spend.

29.12) If the Superintendent is satisfied that a detenu has already been supplied with sufficient clothes and sufficient number of shoes or chappels and that they are in good usable condition; additional clothes or shoes or chappels shall not be supplied to him. If the Superintendent entertains any doubt in the matter, he may refer it to the Inspector General of Prisons for appropriate directions.

Bedding

29.13) A detenu who is unable to provide himself with sufficient bedding shall be supplied actually with articles of bedding at Government cost. The maximum cost of the articles of bedding of a detenu of a particular class shall be fixed by the Government from time to time.

29.14) A detenu may intimate to the Superintendent his choice of the articles of bedding provided that the total cost of the articles so chosen by him shall not exceed the amount specified for his class. Articles of bedding need not be renewed annually unless in the opinion of the Superintendent these need renewal. The articles of bedding need not be issued every year if, in the opinion of the Superintendent, such articles already issued are sufficient and in decent condition.

Furniture, crockery and utensils

29.15) Furniture, crockery and utensils admissible to a detenu of the A Class, B Class, and C Class shall be prescribed by the Government.

Newspapers, books and other articles

29.16) The Government may spend per month, in respect of a detenus of A, B, and C Class, a sum not exceeding what may be prescribed from time to time for purchase of postal stamps, envelopes, paper, pencils, pen ink, periodicals, newspapers and books in accordance with the written request made by the detenu to the Superintendent.

29.17) Any postal article containing or purporting to contain a news paper, periodical or book shall first be opened by the Superintendent or a person authorised by him in this behalf.

29.18) No books, periodicals or news paper which are banned or proscribed or which are obscene or scurrilous shall be supplied to or permitted to be read by a detenu.

29.19) Every article intended for a detenu shall be handed over to the Superintendent with a written request that it may be given to the detenu.

29.20) Subject to the provisions hereinafter made, the detenus shall be entitled to borrow books and journals from the jail library in such number and for such periods as shown against each :--

Person entitled to borrow books	Books	Journals	Period
Class "A"	3	2	15 days
Class "B"	2	1	-do-
Class "C"	2	1	-do-

29.21) The Superintendent of Jail shall before the commencement of each financial year submit to the Government a list of books and journals which he

proposes to purchase or subscribe to for his library together with the estimate of the cost thereof.

29.22) No further quota of goods or journals shall be issued to a detenu until he has returned the books or journals previously issued to him. If in the opinion of the Superintendent any book or journals issued to a detenu needs to be returned to the library before the expiry of the period provided for in this behalf he will give the necessary intimation to the detenu and thereupon the books shall be returned by the detenu to the library.

29.23) The books and journals returned by a detenu may be re-issued to him if not required otherwise.

29.24) Any loss or damage to any book or journal shall be made good by the detenu concerned in such manner as the Superintendent of jail may direct.

29.25) The Superintendent of jail may withhold the issue of any book or journal which is classed as a reserved or reference book or is in his opinion such as not be in a fit condition to be issued.

29.26) The Government may install one or more radio sets in any Jail in such a manner as it may deem fit.

Funds

29.27) A detenu of the "A" Class may be allowed to receive from relatives or friends or to spend out of his own monies an amount not exceeding what may be prescribed per month to supplement his diet, clothes or toiletry or to purchase books, magazines and news papers.

29.28) A detenu of "B" Class or "C" Class may receive from relative or friends or spend out of private funds an amount not exceeding what may be prescribed per month for the same purposes as referred to in para 29.27 above. No detenu shall be allowed to receive money direct from any source by Money Order or in any other manner Money meant for a detenu shall be handed over to the Superintendent.

Correspondence

29.29) A detenu of the "A" Class may be allowed to write not more than six letters a month a detenu of the B Class or the C Class may be allowed to write not more

than five letters a month, subject to general or special directions which the Inspector General of Prisons may issue from time to time. The contents of the letters and other communication from or to a detenu shall be limited to private matters. There shall be no reference in the letter or communication to jail administration and discipline, or to other detenus or to politics.

29.30) No letter or other communication shall be transmitted to or from a detenu except through the Superintendent or such other officer as the Government may appoint in this behalf.

29.31) Any letter or correspondence addressed by a detenu to the Government of India or any other member of that Government or to a Secretary to that Government or to a Government of one of the States in India other than the State of Jammu and Kashmir or to a member of or Secretary to any such State Government shall be forwarded by the Superintendent to the Home Department, J&K Government for appropriate action.

29.32) Any letter or other recommendation addressed by or to a detenu from any place outside India shall be perused by the Superintendent and forwarded with his remarks to the Home Department, which shall decide whether or not it should be despatched to the addressee.

29.33) Letter and communication addressed to a detenu may, subject to the instructions if any of the Government, be perused by the Superintendent who may withhold them if they are in his opinion detrimental to the public interest or safety or the discipline of the detenus. In case of doubt, the Superintendent shall refer them to the Inspector General of Prisons and abide by his directions.

Letters and correspondence which are unobjectionable shall be forwarded forthwith to the detenu.

29.34) All communications addressed by a detenu who is a member of the State Legislature or Parliament to the Speaker or Chairman or a Committee (including a Committee of Privileges) of such House or of a Joint Committee of both Houses of parliament shall be immediately forwarded by the Superintendent to the addressee.

29.35) A telegram may be counted as a letter for the this purposes. The receipt and despatch of telegrams by detenus shall be subject to the same control as is hereinbefore provided for letter except that the cost of the telegrams should

ordinarily be borne by the detenu himself. In the absence of any such fund it shall be in the discretion of the Superintendent whether or not the detenu should be permitted to send a telegram at the Government cost.

Interview

29.36) The Superintendent shall fix days in the week on which interviews with persons other than a Police Officer may take place.

29.37) A detenu may be permitted interview of a near relative or a group of near relatives once in a fortnight.

Note :- A near relative shall be deemed to include wife, husband, father, mother, brother, sister, son, daughter or any in-law of such relationships, direct uncle or direct aunt (i.e. brother or sister of the detenu's father or mother) grand parents and grand children.

29.38) Every detenu shall furnish a list of near relatives to the Superintendent who shall transmit a copy of it to the Inspector General.

29.39) Applications for interviews by near relatives shall be made to the Superintendent who shall grant the same provided he is satisfied that the applicants are the near relatives of the detenu whom they seek to interview.

29.40) A person other than a near relative shall not be permitted to interview a detenu unless he has obtained written permission therefore from the Inspector General.

29.41) If the Superintendent is satisfied that reasonable grounds exist for doubting the identity, bonafides or genuineness, he may postpone the interview for a period of 10 days within which period he shall obtain instructions from the Inspector General as to whether or not the person should be allowed to interview.

29.42) The Superintendent shall appoint the time and place of each interview. Interviews with near relatives should be limited to an hour's duration and those with others to half-an hour's. Duration of interviews may be extended by special order issued by the Inspector General.

29.43) Interviews shall take place in the presence of the Superintendent or such other officers as may be authorised in that behalf by a general or special order of the Inspector General.

29.44) The Superintendent or other officer who is present at the interview may terminate the interview at any time if in his opinion, the conversation is detrimental to the public interest or safety. The conversation shall have no reference to jail administration and discipline, to other detenus or to politics.

29.45) Every person permitted to interview a detenu and the detenu himself should be searched before and after the interview at the discretion of the Superintendent. Provided that no female shall be searched except by a female.

29.46) Searches shall, as far as possible, be carried out at the entrance of the gate, of the place of detention and not inside the buildings which is used for detention.

29.47) After an interview is over, the officer present at the interview shall, if he deems it necessary, warn both the detenu and the interviewer that future interview by any person is liable to be prohibited if the interviewer indulges in any publicity.

29.48) The Superintendent shall maintain a register containing the names of the persons who interviewed the detenu the dates and duration of the interviews the relationship of the interviewer to the detenu and also the remarks of the superintendent in respect of each interview. A copy of the entries in the register shall be sent to the Inspector General every month.

Police interviews

29.49) Subject to the directions, if any, of the Government, the Inspector General may by general or special order authorise any Police Officer either singly or with another Police Officer and accompanied or unaccompanied by subordinate Police Officer to interview any detenu.

Prohibition to removal of articles from place of detention

29.50) No article belonging to or made available to a detenu or to a visitor interviewing him shall on any account be removed to any place outside the place of detention. If a detenu allows or connives at any such articles being removed by any person to any place outside the place of detention, all or any of the amenities, concessions and privileges conferred on him shall be withdrawn for such period as the Inspector General may decide.

29.51) Notwithstanding anything contained here-in-above, the Superintendent shall at the time of the unconditional release of a detenu from custody, allow him to take with him all the wearing apparel issued to him for his use during a period of six months previous to such release. Provided that in the case of a detenu who is released on parole and he is a destitute, or whose private clothing has been spoiled or destroyed during the period of his detention or is insufficient for purposes of health and decency commensurate with his social status, the Superintendent may at the time of his release on parole, allow him after obtaining a receipt therefore to take with him such wearing apparel as are necessary for his use on the condition that when the said detenu surrenders himself to the jail authorities he will bring back all that apparel.

Family allowances

29.52) Allowance for the maintenance of the dependents of a detenu may be granted by the Government in cases where they are satisfied that the detention of the detenu has substantially affected the means of subsistence of those dependents and that the dependents do not have reasonable means of subsistence.

Transfer of detenu to hospital in emergent cases

29.53) If a detenu falls ill, pending the opinion of the Inspector General (who shall be immediately informed by the Superintendent). If it is necessary to give special medical treatment or immediate surgical treatment to him, he shall be removed to the nearest hospital within the State having the necessary facilities and equipment and be detained there in custody until the termination of the treatment.

29.54) The Superintendent shall send information regarding the illness of the detenu to the Government simultaneously with the despatch of such information to the Inspector General.

29.55) The Inspector General shall keep the Government promptly informed about the progress of the medical treatment, he shall be removed back to the place and detained there under the same conditions as before he took ill.

Discipline

29.56) A detenu shall, for the purpose of discipline, be subject to such of the existing rules relating to civil prisoners in the State as are not inconsistent with the provisions of the order of the instructions which may from time to time be issued under this order.

29.57) The single rooms or association barracks in which detenus are kept as also the detenus shall be liable to be searched once a month and oftener if the Superintendent considers it necessary. Every precaution shall be taken to make the searches thorough and the fact of the search shall be communicated to the Inspector General of prisons with the comments, if any, of the Superintendent.

29.58) The detenu shall :—

- (i) reside in accommodation allotted to him by the Superintendent ;
- (ii) not stray beyond the limits of the place of detention ;
- (iii) abide by the instructions issued from time to time for his comfort, safety and health or for his discipline, orderly conduct and control ;
- (iv) attend roll-call answer to his name in person at such times and places within the place of detention as may be appointed by the Superintendent ;
- (v) not do anything wilfully with the object of affecting his bodily welfare ;
- (vi) conform to the standards of cleanliness and dress laid down by the Superintendent ;
- (vii) not have in his possession any coin, currency note or negotiable instruments, any weapon, stick, razor other than a safety razor, piece of iron or any other article;
- (viii) not exchange or sell any of his kit-equipment, clothes, furniture or other or other possessions ;
- (ix) not refuse to take the diet fixed by the Superintendent ; and
- (x) not receive any article from a person other than the Superintendent or an officer employed in the place of detention who is authorised by the Superintendent to hand over article to him.

Punishments for breach of discipline

29.59) A detenu who contravenes any of the provisions mentioned in para 29.58 above or who contravenes any other provisions of SRO-87 dated 27-02-1990 or any instructions issued under this order or who—

- (i) assaults, insults, threatens or obstructs any fellow detenu or any officer or the place of detention or any other Government servant or any person employed in or visiting the place of detention ;

- (ii) quarrels with any person in the place of detention ;
- (iii) is guilty of indecent, immoral or disorderly conduct ;
- (iv) communicates or attempts to communicate with any person outside the place of detention in any unauthorised manner ;
- (v) bribes or attempts to bribe any Government servant or any person employed in or visiting the place of detention ;
- (vi) commits any nuisance or wilfully defouls any wall, latrine washing or bathing place ;
- (vii) disobeys the orders of or shows disrespect to any officer of the place of detention ;
- (viii) wilfully damages any property belonging to Government or tampers with any lock, lamps or lights in the place of detention ;
- (ix) receive, possesses or transfers any articles in contravention of any order of the Superintendent ;
- (x) feigns illness ;
- (xi) wilfully brings a false accusation against any officer of the place of detention or fellow detenu ;
- (xii) omits or refuses 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 attack or preparation for attack upon any officer of the place of detention ;
- (xiii) abets the commission by fellow detenu of any of the foregoing acts ; or
- (xiv) omits or refuses to help any officer of the place of detention in case of an attempt to escape on the part of any of his fellow detenues.

Punishments

29.60) where, upon enquiry, the Superintendent is satisfied that a detenu is guilty of breach of discipline, he may award the detenu, one or more of the following punishments :—

- (i) confinement in a cell for a period not exceeding fourteen days ;
- (ii) reduction or alternation of diet for a period not exceeding fourteen days ;

- (iii) cancellation or reduction of the concession of receiving funds from outside for a period not exceeding two months ;
- (iv) cancellation or reduction, for a period not exceeding two months, of the privileges of writing and receiving letters or of newspapers, periodicals and books ; and
- (v) cancellation of the privileges of wearing his own clothes.

29.61) If any detenu is guilty of breach of discipline which by reasons of his having frequently committed such breaches or otherwise is in the opinion of the Inspector General not adequately punished by the Superintendent, he may report the case to the Government. The Government, after examining the report and after making such enquiry or obtaining such further information as may be deemed necessary, may in their discretion pass orders that all or any of the amenities, privileges and concessions allowed to the detenu shall be withdrawn for ever or for such period as may be specified or that the detenu shall be treated in the same manner and subjected to the same conditions as a prisoners undergoing rigorous imprisonment.

Attendance of detenu in Courts

29.62) The provisions of the Jammu and Kashmir Prisoners Act, 1920 A.D. shall apply to the attendance of detenu in Court.

Government property

29.63) All the articles and goods purchased at the cost of the Government for the use of a detenu shall remain the absolute property of the Government and their possession, custody, control, use and disposal shall be in according with the instructions which the Government may issue from time to time.

[See J&K Detenu (General) Order, 1968]

* * * *

PRISON FACILITIES

CHAPTER XXX

DIET

Maintenance of Certain prisoners from private sources

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

[Section 31 of J&K Prison's Act, 1920 A. D.]

Restriction on transfer of food and clothing between certain prisoners

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

[Section 32 of J&K Prison's Act 1920 A. D.]

Prisoners not to consume, receive or possess articles of food or drink unauthorisedly

30.3) Subject to the provisions of section 31 of the Act and the rules made there under, no criminal or civil prisoner shall at any time receive, consume or possess any article of food or drink not provided for or supplied to him in the manner hereinafter provided in that behalf.

Every Prisoner to receive prison diet

30.4) A convicted criminal prisoner, an unconvicted criminal prisoner or a civil prisoner who does not maintain himself shall, when not placed on special diet or medical grounds by proper authority, daily receive the scale of prison diet admissible to him in accordance with rules.

Supply of vegetables

30.5) Only succulent and fresh vegetables shall be supplied by the concerned jail officers to those in charge of the prison kitchen. Vegetables should be free from stalks, fibrous portions and rotten leaves.

Inspection of articles received from contractors or Jail Garden

30.6) The Deputy Superintendent or Asstt. Superintendent incharge of ration stores and the Medical Officer shall survey all articles for the consumption of the prisoners from suppliers or from Jail gardens.

Preservation of stocks of grains and other articles

30.7) The Store Keeper shall take all possible precautions to preserve the foodgrains and other consumables in good and whole some condition.

Cleaning of grains before grinding

30.8) No grain shall be ground unless it is cleaned by separating the grain from everything which has been mixed up with it, namely husk, dirt, weeviled grain and such other foreign matter.

Sifting of flour

30.9) After the grain is ground, the flour shall be carefully sifted through a sieve made of wire-netting.

30.10) Pulses shall be thoroughly cleaned before being cooked.

Responsibility of prison officials for ensuring proper quality of articles of diet

30.11) It shall be the duty of the Superintendent, the Medical Officer and Dy. Superintendent to satisfy themselves individually that :—

- (i) pure and wholesome water is provided for consumption by a prisoner and that a supply of such water is at all times freely available to every prisoner for drinking purposes ;
- (ii) the quantity and quality of every article at any time supplied, or intended to be supplied, for food of any prisoner, is as prescribed in rules and that it is good, wholesome and fit for human consumption ;

- (iii) every article of food supplied to a prisoner in a cooked state, or which requires to be cooked before being supplied, is properly and cleanly cooked in such a manner as to be wholesome and reasonably palatable ;
- (iv) every article of food, whether cooked or uncooked is subject to proper examination and inspection before it is supplied for consumption by any prisoner;
- (v) all food stuffs at any time obtained and stored in the prison are frequently inspected and that all articles which are unwholesome or in any respect unfit for human consumption are forth with rejected and are not issued for the use of prisoners ; and
- (vi) proper places for the convenient and orderly distribution.

Diet Scale

30.12) There shall be two scales of diet one for labouring prisoners and the other for non-labouring prisoners excluding detenus as mentioned in Appendix- "A" to this chapter. The diet scale may be reviewed by the Inspector General.

30.13) Distribution of diet and the hours at which the diet is to be provided shall be fixed by the Medical Officer.

Ration Diet

30.14) Special diet shall be given to the prisoners on festivals/ National days as mentioned in Appendix- "A".

Modified diet for foreigners

30.15) Where a foreigner is not accustomed to the diet scale mentioned in these rules, the Medical Officer may recommend such modified diet as he deems fit.

Extra Provisions for prisoners not in hospitals on medical advice

30.16) The Medical Officer may recommend extra or special diet for any prisoner in accordance with the requirements of the prisoner's health. When such diet has to be prescribed for a period exceeding one month, prior approval of the Physician Specialist shall be necessary.

30.17) The Medical Officer shall after each periodical weighing of the prisoners, carefully examine the results of weighments for ascertaining which prisoner requires extra or special diet, or recommendations of change of labour.

Power of Medical Officer to release rations in certain cases

30.18) While supplying rations for the sick, convalescent, infirm, children of woman prisoners, weak prisoners who are unable to labour or who can perform only the lightest tasks, the Medical Officer shall be consulted for reduction in their full allowance of ration quantum, and supplies shall be made accordingly. Provided that the Medical Officer shall exercise such economy in the reduction of rations as is not inconsistent with the well being of the prisoners concerned.

Change in diet of prisoners on medical grounds

30.19) The diet of any individual prisoner may, on medical grounds, be modified on the recommendation of the Medical Officer, but the diet of any section or group of prisoners shall not be changed without the previous sanction of the Inspector General except in case of emergency when the Medical Officer may change the same. Any such action shall at once be reported to the Inspector General by a letter, stating fully the circumstances leading to such change.

Diet for children of woman prisoners allowed to stay with them

30.20) Children admitted to prison with their mothers shall be issued diet. Changes in this diet scale may be made if necessary on the recommendation of the Medical Officer.

Extra diet for nursing mothers and pregnant women

30.21) Nursing mothers and pregnant women shall be issued special diet. The special diet shall be recommended by the Medical Officer.

Change of diet not be effected without consulting the Medical Officer

30.22) The diet of a prisoner shall not be changed without consulting the Medical Officer.

30.23) The Medical Officer shall always be informed after a change is effected as an emergency measure during the Medical Officer's absence.

Diet for lunatics confined in prison

30.24) A lunatic shall be provided with the ordinary prison diet unless the Medical Officer otherwise directs. A person supposed to be a lunatic who is under observation, may be provided with food from outside the prison under the same conditions as are prescribed for unconvicted criminal prisoners.

30.25) The officer supplying ration shall be responsible for the correctness of the supply as worked out on the ration book and the ration slip.

30.26) The Superintendent shall make surprise checks of the supply of the rations from time to time, and record his observations in a register kept specially for the purpose.

30.27) The diet scale shall be kept in kitchen and main gate. The Dy. Superintendent/ Sr. Asstt. Superintendent Incharge of dietary shall be responsible for correct weights. The Superintendent or Dy. Superintendent or Asstt. Superintendent or Medical Officer shall supervise weighments daily.

Scale of Vegetables

30.28) The scale of vegetables shall be calculated after all the hard stalks and fibrous mid ribs have been removed.

30.29) The officer incharge of the dietary and the Medical Officer shall inspect the supply of vegetables daily before it is cooked.

Supply of Milk

30.30) Milk whether from the prison or from outside shall be examined by the Medical Officer before supplying it to the prisoners.

Prison employees not to cook their food etc.

30.31) No prison employee shall be allowed to cook his food inside prison walls or to have it cooked for him by the prison cooks.

Tampering with food or scales by cooks

30.32) Any tampering with the food or scales by the cooks shall be immediately brought to the notice of the Superintendent by Officer concerned for necessary action.

Unlocking of cooks

30.33) Where it is necessary to unlock the cooks before other prisoners are unlocked, they shall for the proceeding night be locked up together in a barrack, the key of which shall be entrusted to the Senior Prison Officer on night duty, who may unlock the barrack at the hour prescribed for the purpose by the Superintendent.

Supply of aprons to prisoners working in the kitchen

30.34) The prisoners employed in cooking shall always wear clean blue aprons which shall reach just below the knees. Each prisoner working in the kitchen shall be provided with aprons and he shall keep them always clean.

Number of Cooks

30.35) The number of Cooks shall not ordinarily exceed four per cent of the prison population. The number of additional Cooks for each prison may be fixed by the Inspector General on the basis of requirements of each prison.

30.36) The selection of Cooks shall be made by the Superintendent/Dy. Superintendent and Medical Officer in consultation with the Jail Panchayat.

30.37) The Cooks shall be got medically examined so as to ensure that they are free from diseases. Such examination shall be held every month, and the Medical Officer shall record his findings in the Medical Officer's Journal.

Cleanliness

30.38) The kitchen and cooking pots and appliances shall be scrupulously cleaned and well maintained. The cooking shall be done slowly and thoroughly, the oven or plate being kept at a gentle heat.

30.39) The work of cleaning cereals, pulses, vegetables, kitchen utensils and the kitchen area shall be given to short termers.

Breads

30.40) Where the ration of flour for a meal exceeds 170 grams, two or more breads shall be made out of it, the diameter of which shall be such as to make the bread sufficiently thin for proper baking.

30.41) Breads may be rolled in standard iron rings used for the purpose so as to make them uniform in size and also well baked.

Preparation of dough

30.42) While preparing dough, the flour shall be slowly mixed with water and kneaded thoroughly on some impermeable surface.

How to use oil

30.43) Oil shall be added to vegetables while cooking.

30.44) Dal shall be first cooked and oil and condiments shall be added to it afterwards, and allowed to boil with more water.

Quality of cooked food to be tasted

30.45) In order to ensure that the food is properly cooked, and the quantity ready for serving is of correct weight, the Dy. Superintendent or Sr. Asstt. Superintendent Incharge of each block, section shall be present at each meal and he shall see that the food is properly served. The Superintendent and the Medical Officer shall carry out surprise inspection of the food by taking samples from the bulk ready for serving.

Superintendent to inspect rations etc

30.46) The Superintendent shall at least once a week, inspect the provisions furnished for the prisoners and satisfy himself by personal observation regarding the quality of the different cereals and other articles of food supplied for their use. He shall also occasionally test pass order, if any, in his Order Books as a result of his inspection. He shall visit the prisoners as often as possible at meal time and receive and enquire into any complaints that may be made to him regarding the quantity and quality of rations. Cooked food shall be inspected in bulk at the kitchen or during distribution to prisoners.

Medical Officer to exercise vigilance

30.47) The Medical Officer shall exercise the utmost vigilance in the supervision of food and all articles of food supplied for consumption shall be inspected both in the raw and in the cooked state, daily, unless unforeseen circumstances arise which render such a proceeding impossible by the Medical Officer. He shall specially see that an adequate supply of vegetables of good quality is made. The Junior Medical Officer, if empowered so to do, may examine the rations of the prison and report the result to the Medical Officer, but he shall have no authority to condemn food.

Defect in quality

30.48) Any defect in quality noticed by the Medical Officer shall at once be brought to the notice of the Superintendent for such action as deemed fit.

Complaint about shortage of food

30.49) Where a prisoner complains of receipt of insufficient quantity of food, the Incharge present shall weigh the food in the presence of the complaining prisoner, and shall

arrange to make good, the shortage, if any. He shall also investigate the cause of any shortage found by him and report the fact to the Superintendent.

Consumption of food and disposal of surplus

30.50) Food shall be served and consumed at a place fixed for the purpose, and shall not be taken away from there elsewhere for eating without the permission of the Dy. Superintendent.

30.51) Breads remaining in balance shall be kept for being served at the next meal which shall be cooked taking into account the balance available.

30.52) Scraps and other pieces remaining from a meal may be given to prison cattle or destroyed.

Supply of meals to a prisoner before going to Court

30.53) When an unconvicted or convicted criminal prisoner has to be sent to Court, he shall be given his food before he goes; and arrangement shall be made to enable him to have his food when returns. If an undertrial or convicted criminal prisoner has not been in the prison previously, it shall be the duty of the Police to see that he has his food before he is taken to the prison, if he is likely to arrive there too late for the evening meal.

Supply of food to prisoners on transfer

30.54) A prisoner on transfer shall be given a full meal before leaving, and if the journey is short one, he shall carry with him ordinary cooked food for consumption on the way. In the case of longer journey, dry rations shall be supplied as per prescribed diet scale (Appendix-“A”).

Appendix - "A"

DIET SCALE FOR PRISONERS

A PER DAY EACH INMATE	NON LABOURING	LABOURING
1. Atta/Rice	0.580 Kgs	0.600 Kgs
2. Mustard oil	0.025 Kgs	0.030 Kgs
3. Dal all kinds	0.070 Kgs	0.080 Kgs
4. Salt	0.015 Kgs	0.015 Kgs
5. Sugar	0.040 Kgs	0.045 Kgs
6. Tea	0.003 Kgs	0.003 Kgs
7. Haldi	0.025 Kgs	0.025 Kgs
8. Mirch	0.025 Kgs	0.025 Kgs
9. Vegetables	0.232 Kgs	0.250 Kgs
10. Fire Wood	1.000 Kgs	1.000 Kgs
11. Dattan Phlv	1 No. Daily	1 No. Daily
12. Kachori	2 No. each	2 Nos. Daily
13. Milk	0.100 Kgs	0.150 Kgs
14. Onion	0.020 Kgs	0.020 Kgs
15. Garlic(Thoom)	0.010 Kgs	0.010 Kgs
16. Ginger(Adarak)	0.005 Kgs	0.005 Kgs
17. Lemon	1 No	1 No (From
	May to Sept.	

Daily)

B. WEEKLY ISSUE (SUNDAY)

1. Cheese/Meat	0.058 Kgs	0.065 Kgs
2. Fire Wood	0.100 Kgs	0.100 Kgs
3. Haldi/Mirch	0.004 Kgs	0.004 Kgs
4. Mustard oil	0.006 Kgs	0.006 Kgs
5. Salt	0.006 Kgs	0.006 Kgs
Soap	2 Cakes monthly of 150 gms. each.	
Detergent for washing	2 Cakes monthly of 125 gms. each	
6. Mustard oil for massage	0.058 Kgs	0.060 Kgs

C. FESTIVALS:

Rs. 10/- may be paid to each prisoner on the following festivals:-

1. Republic Day
2. Mahashivratri.
3. Shab-i-Miraj.
4. Idd-ul-Fiter
5. Idd-ul-Zuha
6. Ram Janamashtami.
7. Diwali.
8. Guru Nanak's Birthday.

* * * *

CHAPTER XXXI

CLOTHING AND BEDDING

Supply of clothing and bedding

31.1) *Civil prisoners and unconvicted criminal prisoners are permitted to provide themselves with clothing, bedding or other necessaries. Every convicted criminal prisoner and every civil prisoner and unconvicted criminal prisoner who is supplied with clothing and bedding shall wear such clothing and use such bedding as is supplied to him by or under the orders of the Superintendent and no other.*

[See Section 31 to Section 33 of the J&K Prisons Act, 1920 A. D.]

31.2) No prisoner to whom any clothing or bedding is supplied, shall receive, possess or use or be permitted to use other than an article so supplied or an article the receipt, possession or use of which the Superintendent may, at any time, sanction in respect of any such prisoner.

Convicts to wear prison dress

31.3) Every convict shall ordinarily wear the prescribed prison dress. Provided that the Inspector General may, at any time, in his discretion, by general or special order in that behalf, relax the provisions of this rule in respect of any prisoner or class of prisoners under sentence of simple imprisonment, subject to such conditions (if any) as he may think fit to impose in that behalf.

Clothing of prisoners sentenced to simple imprisonment

31.4) All prisoners sentenced to simple imprisonment who are not habituals, shall be permitted to wear their own clothing while in jail but should not be allowed to wear political symbols.

Prisoners to conform to orders as to the care, & c., of articles

31.5) Every prisoner, to whom an article of clothing or bedding or other equipment is at any time supplied, shall conform to all such orders as to the care, custody and use as the case may be, thereof, as may from time to time be issued by the Superintendent, subject to the directions (if any) in that behalf, of the Inspector General.

Powers to fix scales of prison clothing and bedding

31.6) The Inspector General shall, with the previous sanction of the Government, fix the scale of clothing and bedding and other necessaries of equipment, to be provided

in respect of prisoners, and may with the like sanction, from time to time :—

- (i) vary the scale of clothing and bedding generally, or that prescribed in respect of prisoners of any class ;
- (ii) prescribe a special scale in respect of the prisoners confined in any jail, or in the jails situated within any specified local area ;
- (iii) prescribe a special scale in respect of any period or periods of time or during any season of the year ; and
- (iv) vary the shape, size material or quality of any article prescribed in any scale of clothing or bedding.

Powers reserved to Medical Officer to order extra clothing

31.7) Nothing in the forgoing shall be deemed in any way to limit or restrict the power of the Medical Officer, in discretion, at any time, to direct, on medical grounds for the benefits of the health of any prisoner or class of prisoners, the issue of extra clothing to any such prisoners or class of prisoners for any specified period, during any season of the year.

31.8) The following scales of clothing, bedding and other necessaries of equipment, are prescribed for convicts

Bedding items :

- | | |
|---------------------|--------|
| (i) Barrack Blanket | 6 Nos. |
| (ii) Bed Sheets | 2 Nos. |

Clothing :

For Men	For Women
- 2 Nos. - Shirts	- 2 Nos. - Saries/Salwar-Kameez
- 2 Nos. (for six months) - Trousers	- 2 Nos. - Peticosats/Blouses
- 2 Nos. - Caps	- 2 Nos. - Caps
- 2 Nos. - Towel	- 2 Nos. - Towels
- 1 No. - Pheran (to be replaced after two years) in jails located in winter zones	- 1 No. - Pheran (to be replaced after two years) in jails located in winter zones - Sanitary pads as may be prescribed

Utensils :

- | | |
|------------------|-------|
| (i) Steel Thali | 1 No. |
| (ii) Steel Glass | 1 No. |
| (iii) Steel Bowl | 1 No. |
| (iv) Plastic Mug | 1 No. |
| (v) Steel Spoon | 1 No. |

Clothing of Convict Functionaries :

31.9) The clothing of male Convict Functionaries shall be:-

- (i) Convict-Watchman :—The usual prison uniform of a convict with the exception of woollen cap in lieu of which a white pugree will be issued, and a brass badge to be worn on the left arm, with the word “Watchman” engraved thereon ;
- (ii) Convict-Overseer :—Black pugree, black coat (alkhaliq and black pyjama ; a brown leather belt and brass buckle with the word “Overseer” engraved thereon) ; and
- (iii) Convict-Warder:—The same as a Convict Overseer but the clothing shall be yellow and on the buckle shall be engraved the word “Warder”.

31.10) Female Convict-Functionaries doing duty outside barracks at night shall be provided with blanket great coats in winter time.

Supply of Clothing & c., to certain prisoners

31.11) *All clothing and bedding supplied to any civil or unconvicted criminal prisoner shall be of the same description as that supplied to convicts.*

[See Section 33(1) of the J&K Prisons Act, 1920 A.D.]

Clothing & c., of infants

31.12) The clothing, bedding and necessaries to be supplied to infants who are permitted to reside in jails, shall be such as the Superintendent may prescribe.

Standard pattern for all articles

31.13) All articles of clothing, bedding and equipment, shall be of the standard patterns approved by the Inspector General.

Pattern for unidentified prisoners

31.14) Unidentified prisoners shall wear coats with two dark blue stripes, each 3 inches wide, running along the whole length on their side and caps with one blue stripe of the same width, in the middle.

Note:-An “unidentified” prisoner is one whose identity has not been established, i.e, whose antecedents have not been discovered, and whose committed warrant has been endorsed accordingly by the Court that sentenced him.

Clothing to be worn in the manner prescribed

31.15) Prisoners shall wear all the articles of clothing supplied to them, except when ordered to the contrary by the proper authority. No article of clothing shall be worn in any way other than for which it was intended.

Clothing to be marked

31.16) Each article of jail clothing and bedding supplied to every convict shall be marked legibly with a separate consecutive number, running from 1 to 20,000 in the case of Central Jails from 1 to 5,000 in the case of Sub-Jails.

Time clothing should last

31.17) The allowance of cotton clothing prescribed in each scale for prisoners should ordinarily last for six months; the pheran, the blankets and the darri (small) should give at least three year’s wear.

Distribution of clothing

31.18) Convicts sentenced to imprisonment for one year or more should ordinarily be supplied with new cotton clothing, unless there is an accumulation of old clothing in stock. When clothing or bedding that has been previously in use is issued, the fact should be noted on the history-ticket.

Clothing procedure on admission to hospitals

31.19) All articles of cotton clothing for hospital use shall have two red stripes each two inches wide running along their whole length and woven with cloth. Woollen clothing shall be made in grey and brown checks six inches square. The clothing of every convict shall, on his admission to hospital, be taken from him and a complete

hospital outfit substituted. The prisoners clothing shall then be washed and placed in the hospital store-room until he is discharged when it shall be returned to him. In case of death, the clothing shall be returned to the clothing godown or destroyed, if the Medical Officer considers such a course necessary. The Medical Subordinate shall be responsible for the care of the hospital clothing godown and the articles stored therein.

Note:- A certain number of articles should be set aside for patients suffering from infectious diseases. Articles for use by patients in hospital affected with contagious diseases are to be marked separately.

Extra clothing for convalescents

31.20) Prisoners in the convalescent group should be provided with an extra blankets during the coldest season of the year.

Sufficient clothing to be kept in stock

31.21) A sufficient stock of clothing to meet all possible requirements shall be kept in store in every jail.

Prisoners to get old clothing at certain times

31.22) Every prisoner who is employed on any form of labour which is destructive of clothing or specially liable to soil it, such as cooking etc., may, in addition to the ordinary scale of clothing be supplied with a partworn dosuti coat and trousers (dyed light blue) for wear during working hours; cooks may also be allowed an apron of coarse white dosuti cloth.

Clothing to be kept serviceable

31.23) Every prisoner's clothing and equipment shall be renewed as necessity arises : no prisoner shall be allowed to remain in tattered and unserviceable condition. One or more prisoner tailors may, according to circumstances, be employed in keeping the clothing in good repair.

Cleanliness of clothing and bedding

31.24) All clothing and bedding must be kept in a thoroughly clean condition. A convict dhobi shall be employed to wash for those who are sick.

Supervision of supply of clothing and bedding

31.25) It shall be the duty of the Superintendent, the Medical Officer and the Deputy Superintendent at all times to satisfy themselves, individually, that:-

- (i) every prisoner is provided with sufficient clothing and bedding to secure his health ;
- (ii) every prisoner entitled to prison clothing and bedding is duly supplied there with according to the prescribed scale applicable to the class to which such prisoner belongs ;
- (iii) all clothing and bedding supplied is of the prescribed description and quality, clean, in good condition and in all respects suitable for use by prisoners ; and
- (iv) all articles of clothing or bedding at any time obtained and stored in the jail are frequently inspected, and that all articles which are in any respect unsuitable or inferior to the prescribed description and quality are forthwith rejected and are last issued for the use of prisoners.

Duty of Inspector General with regard to clothing, & c.

31.26) It shall be the duty of the Inspector General from time to time to take all such measures as may be necessary to ensure that every prisoner is at all times so supplied with clothing and bedding as to preserve him in reasonable comfort and good health.

Responsibility of prisoners regarding clothing, & c.

31.27) No prisoner shall destroy, damage or in any way make unserviceable any article of clothing, bedding or other equipment at any time supplied to him or in his possession and every prisoner shall take reasonable and proper care of every such article.

31.28) The manner in which articles of clothing bedding and other equipment, as the case may be, supplied to prisoners, are to be kept or used by such prisoners, shall be prescribed by the Superintendent subject to the directions (if any) in that behalf of the Inspector General.

Disposal of unserviceable clothing

31.29) Once a month all clothing considered unserviceable shall be brought before the Superintendent and, if declared useless by him, shall be written off the accounts under his initials. Such portion as may be useful for preparing other clothing should be set aside

or this purpose and not returned to store: the remainder should be cut into small pieces. Cotton rags should be sent to the nearest jail that manufactures paper and requires them; woollen rags should be disposed of at the best advantage.

31.30) Clothing received from prisoners on release shall be returned to store. If fit for further use, it shall, after being washed, disinfected, if necessary, be re-issued; if not, it shall be placed before the Superintendent in accordance with the preceeding paragraph.

Submission of clothing indent

31.31) Indents for clothing, bedding, & c., shall be submitted in duplicate to the Inspector General on or before the 1st October of each year. The requirements should be carefully considered so as to obviate the necessity of submitting a supplementary indent.

Charge of clothing godown protection from pests

31.32) The clothing godown shall be placed in the charge of a trustworthy official, subject to the responsibility of the Deputy Superintendent. Every care must be taken to protect the clothing from damp and the ravages of vermin and insect pests by airing it in the sun at least once a month and by the free use of neem leaves.

Clothing of prisoners transferred

31.33) The identical articles of clothing and bedding sent with prisoners on transfer are to be returned to the transferring jail.

Clothing and bedding to be marked on issue

31.34) The date of issue, and the convict's number shall be marked indelibly on all clothing and bedding in use. Clothing and bedding marked for any particular class shall be issued only to prisoners of that class.

Explanation:- The clothing shall be marked on the back side lower end of apparel. Other garmets shall be marked in such manner that the clothes may be easily identified. The identifying marks shall not be conspicuous.

Grants of remission for economy in wearing clothing

31.35) No grant of special remission for economy in the wearing of clothing, under rules shall be made to the same convict oftener than once in twelve months. If a

convict has kept his clothing in good order and has not reported for causing damage to it, he becomes entitled to the grant of special remission. This remission shall not, however, be indiscriminately dispensed.

Supply of extra clothing for work

31.36) Men employed on work which specially soils their clothing such as gardening, scavenging and the like, may, in addition to the ordinary scale of clothing, be supplied with an old suit for wear during working hours; convict cooks may be allowed blue aprons and blue suits with chef-caps.

Instructions regarding the wearing of clothing

31.37) Convicts employed on garden work and on active occupations in closed workshops, kitchens and the like do not ordinarily require to wear a jacket while at work. On the other hand, care should be taken that at meal times, at inspections, and in cold weather all prisoners are properly clad. Prisoners shall not be allowed to wear wet clothes, and if they are kept standing about on cold mornings, the cumby should be worn crossed over the body like a plaid.

Issue of Pherans and cumblies

31.38) Pherans may be issued to prisoners during the cold months. Old cumblies may be utilised as belly-bands for infirm and sick prisoners.

Issue of extra clothing to invalids

31.39) Extra clothing and bedding shall be issued to the sick, aged or infirm on the recommendation of the Medical Officer.

Issue of Hawai chappals to prisoners

31.40) The sanction of the Deputy Inspector General of Prisons is necessary for issue of Hawai Chappals to prisoners.

Frequent change of work to be avoided

31.41) Frequent change of work, except on medical grounds, shall be avoided, but the same form of hard labour shall not be indefinitely extracted and sedentary work shall, as far as circumstances permit, be occasionally changed for work involving more general movement.

Repair and inspection of clothing and bedding

31.42) A fixed day weekly shall be appointed for the repair of clothing. At the weekly parades of prisoners, the Superintendent shall pay special attention to the clothing and bedding and shall satisfy himself that each man's kit is complete and in proper condition.

Disposal of unserviceable clothing

31.43) Unserviceable clothing should be struck off the register under the initials of the Superintendent once a month, and utilized for the cleaning of lamps, carbines or machinery and for polishing the finished goods in the carpentry workshop. It shall also be used in the paper making industry. If the accumulation is in excess of these requirements, these clothing shall be sold, after it has been torn or cut into small pieces, to the paper units of the Khadi and Village Industries Board.

Disposal of clothing of discharged prisoners

31.44) Prison clothing shall not be given to discharged prisoners and care shall be taken that prisoners on release surrender their full outfit. Clothing so received shall, if fit for further use, be thoroughly washed, repaired, if necessary and taken into stock, the remaining shall be brought into stock in the condemned clothing register.

Submission of clothing and bedding indents

31.45) Indents for the clothing and bedding likely to be required during next six, nine or twelve months shall be prepared in duplicate and submitted to the Deputy Inspector General of Prisons for sanction.

31.46) No clothing or bedding shall be issued from the manufacturing department of any prison except upon an indent passed by the Deputy Inspector General and no clothing or bedding shall be purchased in the local market except in very special circumstances and with the sanction of the Inspector General.

* * * *

CHAPTER XXXII

SANITATION AND HYGIENE

32.1) *“Subject to the Control of the Superintendent, the Medical Officer shall have the charge of sanitary administration of the prison and shall perform such duties as may be prescribed by rules made by the Government under section 60.”*

[Section 13 of J&K Prisons Act, 1920 A. D.]

Accommodation and ventilation

32.2) Every prisoner in a ward may ordinarily be allowed not less than 50 Sq. Ft. or 4.6 Sq. mt. of ground area and 500 cubic feet or 14 cubic mt. of air space. The height of the walls of a ward shall not ordinarily be less than 3.96 metres and in calculating the allowance of cubic area per person, no account shall be taken of any air space above 3.96 metres.

32.3) All barracks or wards etc. may have two rows of berths only. The measurement of each berth in the ground floor may normally be 198 Cms x 76 Cms x 46 Cms. The number of berths may not be greater than the sanctioned capacity of the barrack and shall be arranged in two parallel rows.

32.4) Cells may have a ground area of not less than 96 Sq. feet or 9 sq. mt. and 966 cubic feet or 27 cubic mt. of air space and 24 Sq. feet or 2.2 Sq. mt. of lateral ventilation.

Note:- A cell means any compartment intended to accommodate a single prisoner only, while a ward means a compartment for the accommodation of more than one prisoner.

32.5) The minimum floor area and cubic space which may be allowed for each patient in hospital is 70 sq. feet or 6.5 sq. mt. and 700 cubic feet or 19.48 cubic mts.

32.6) Free thorough ventilation of barracks, wards and cells should be secured by the provision of large barred doors and windows situated in opposite walls. The total area of these openings should be at the rate of 1.11 sq. metres per head of the sanctioned number of prisoners the barrack or ward is designed to accommodate. In the case of a cell the ventilating area should be at least 2.23 sq. metres.

Conservancy

32.7) The Superintendent, the Medical Officer, the Assistant Superintendent and all subordinate Officers are responsible for any want of attention to conservancy. Attention should be paid not only to the more important subject of the disposal of night soil and refuse matter but also to every detail connected with the cleanliness and neatness of the prison and its surroundings.

32.8) Conservancy includes the removal and safe disposal of human excreta, house and other refuse, slope water, etc. This can be best done by water carriage system. Where no such arrangement is available, there should be arrangement for self-cleansing latrines such as sanitary latrines. Service latrines may be dealt with in the following manner immediately. After each latrine parade, the sweepers shall cover up all the solid excreta with a thick layer of dry earth and thoroughly remove it and the solid vessels to the prison garden where the excreta shall be buried in trenches. Night soil and urine shall be removed in covered iron receptacles and shall be passed out of the prison by means of an ejector and not through the main gate. Having cleaned the vessels the sweepers shall bring them back and replace them in the latrines ready for the next parade. The cleaning of all vessels connected with conservancy shall be done outside the prison walls. Sufficient disinfectant should be used for cleaning such vessels. Before taking up ground for trenching, it shall be properly drained so that surface layers of the soil may be free from saturation by storm or flood water. The trenches shall be 1 foot or 30 cms. broad, 1-1/2 feet or 45 cms. deep running parallel to each other at intervals of 1-1/2 feet or 45 cms. The night soil shall be deposited therein to the depth of 3 inches or 8 cms. and the earth dug out shall then be deposited on the trenches. The trenches shall be made as straight as possible with the help of a rope and should run right across the fields, to be manured. The trenches should be prepared a day in advance every day for the next days excreta. The urinal and latrine should be separate with some distance filled with soil trenches.

32.9) The earth with which night soil trenches are re-filled should be tightly laid and if flies become numerous in any prison, the Superintendent should at once personally take steps to ascertain whether they are coming from these trenches by netting them with muslin for a few days. If it is found that flies are coming from there more attention should be paid to the method of disposal of night soil. As a further prevention against flies, sheets of soil sacking may be tightly fastened over the recently closed trenches and covered with a layer of earth.

32.10) All refuse from the cook house not fit as food for cattle shall be disposed of in the same way night soil, but sweepings and dry garbage must be thrown into

a manure pit on prison land as far from the prison as possible. An alternative method of disposal of refuse is to render it harmless by burning it in a suitable incinerator.

Water Supply

32.11) There shall be arrangements for adequate supply of water in every prison. The daily requirement of an individual is about 30 gallons or 137 ltrs. But in hospitals, the requirement may be more.

32.12) Wherever a municipal water supply exists, the prison should be connected with it, if this is advantageous. In other cases, water shall be obtained from the purest water supply in the neighbourhood where it can be obtained in sufficient quantity. Before deciding upon the source from which water shall be taken, samples shall be sent to the Public Analyst for examination.

32.13) Every possible precaution should be taken to prevent pollution of water supply either at the source or at the storage, or in the distribution system. Every officer of the prison shall exercise utmost vigilance in this regard.

32.14) If a well is selected, the masonry cylinder shall be water-tight so as not to admit of percolation from the upperstrate and the well shall be surrounded with a masonry platform of not less than 6 feet or 2 mtrs. all round and the drain connected with the surface drainage system may percolate into them. The mouths of the wells should be protected by providing a cemented rim all rounds so as to prevent surface and slop water from being trained into the wells. They shall be so covered as to prevent pollution by substances being dropped or falling into them. It is better to use one large well. If the supply from one well is insufficient the well should if possible be enlarged and deepened to such extent as is necessary. Every well, the water of which is used for drinking cooking or bathing, shall be carefully cleaned out and the silt removed in hot weather before the rains set in and oftener if the depth of water permits. The wells which have been cleaned should be disinfected with bleaching powder. Water should be analysed bacteriologically before it is used.

32.15) The raising and distribution of water shall be effected by means of a pump and pipes. If a bucket and winch be used for raising water, mechanical means shall be provided for emptying the bucket at a sufficient height above the well.

32.16) Supply of pure water may also be obtained by sinking deep tube wells in water bearing strata within the prison precincts. The water obtained from these tube wells is generally free from contamination. Water may be supplied by pumping it

direct into service pipes or preferably through the medium of storage tanks. No crevices should be left along the sides through which surface water may trickle down. To prevent the possibility of contamination this space should be well grouted with cement.

32.17) Every sleeping ward and cell shall be provided with drinking water. Prisoners at work shall be supplied with as much drinking water as is necessary. The receptacles used for holding or conveying drinking water shall be covered and shall be thoroughly cleaned out daily. They shall be used for no other purpose. The water should be kept as cool as possible.

32.18) Water used for drinking and culinary purposes shall be analysed every year and a bacteriological examination shall be made when required. The examination shall be carried out by the Public Analyst and special instructions as to the collections of samples shall be notified by circular from time to time.

Temporary Accommodation

32.19) If for unavoidable causes, prisoners have to sleep temporarily in work-sheds or verandhas or other buildings not meant for their accommodation at night, an iron cot and mat, bamboo machan or some sort of raised bed shall be provided for every prisoner and arrangements must be made for their protection against weather by the use of purdahs or otherwise. Every prisoner sleeping temporarily in such places shall have an extra blanket. Whenever floors are liable to become damp, they should be coated with a mixture of tar and ashes or some equivalent substances; and if raised masonry beds are used, this coating should intervene between the beds and the floor.

32.20) *If at any prison overcrowding is likely to continue the Superintendent should seek instructions from the Inspector General regarding transfer of prisoners to other institutions or camps, as the case may be.*

[See Section 7 of J&K Prisons Act, 1920 A. D.]

Miscellaneous

32.21) When prisoners have left the barracks, the sweepers shall sweep thoroughly, clean every part of these and subsequently rub down all window sills, doors, shutters and grating on which dust and dirt should not be allowed to accumulate and shall then sweep the enclosures and remove all litter. Walls inside should be frequently rubbed down with hard brush and lime-washed once a year, or oftener, if necessary.

32.22) D. D. T. or other suitable insecticides should be liberally used to guard against the barracks and cells being infested with bugs and other insects and also against prevalence of mosquitoes.

Prison Premises

32.23) Fallen leaves, weeds and rubbish should not be allowed to accumulate in grass plots, paths and open spaces. The whole of the prison premises must be thoroughly cleaned daily ; grass plots should be kept cut and edges trimmed.

32.24) All drains and latrines should be kept scrupulously clean. Cesspools of any kind or description are prohibited within the prison premises and no sewage matter shall be permitted to find its way into the drains of the prison. No cultivation should be allowed within the prison yards.

32.25) No sewage drains or effluent drains from mills and factories or other public nuisance which will affect the health of the prisoners should be allowed near any prison.

32.26) Low or hollow grounds and stagnant pools should be filled up. The drainage of the ground of the prison shall be carefully attended to, and drainage channels should be made, when necessary.

32.27) There should not be any soak pit for sanitary privies within a radius of 50 feet or 16 mtrs. of any ring-well or tube-well.

32.28) After each rainy season, the inner and outer sides of the perimeter wall and wards should be rubbed down and pathways inside the prison compound.

32.29) Cleanliness and order should be observed in offices in respect of ceilings, floors, walls, furniture, etc., and at the main gate.

Staff quarters

32.30) Provision of adequate supply of wholesome water should be made for the living quarters. Sanitary latrines should be provided with flush arrangement. If service latrines are used, regular arrangements for removal of night soil should be made. Special groups of prisoners may be engaged for the purpose. All garbage matters shall be collected and kept in covered receptacles which should be emptied at regular intervals. Every officer occupying prison quarters shall be held responsible for the cleanliness of his premises. The Superintendent and the Medical Officer shall periodically inspect each of the quarters to see that it is kept clean and tidy by the occupant.

Hospital

32.31) The hospitals shall be kept scrupulously clean and well ventilated. The Medical Officer shall take such steps as will ensure the strictest cleanliness of the bedding and clothings of patients. The inside walls of hospitals shall be rubbed down

and lime-washed once every three months but the wards for dysentery and infectious diseases shall be lime-washed once every month or oftener whilst they are occupied by patients suffering from such disease and immediately after they are vacated.

32.32) A proper space for washing and boiling soiled clothings and sheets shall be provided. Blankets shall frequently be boiled.

32.33) There shall be a separate kitchen in the hospital yard for the preparation of food for the sick.

Kitchen

32.34) The inmates engaged in cooking should be regularly examined to make sure that they are not carriers of any infection. There should be adequate arrangements for cooks to wash their hands with soap and water before they engage in cooking. Cooks should change over to clean uniform and overall before they are permitted to cook or serve food. Manual handling of food is undesirable and must be avoided.

Worksheds

32.35) The walls and roofs of worksheds shall be swept down at least once a week and walls shall be lime-washed at least once a year. The floors should be cleaned immediately after the prisoners stop work and every part including the manufacturing appliances should be kept clean and free from dust and refuse.

32.36) The prisoners at work shall be supplied with an adequate quantity of drinking water. If water is to be stored, it should be done in covered receptacles which must be thoroughly cleaned out daily.

32.37) There should be a urinal in each work shed or other place where the prisoners work. It should be provided with flushing arrangements where there is water carriage system. Where there is no water carriage system, a urinal with soakage pits should be desirable. In its absence, a vessel for urine should be placed in an enclosure which should be filled one-third with liquid disinfectant. These vessels should be made of iron and must be thoroughly washed out daily and frequently tarred.

32.38) Exhaust fans may be installed in work-sheds where dusty trades are carried on.

Stores

32.39) Stores or godowns must be kept clean, well arranged and well ventilated. Their contents should be aired as often as possible. Godowns or grain stores should be treated with suitable insecticide to prevent the growth of weevil.

Latrines

32.40) In a latrine, separate receptacles for urine and faecal matters shall be provided for each seat. A layer of dry earth at least 1 inch or 2.5 cms. thick is to be put into each receptacle for solid excreta before it is used. Every prisoner shall be required to cover his excreta with scoopful of powdered dry earth of which a sufficient quantity shall be provided. No water shall be allowed inside a latrine but water for personal ablution and a place for washing shall be provided outside, close to the latrines. Soap should be issued to the prisoners for washing their hands after ablution. Latrines must be cleaned at least twice daily and if necessary, oftener. Receptacles should be painted occasionally with coal tar and smeared frequently with crude oil.

Baths

32.41) All prisoners should be required to bathe as frequently as necessary. In the temperate climate they should be encouraged to have daily baths unless medically exempted. In the hot climate, facilities should be provided for the labouring prisoners to have a bath in the afternoon as well.

Personal Hygiene

32.42) Prisoners of all classes and categories shall be required to keep their person clean and should be provided, if possible, with requisite toilet articles for health and cleanliness. They should clean their teeth daily with tooth powder or with "datan" which should be provided in adequate quantity.

32.43) In order to maintain a good appearance, hair shall not be allowed to be kept too long except on religious grounds. The hair on face and nails of fingers and toes should be closely trimmed.

32.44) If on account of vermin, dirt or disease, the Medical Officer deems it necessary to have the hair of a prisoner clipped or his head shaved this shall be done on his written order entered on the prisoner's history sheet.

32.45) Except under the orders of the Medical officer, no convict shall have hair shaved.

32.46) When the Medical Officer deems it necessary on the ground of dirt, vermin or disease, the hair of an undertrial prisoner shall be cut, but it shall not be cut closer than is necessary for the purposes of health and cleanliness.

32.47) A barber's unit may be established in each Central and District prison for use of prisoners.

Clothing and bedding

32.48) All clothing shall be kept clean and in proper condition. Under clothing shall be changed and washed as often as necessary.

32.49) Immediately after admission (or in the case of prisoners received late or after lock-up early next morning) all prisoners shall be made to wash themselves and their clothing thoroughly. Such of the private clothing received with convicted prisoners without damage shall be boiled before it is stored.

32.50) All categories of prisoners, including civil and under trial prisoners, shall wash their own clothes regularly.

32.51) Prisoners shall keep clothing and bedding clean and neatly arranged.

32.52) Each prisoner shall take his bedding outside and in the place allotted for it. It shall then be spread out except on rainy days, in the open for some hours.

32.53) Blankets and warm clothes shall be cleaned and disinfected once every three months.

32.54) The Superintendent may, however, arrange for the cleaning of utensils and washing of clothes of such prisoners as, in his opinion, are not able to perform these services for themselves.

32.55) The Superintendent shall see that all clothing of a released prisoner have been carefully washed and dried and kept in a store and shall on no account store clothes in a dirty or damp condition.

* * * *

CHAPTER XXXIII
MEDICAL FACILITIES

Introductory

33.1) The object of medical administration in prisons is mainly to restore and maintain the physical and mental health of prisoners and to keep up the general sanitation and hygiene of the institution to a satisfactory standard

33.2) There should be :-

- (i) medical staff specially selected for and well trained in prison work and arrangement should be made for imparting necessary training to the medical personnel who will be employed for this purpose ;
- (ii) adequately equipped hospital, both for male and female prisoners, with provisions for the necessary medical, surgical, dental and psychiatric services ;
- (iii) adequate arrangements for taking prophylactic measures against infectious diseases and epidemics ; and
- (iv) sufficient aids in developing research and services for modifying conduct disorder and reducing the incidence of delinquency and crime.

Personnel

33.3) There shall be at least one whole time Medical Officer for every institution which has a population of upto 500. When the population is more than 500, necessary additional staff shall be provided. The sanctioned strength of medical / para-medical staff may be fixed by the Government from time to time depending on prison population and prevailing circumstances.

33.4) Prison medical / para medical staff shall undergo a course of training in prison work for at least six months in the early part of their career. Provision of periodical refresher courses during service should be also made.

33.5) At least two Pharmacists shall be appointed for an institution with a population ranging from 250 to 500.

33.6) Qualified Nurses shall be appointed in the proportion of one for every six beds in the hospital. In the absence of qualified Nurse, Nursing Orderlies may be appointed in the proportion of one for every 10 patients.

33.7) Besides the whole time Medical Officer, there shall be a Senior Physician or a Medical Officer of the rank of a Civil Surgeon (Chief Medical Officer) who shall visit the prison at least twice a week to give his expert technical advice. The Senior Physician shall be authorised to obtain whenever required, the services of an outside specialist if such services are required for the treatment of a prisoner in the prison hospital.

33.8) The Senior Physician shall report to Superintendent any matter which requires consideration of the Inspector General. Superintendent shall send the Medical Officer's report to the Inspector General with his comments.

33.9) The Resident Medical Officer of a Government hospital should be declared as Prison Officer of the ward in which sick prisoners are confined.

Duties of Senior Physician

33.10) The Senior Physician shall be responsible for all matters connected with the health of the prisoners and their treatment when sick and the general sanitation of the prison. He shall visit the prison at least twice a week and see all sick prisoners in hospital and prisoners under punishment at least once a week, and make a full inspection of all the prisoners once a month. He shall see all the prisoners on their weekly parade and shall check the records of prisoner's weighment and satisfy himself that weighments are properly carried out and recorded. He shall examine all prisoners who have lost substantially in weight and advise the Medical Officer and give necessary instructions regarding the action to be taken in the matter.

33.11) He shall verify the correctness of the records made by the Medical Officer.

33.12) He shall, once in every six months inspect the medicines kept in store and satisfy himself that the weights, measurements and quantities of medicines are entered correctly in the stock book. He shall also inspect the instruments and equipment and see that they are being maintained properly and sufficient stocks have been kept in reserve. All indents placed by the Medical Officer shall be scrutinised and countersigned by him. He shall examine all cases which are recommended for release on medical grounds and examine all cases of corporal punishment and execution.

33.13) Whenever the mortality of the prison during a month exceeds one percent per annum shall record in the monthly return, an explanation of the cause of such excess of mortality. In cases of unusual mortality, he shall make a special report on the subject for transmission to the Government through the Inspector General.

33.14) The Senior Physician shall maintain a minute book in which he shall enter all directions given by him concerning the duties of the medical staff, the management of the hospital and any instructions of importance as regards treatment of a patient or any other matter.

General Duties of Medical Officer

33.15) *"Subject to the control of the Superintendent the Medical Officer or Medical Subordinate in the absence of Medical Officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by the Government."*

[Section 60 of the J&K Prisons Act, 1920 A. D.]

The appointment of Medical Officer

33.16) Medical Officers in the jails shall be appointed by the Health Department on deputation basis. In jails where there is no such provision, a part time Medical Officer of the District Hospital or the Sub-District Hospital in which the institution is located, shall be the Medical Officer of that institution. Medical Officers may be deputed to any prisons by the Inspector General as and when required. The part time Medical Officer may be paid a suitable honorarium.

Temporary absence of the Medical Officer

33.17) Whenever Medical Officer of a District / Sub-Jail is absent from the station, his duties shall be performed by the Senior Medical Subordinate of the Jail under the supervision of Medical Officer of the local hospital. In case of Central Jails, his duties shall be performed by another Assistant Surgeon under the supervision and control of physician specialist.

Medical Officer to visit the Jail daily

33.18) It shall be the duty of the Medical Officer to visit the jail at least once a day, except on Sundays and on that day also whenever necessary; should circumstances render that course desirable, the Medical Officer shall visit the jail oftener than once a day. He shall visit every part of the jail and its precincts and premises frequently.

33.19) The Medical Officer shall take all such measures as may be necessary or expedient for the maintenance of the jail and its surroundings in a thoroughly sanitary state and the prisoners in sound health.

Mode of recording directions and recommendations of Medical Officer

33.20) Any direction (other than directions which are to be carried out by the Medical Officer himself or under his personal superintendence) which the Medical Officer may think fit to give in respect of the treatment of any prisoner shall be entered on the history-ticket of the prisoner concerned.

33.21) Every recommendation relating to the prisoners generally or to group, body or class of prisoners or affecting the medical or sanitary administration of the jail in general, which the Medical Officer may think fit to make, shall be entered by him in his journal.

Record by Medical Officer on admission and discharge of prisoners

33.22) *"Every Criminal Prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailor, a record of the State of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add."*

[Section 24(2) of J&K Prisons Act, 1920 A. D.]

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

[Section 24(3) of J&K Prisons Act, 1920 A. D.]

33.24) *"All prisoners, proposed to be removed to any other prison, shall be examined by the Medical Officer"*

[Section 26 of J&K Prisons Act, 1920 A. D.]

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

[Section 26(2) of J&K Prisons Act, 1920 A. D.]

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

[Section 26(3) of J&K Prisons Act, 1920 A. D.]

33.27) The Medical Officer shall record or cause to be recorded under his superintendence :—

(1) at the time of the admission of every prisoner to the jail, in the history-ticket of such prisoner :

- (i) the state of the prisoner's health ;
- (ii) the prisoner's age and weight ;
- (iii) if sentenced to labour, the class of labour (if any) for which the prisoner is, in the opinion of the Medical Officer, fit ; and
- (iv) any other observations which the inspection of the prisoner may disclose and which should in the opinion of the Medical Officer, be made ; and

(2) at the time of the discharge of every prisoner from the jail, in the proper register, the state of health and the weight of the convict so discharged.

Vaccination of convicts

33.28) The Medical Officer shall, as soon as may be convenient, after admission to jail, vaccinate or cause to be vaccinated every healthy prisoner who is not protected against contagious diseases.

Duty with regard to sick prisoners and malingerers

33.29) The Medical Officer shall daily visit the sick in the hospital, and shall examine every prisoner who may complain of any illness, and may if necessary, direct the admission of any such prisoner to hospital.

33.30) If at any time the Medical Officer is of opinion that any prisoner is malingering, he shall forthwith report the fact to the Superintendent.

Medical Officer to report in certain cases

33.31) *“Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or is likely to be injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper. This report with the orders of Superintendent thereon, shall forthwith be sent to the Inspector General for information”.*

[Section 14 of the J&K Prisons Act, 1920 A. D.]

Duties of the Medical Officer upon the death of any prisoner

33.32) *"On the death of any prisoner, the Medical Officer shall forthwith record in a register the following particulars, so far as they can be ascertained, namely:-*

- (i) the day on which the deceased first complained of illness or was observed to be ill,*
- (ii) the labour, if any, on which he was engaged on that day,*
- (iii) the scale of his diet on that day,*
- (iv) the day on which he was admitted to hospital,*
- (v) the day on which the Medical Officer was first informed of the illness,*
- (vi) the nature of the disease,*
- (vii) When the deceased was last seen before his death by the Medical Officer or the Medical Subordinate,*
- (viii) when the prisoner died, and*
- (ix) (in cases where a post-mortem examination is made) an account of the appearances after death,*
- (x) together with any special remarks that appear to the Medical Officer to be required."*

[Section 15 of J&K Prisons Act, 1920 A. D.]

Medical Officer to inspect the jail and jail garden

33.33) The Medical Officer shall, inspect at least once in every month part of the jail and the premises belonging or attached thereto, and shall satisfy himself that nothing exists therein which is likely to be injurious to the health of the prisoners; that the system of drainage is satisfactorily and in good working order; that the water supply is pure and unpolluted, and is not liable to pollution from any source; that adequate precautions are being taken against over-crowding in wards, cells and other compartments, and that the ventilation and cleanliness of barracks, wards, cells and other compartments, workshops, latrines and the like, are duly provided for and attended to. He shall also frequently inspect the cook-house and test the weight and quality of the rations both before and after cooking. He shall report to the Superintendent any matter which, in his opinion, demands attention, provided that in any case in which the Superintendent considers it inexpedient to accept the recommendation of the Medical Officer both the recommendation and the Superintendent's objections should be forwarded to the Inspector General for final orders.

33.34) The Medical Officer shall frequently visit and supervise the management of the jail garden and shall bring any defect or deficiency to the notice of the Superintendent.

Medical Officer may add to or vary certain cases

33.35) The Medical Officer may, in his discretion, make any addition or alteration in the diet for the sick, convalescent, in certain cases of aged and the young and in respect of groups specially employed, which he may deem necessary on medical grounds.

Medical Officer to inspect cemetery

33.36) The Medical Officer shall occasionally inspect the cemetery of the jail, and shall satisfy himself that it is maintained in a sanitary condition.

Medical Officer's Duty on the appearance of epidemic

33.37) The Medical Officer shall in the event of the appearance of epidemic disease of any kind among the prisoners or officers of the jail, be responsible that all measures and precautions which may be necessary or expedient to meet the emergency and prevent the spread of the disease are promptly taken, and that the rules and orders regulating such matters are fully enforced.

33.38) Immediately upon the appearance of any case of infectious disease or any disease which is likely to assume an epidemic form, the Medical Officer shall report the fact to the Superintendent, for the information of the Inspector General, together with any recommendation which he may think fit to make a view to prevent the spread of the disease and otherwise deal with it.

Special action in case of cholera

33.39) The Medical Officer shall maintain a special record, in the prescribed form, of all cases of cholera, whether sporadic or epidemic, and shall furnish the necessary report required by the directions in force in that behalf.

Medical care of employees of the prison

33.40) *"The Medical Officer shall render proper medical attendance, not only to the prisoners but also to all officers of the jail including their dependents".*

[Cabinet decision No: 262 DATED: 26-06-1979]

33.41) The Medical Officer shall examine every candidate for employment as a subordinate official who may be sent to him for the purpose, and shall make a report of the result thereof to the Superintendent.

Medical Officer to comply with duties imposed by the Inspector General

33.42) The Medical Officer shall duly observe and comply with all directions issued by the Inspector General as to the duties which he is to perform and the manner in which he is to perform these. He shall furnish such periodical, statistical and other information and reports, in respect of sickness and mortality amongst prisoners, the sanitation of the jail and other matters pertaining to his duties, as may from time to time be prescribed by the Inspector General in that behalf.

Routine duties of the Medical Officer

33.43) The Medical Officer shall :—

- (i) submit for the sanction of the Inspector General, through Superintendent, a yearly indent for medicines and medical stores;
- (ii) keep or cause to be kept a proper account of medicines, instruments and appliances;
- (iii) satisfy himself that poisons are kept separate from the other medicines, properly labelled and under lock and key;
- (iv) from time to time examine the medicines in store to assure himself that these are in a fit condition for use;
- (v) regularly check the account of bazar medicines;
- (vi) be responsible that all medicines, instruments and appliances debited to the and all bazar medicines and medical stores charged in the jail accounts, are faithfully and solely expended in the service of the jail ;
- (vii) submit a report to the Inspector General through Superintendent Jail every year in January on the medical and sanitary administration of the jail ;
- (viii) attend daily the sick in the hospital and outdoor patients and supervise the preparation and issue of medicines, food, extra diet to the sick and to prisoners in infirm and convalescent groups ;
- (ix) be responsible for the maintenance of order and discipline and safe custody of prisoners in hospital, subject to any other arrangement made by the Superintendent from unlocking to lock-up and see that the yards and buildings of the hospital are kept locked and properly secured ;
- (x) be responsible for the safe custody of medicines, instruments, appliances, equipment, hospital and prisoner's clothing to see that all medicines are properly

- arranged and labelled, and to take proper care of the instrument and appliances and equipment in his charge ;
- (xi) maintain all registers up-to-date and prepare or cause to be prepared and despatch all indents and returns on prescribed dates ;
 - (xii) to make a daily round of the prison ;
 - (xiii) to inspect water supply, drains, trenching ground, etc., and report any defect ;
 - (xiv) inspect the prisoners in cells, daily ;
 - (xv) examine all newly admitted prisoners ;
 - (xvi) visit staff quarters twice a month for inspection of sanitation ;
 - (xvii) accompany the Senior Physician on his visit to prison and take note of all orders given by the Senior Physician ;
 - (xviii) superintend the fortnightly weighthment of prisoners which shall be recorded on their sheets, to put-up before the Senior Physician, all prisoners who are persistently loosing weight ;
 - (xix) at least once a week, inspect every part of the prison and its precincts and satisfy himself that nothing exists therein which is likely to be injurious to the health of the prisoners, that the drainage is satisfactory and the water supply is pure and not liable to pollution and that due precautions against over-crowding are taken and that the ventilation and cleanliness of the barracks, workshops cells, wards, etc. are provided for and properly attended to ;
 - (xx) inspect the kitchen daily and feeding parades frequently and test the weight and quality of the rations before and after cooking ;
 - (xxi) also examine prisoners complaints of illness and admit them, if necessary, to hospital and promptly report the cases of malingerers to the Superintendent for punishment ;
 - (xxii) inspect all the prisoners once in a week at general parade and shall, from time to time, examine the labouring prisoners while they are employed ; at least once a fortnight cause to be recorded upon the sheets of each prisoner employed on labour, the weight of such prisoner at the time and cause the prisoners loosing weight to be paraded apart for the special attention both of himself and of the Senior Physician ; and
 - (xxiii) attend all members of the prison staff and their families who reside in the prison premises and bring to the notice of the Superintendent, all facts respecting the cases of illness that may be of importance.

Duties of the Pharmacist

33.44) The Pharmacist shall be responsible for the safe custody of medicines and equipment, bedding and clothing of the hospital and for the proper supply of these articles to the patients in hospital according to the instructions of the Medical Officer. He shall be responsible for :-

- (i) the correct and proper dispensing of medicines and seeing that the almirahs are securely locked and poisons are kept separate ;
- (ii) keeping the dispensary clean and tidy ;
- (iii) helping the Medical Officer in maintaining the records on medical matters and in taking and recording the weight of prisoners ;
- (iv) maintaining the temperature charts of prisoners admitted into the hospital in the absence of qualified nurses ; and
- (v) complying with all orders and directions of the Senior Physician and the Medical Officer relating to medical matters.

Duties of Hospital Attendants etc.

33.45) The duties of Nurses and Hospital Attendants shall be prescribed by the Medical Officer which will be recorded in writing, and got approved by the Senior Physician. Any change of their duty made by the Medical Officer should be brought to the notice of the Senior Physician at the earliest opportunity.

General matters

33.46) The health of every prisoner shall be described as either good, bad or indifferent. Prisoners who on admission to the prison, appear to be in normal health or free from organic diseases and well up to the average weight shall be recorded as in good health. Prisoners, who on admission are found to be suffering from serious malnutrition or diseases (other than trivial or temporary ailments) which necessitates immediate medical treatment, shall be recorded as in bad health.

Note 1 :—There is no invariable relation between health of a prisoner as recorded by the Medical Officer and the task to be allotted to him ; the latter necessarily varies with the physical capacity of the individual.

Note 2 :—The duty of the Medical Officer is to see that no labour is allotted to any prisoner that is not consistent with his physical conditions.

33.47) Prisoners who from age or infirmity are permanently unfit to work, and convalescents recently discharged from hospital who are temporarily unfit for work, shall be placed in the convalescent and infirm groups. Prisoners who without exhibiting any particular debility are losing weight should be placed in losing weight groups for more careful observation. These groups shall be weighed every week instead of every fortnight and the progress weekly weighments shall be recorded in a special register to be shown to the Senior Physician.

Hospital management

33.48) It is the duty of every prison official to bring immediately to the notice of the Medical Officer any circumstances from which the sickness of any prisoner may be inferred.

33.49) All prisoners complaining of illness shall be brought to the Medical Officer and shall be examined by him and he will determine whether they shall be placed under medical observation or be treated as out-patients or admitted to hospital. If he thinks necessary, he shall take any other action which he is empowered to take under rules.

33.50) Any prisoner may be detained in the hospital for 48 hours but not longer under medical observation without being brought on the hospital register.

33.51) Every prisoner who is under medical observation or treatment for more than 48 hours and who is not a supposed lunatic shall be entered in the hospital register and be included in the hospital statistics.

33.52) The names of prisoners so kept under treatment shall be entered in a special register and be proceeded either by admission to hospital, or further detention or discharge shall be recorded therein daily by the Medical officer or under his supervision by a medical subordinate.

33.53) Every patient in the hospital shall be provided with a bed which shall be furnished with a quilt and mattress, a pillow and a bed-sheet. he shall also be provided with as many blankets as the Medical Officer deems necessary.

33.54) If an epileptic is admitted in the hospital he shall be provided with a quilt, mattress and a bed sheet. He should sleep on the floor.

33.55) A bed-head ticket shall be placed over every occupied bed in the hospital wherein full particulars of the previous history, progress of the case and its treatment

should be recorded. In every case of fever, a graph recording the patients temperature shall be attached to the bed-head ticket. Suitable clasp frames from holding these tickets should be provided.

33.56) The hospital shall be kept scrupulously clean and well-ventilated. the Medical Officer shall take such steps as will secure the strictest cleanliness of the beddings and clothings.

33.57) A proper place for washing and boiling the soiled hospital or other clothing and sheets shall be provided.

33.58) Prisoners in hospital who are not too ill shall bathe daily at such time as the Medical Officer shall direct.

33.59) The diet of prisoners in hospital shall be entirely under the Medical Officer's control and he may order in each individual case such diet as he considers necessary and may fix hours at which the food shall be distributed. But, as a rule, all sick prisoners in hospital should receive three meals a day and oftener, if necessary. A separate kitchen in hospital for the preparation of food for the sick and a special cook or cooks shall be appointed. Utensils of suitable size and capacity shall be provided specially for the hospital and arrangements should be made for the frequent feeding of the sick and for having food constantly ready.

Note :- General standards for hospital diet should be laid down for the guidance of staff members.

33.60) It is desirable that cases of dysentery and diarrhoea should be treated in a separate ward. All loose stools of such patients should be disinfected and destroyed and all wards, beds, bedding, clothes and latrine vessels used by them should be thoroughly disinfected.

33.61) Prisoners suffering from venereal diseases should be segregated.

33.62) Where necessary, cases of inmates should be referred to specialized medical institutions.

33.63) All cases of pulmonary tuberculosis should be segregated in special wards. All necessary precautions should be taken to guard against spread of infection to other prisoners.

33.64) Clothings shall frequently be boiled.

33.65) A proper place for washing and boiling the soiled hospital or other clothing and sheets shall be provided and blankets and work clothings shall frequently be boiled.

33.66) Any prisoner suffering malarial fever may be provided with mosquito nets.

33.67) All cases with abnormally enlarged spleen should have its boundaries marked on the skin and they should be provided with some distinctive clothing. Care should be taken that the spleen is not hurt.

33.68) Minor infectious diseases such as scabies, measles, chicken pox etc. must on no account be neglected. Segregation for the full period must be enforced. Cases of scabies need not, as a rule, be admitted into hospitals but segregation should be enforced.

33.69) Prisoners showing signs of lunacy should not, if they are dangerous, noisy or filthy, be kept in the hospital but they should be kept in the separate cell.

33.70) In some cases it will be well for prisoners in hospital to have some employment. Light work should, therefore, be provided for them but no task should be exacted.

Referral with previous approval of Inspector General

33.71) Urgent cases requiring immediate surgical or other treatment which cannot be adequately given in a prison hospital should be transferred to an outside civil hospital and a report made to the Inspector General. Cases where delay is not likely to do any harm, should be transferred only with the previous sanction of the Inspector General.

33.72) When a serious case is received and Medical Officer is of the opinion that the removal of the prisoner to another prison or to a specialised institution is absolutely necessary to save his life or for the benefit of his health, he shall submit a brief statement of the case to the Superintendent and mention the prison to which he considers the transfer desirable. The Superintendent shall submit the recommendation to the Inspector General for his order.

33.73) The Senior Physician shall exercise utmost possible care in recommending prisoners for treatment in outside hospital. Prison hospitals shall be equipped to meet all ordinary requirements and it will seldom be necessary to remove sick prisoners elsewhere except for special investigation and treatment. The patients should not

therefore, be removed to an outside hospital except for special investigations and treatment. The Superintendent shall, before sending a sick patient to an outside institution, inform the hospital authorities in advance.

33.74) The Superintendent shall depute a prison officer who will keep in touch with prisoners and ascertain from the hospital authorities the progress and condition of the prisoner. It is always desirable that the sick prisoner should not be kept in an outside hospital longer than is absolutely necessary. The period of convalescence may be spent in the prison hospital.

33.75) Any medicine prescribed by the Medical Officer of an outside hospital which is absolutely necessary for the treatment of the sick prisoner and is not available at the said hospital shall be provided by the prison authorities without delay.

33.76) Prisoners who are dangerously ill or moribund may be permitted to see their relatives. Intimation of the condition of a prisoner who is dangerously ill shall promptly be given to the Magistrate and also direct to the relations of the prisoners, either by special messenger or by signal, accordingly as they reside within or outside the limits of the town in which the prison is situated.

* * * *

CHAPTER XXXIV

INTERVIEWS AND COMMUNICATIONS

Statutory provision

34.1) *Due provision shall be made for the entry into a prison of persons with whom prisoners may desire to communicate, care being taken that so far as may be consistent with the interests of justice, undertrial prisoners may see their legal advisors without the presence of any other person.*

[See Section 40 of the Prisons Act, 1920 A.D.]

34.2) *Deputy Superintendent (Jailor) may demand the name and address of any visitors to a prisoner, and may search any visitors if he has any ground for suspicion. The Deputy Superintendent may deny entry to any visitor who refuses to permit himself to be searched, entering the grounds of his action in such record as the State Government may direct.*

[See Section 41 of the Prisons Act, 1920 A.D.]

Reasonable facilities to be allowed for interviews and letters

34.3) Every newly convicted prisoner shall be allowed reasonable facilities for seeing or communicating with his relatives, friends or legal advisers with a view to preparing an appeal or and shall also be allowed to have interviews or to write letters to his relatives, friends or legal advisers, once or twice, or oftener if the Superintendent considers it necessary, to enable him to arrange for the management of his property or other family affairs.

34.4) The same facilities as in paragraph 34.3 shall be allowed to every prisoner committed to prison in default of payment of a fine or furnishing security under Chapter VIII of the Code of Criminal Procedure, 1973 to enable him to arrange for the payment of the fine or the furnishing of security.

34.5) Every prisoner under sentence of death shall be allowed such interviews and to have such other communications with his relatives, friends and legal advisers as the Superintendent thinks reasonable.

Privileges contingent on good conduct

34.6) In addition to the privileges referred to above, every convicted prisoner shall be allowed to have an interview with his friends and relatives once in a fortnight and to write and receive two letters a month during the term of imprisonment provided that the exercise of the privileges shall be contingent on good conduct and may be withdrawn or postponed by the Superintendent for bad conduct. The conversation at the interviews shall be limited to private and domestic matters and there shall be no reference to prison administration and discipline, or to other prisoners or to politics. Similarly, the contents of all letters shall be limited to private matters and there shall

be no reference to prison administration and discipline, or to other prisoners or to politics. The number of persons who may interview a prisoner at one time should ordinarily be limited to three. Children below the age of 10 years shall not be counted for this rule.

Note 1 :-A letter merely arranging an interview shall not be counted as a letter for this purpose.

Note 2 :-A prisoner may, with the permission of the Superintendent, substitute a letter with a reply for an interview, or vice versa.

Superintendent's discretion to grant privileges at shorter intervals

34.7) The Superintendent may, at his discretion, grant interviews or allow the despatch or receipt of letters at shorter intervals in spite of the prisoners misconduct, if he considers that special or urgent grounds exist for such concession as, for example, in the event of the prisoner being seriously ill or on the occurrence of the death of a near relative, or if the friends or relatives have come from a distance to see the prisoner and it would inflict undue hardship on them to refuse an interview, or if the prisoner is nearing release and wishes to secure employment or for other sufficient cause. Matters of importance such as the death of a relative may also be communicated at any time, by the friends of a prisoner to the Superintendent, who will, if he thinks it expedient, inform the prisoner of the substance of the communication.

Prisoner allowed to address special letter of his transfer from one prison to another.

34.8) Prisoners of all categories including Convict Functionaries shall be allowed, if they so desire, special letter in order to inform their friends or relatives of their transfer from one prison to another. This shall be in addition to the letters allowed to them according to their classification or their rank as Convict Functionaries.

Superintendent's discretion to permit prisoner to sign and attest power of attorney etc

34.9) Every newly convicted prisoner may be permitted at the discretion of the Superintendent to sign and attest a power of attorney or other statements concerning his properties. Prisoners other than newly convicted prisoners may be granted a similar privilege at the discretion of the Superintendent, but in their case each such transaction shall be treated as an interview.

Superintendent's permission for interviews required

34.10) No convicted prisoner shall be allowed to have an interview or to receive or write a letter except with the permission of the Superintendent, which shall be recorded in writing.

34.11) Applications for interviews with prisoners may be oral, or in writing at the discretion of the Superintendent. If the prisoner is not entitled to have interview, the applicant shall be informed at once.

Time for interviews

34.12) The Superintendent shall fix the days and hours at which all interviews shall be allowed and no interview shall be allowed at any other time except with the special permission of the Superintendent. A notice of the interview hours shall be posted outside the prison.

Place of interview

34.13) Every interview shall take place in a special part of the prison appointed for the purpose, if possible at or near the main gate. Provided that interviews with female prisoners shall, if practicable, take place in the female enclosure. Provided also that if a prisoner is seriously ill, the Superintendent may permit the interview to take place in the hospital, and a condemned prisoner shall ordinarily be interviewed in his cell. Provided further that the Superintendent may for special reasons to be recorded in writing, permit an interview to take place in any part of the prison.

Interview to take place in the presence of prison officer

34.14) Every interview with a convicted prisoner shall take place in the presence of a prison officer who shall be responsible that no irregularity occurs and who shall be so placed as to be able to see and hear what passes and to prevent any article being passed between the parties. The female Head Warder or a female Warder shall be present at interviews of female prisoners. Conversation at the interview shall not be permitted in any language not readily understood by the prison officer present.

Termination of interview

34.15) Any interview may be terminated at any moment, if the officer present considers that sufficient cause exists. In every such case, the reasons for terminating the interview shall be reported at once for the orders of the senior officer present in the prison.

Duration of interview

34.16) The time allowed for an interview shall not ordinarily exceed half an hour but may be extended by the Superintendent at his discretion.

Search before and after interviews

34.17) Every convicted prisoner and every unconvicted criminal prisoner shall be carefully searched before and after an interview.

When Superintendent may refuse interview

34.18) A Superintendent may refuse to allow any interview to which a prisoner would ordinarily be entitled if in his opinion it is inexpedient in the public interests to allow any particular person to interview a prisoner or if other sufficient cause exists.

Withholding of letters and their disposal

34.19) No letter shall be delivered to or sent by a prisoner until the Superintendent or any other official so authorised by the Superintendent has satisfied himself that its transmission is unobjectionable. No letter written in cypher shall be allowed. The Superintendent may withhold any letter which seems to him in any way improper or objectionable or may erase any improper or objectionable passages. If a letter is written in a language of the State but cannot be satisfactorily translated in the prison concerned, it shall be sent to some other officer for translation in accordance with such arrangements as may be made from time to time by the Inspector General subject to the approval of the Government in the case of any arrangement by which letters will be sent outside the Prisons Department.

34.20) If a letter is written in a language not ordinarily current in the State it shall be sent for translation to the Criminal Investigation Department. A slip marked "Urgent no unnecessary delay in examination should be allowed to occur" should be attached to any letter sent outside the prison for translation.

34.21) If a letter is addressed to a prisoner who is not entitled under the rules to receive it, it may, unless the Superintendent determines to communicate it, be withheld and kept in the Superintendent's custody until the prisoner is entitled to receive it, or released, when it shall be delivered to him, unless it is improper or objectionable ; or it may be returned to the sender with an intimation that the prisoner is not entitled to receive it.

Convicts may keep letters if allowed

34.22) A convict may retain any letter which has been delivered to him with due authority unless the Superintendent otherwise directs or may ask that it be kept for him.

Supply of writing materials and other facilities

34.23) Writing materials including service post cards shall be supplied in reasonable quantities to any convict who has permission to write a letter and all letters shall be written at such time and place as the Superintendent may appoint. A fixed day of the week preferably Sunday, shall be set apart for letter writing, service postage stamps shall be provided for prisoners letters.

34.24) Prisoners shall be allowed to purchase writing materials at their own expense. All papers and notebooks used by them should be paged and numbered by the Superintendent for purposes of check and to prevent secret correspondence.

Exclusion from privileges

34.25) Any prisoner who abuses any privilege relating to the holding of an interview or writing of letters or other communications with any person outside the prison shall

be liable to be excluded from such privileges for such time and may be subjected to such further restrictions as the Superintendent may direct.

Facilities to be granted to unconvicted Criminal Prisoners and Civil Prisoners in the matter of interviews and letters

34.26) Unconvicted criminal prisoners and civil prisoners shall be granted all reasonable facilities at proper times and under proper restrictions for interviewing or otherwise communicating either orally or in writing with their relatives, friends and legal advisers.

34.27) Every interview between an unconvicted prisoner and his legal advisor shall take place within sight but out of hearing of a prison official. A similar concession shall be allowed by the Superintendent in the case of an interview with any near relative of the unconvicted prisoner.

34.28) When any person desires an interview with an unconvicted criminal prisoner in the capacity of the prisoner's legal adviser, he shall apply in writing giving his name and address and stating to what branch of the legal profession he belongs and he must satisfy the Superintendent that he is the bonafide legal adviser of the prisoner with whom he seeks an interview and that he has legitimate business with him.

34.29) Any bonafide confidential written communication prepared by an unconvicted criminal prisoner as instructions to his legal adviser may be delivered personally to such legal adviser or to his authorised clerk without being previously examined by the Superintendent. For this purpose the term legal adviser means a legal practitioner within the meaning of the Act.

34.30) Civil prisoners may see their friends, relatives and legal advisers at such time and under such restrictions as the Superintendent may appoint, and the presence of a prison officer shall not be necessary. No visitor shall be allowed to take within the civil prison any electronic gadgets or prohibited articles without the express permission of the Superintendent.

Waiting room for prisoner's friends and relations

34.31) The Superintendent shall make arrangements for providing a waiting room for prisoner's friends and relatives that may come for interview and provide benches and drinking water in or near the waiting room.

Interviews and communications in respect of detenus

34.32) Communications and interviews of persons detained under the J&K Public Safety Act shall be governed by the relevant provisions of the J&K Detenus (General) Order, 1968 and instructions issued by Government in this respect from time to time.



PART G**CORRECTIONAL SERVICES**

CHAPTER XXXV

EDUCATION

Essential elements

35.1) Education is a harmonious and all-round development of human faculties, mental and physical. It is a process by which knowledge character and behaviour of the inmates can be moulded. For the prisons, it is a preparation for social life. For the prisoners, it is adjustment to social environment. It is a process by which inmates can be helped in their ultimate resettlement in society. Education is character-building. Through precept and example, correctional personnel should inculcate among inmates good habits and healthy attitudes.

Objectives of education in prison

35.2) A comprehensive educational programme in a prison aims at :-

- (i) providing opportunities to the illiterate inmates to achieve at least a minimum level of education ;
- (ii) extending facilities to literate inmates to advance their educational standards ;
- (iii) developing a better understanding of the duties and obligations of a citizen and improving the attitude of inmates towards society and fostering a desire to live as good citizens ;
- (iv) assisting the development of good social and ethical habits and attitudes so that the inmates may properly adjust his life in the community ; helping the inmate to improve his personality and his ability for social adjustment through individual and group guidance in social living ;
- (v) developing points of view which will make apparent to the inmates the futility of a criminal way of life ; making the inmates aware of the advantages of a law abiding life ;
- (vi) stimulating sustained interest and effort towards self-improvement ; and
- (vii) developing social consciousness and a sense of social responsibility and obligations.

35.3) To these ends, each prisoner should be given a programme of education which will help the process of his socialization and rehabilitation. In order to achieve these objectives an adequately trained educational staff, minimum facilities like class rooms, library, equipment etc., should be provided.

35.4) The education of illiterate adolescent and adult prisoners shall be compulsory. Correctional Service will pay special attention to educational programmes.

35.5) Because of wide variations in intelligence and interests of inmates, it is essential to organize diverse educational programmes to suit the needs of inmate groups. Prisoners should be re-educated in order to assume total responsibility in the outside world.

35.6) Educational programme should cover material which would help to develop the inmate as an affective member of social groups. The programme should also help to develop insight on the part of the inmate with the problems involving crime and its consequences.

35.7) The nature of the educational programme in an institution should be related to the size and type of the inmate population and the time earmarked for educational programmes. Educational activities should be developed in conjunction with the total programme of an institution.

35.8) So far as practicable, the education of prisoners shall be integrated with the educational system of the State so that after their release they may continue their education without difficulty. Educational programmes should be related to aftercare programmes also.

35.9) Education should be organized at three levels :

- (i) for the beginners
- (ii) for the intermediates ; and
- (iii) for the advanced.

35.10) Educational personnel should be oriented through special training courses to correctional policies, programmes and methods as far as practicable.

Content of educational programme

35.11) The educational programme should consist of :-

- (i) physical and health education.-P. T. , drill, physical exercises, light yogasans, corrective exercises, fundamentals of hygiene, environmental sanitation,

balanced diet, instruction in personal, family and community health, first-aid, controlled and orderly sex life, family planning etc.;

- (ii) academic education - adult literacy, primary and high school grade subjects ;
- (iii) social education :- civics, grampanchayat, co-operation, Five Year Plan, Community Development projects, national Extension Services, social legislation, small saving schemes, improved methods of agriculture, shramdams, cottage industries, general knowledge, public health etc.;
- (iv) vocational education- Training in different trades ;
- (v) moral education :- meditation, group prayers, devotional prayer songs which can be recited by persons of all religions, selected reading, individual or in groups of literature dealing with ethics, universal principles of religion, study of the lives of saints, moral teachers and social reformers, talks by moral lectures etc ; and
- (vi) cultural education through instructions and organization of cultural programmes.

Educational Personnel

35.12) The strength of the educational personnel at an institution should be fixed in accordance with the inmate population and the educational programmes to be organized at the institution.

35.13) Literate inmates may assist the educational personnel in organizing educational activities. These inmates should, however, be very carefully selected and they should work under the direct supervision of the educational personnel. Habitual offenders shall not be organised for educational purposes.

Buildings and equipments

35.14) Each institution may have educational building and equipment required for conducting diversified educational activities.

CHAPTER XXXVI

WORK

36.1) All the prisoners under sentences shall be required to work subject to their physical and mental fitness as determined medically.

36.2) The interests of prisoners and of vocational training shall not be subordinate to the principles of making the financial profit from an industry in any institution.

36.3) Prison work and training programme shall be fundamentally integrated in the State and National Economic Policy in terms of :—

(i) increased national production ; and

(ii) vocational training of inmates in accordance with the national needs for trained craftsmen and conditions of labour market in the free community.

36.4) *"No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency, with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day";*

[Section 35(1) of J&K Prison's Act, 1920 A. D.]

36.5) *"The Medical Officer shall from time to time examine the labouring prisoners while they are employed and shall at least once in every fortnight cause to be recorded upon the history ticket of each prisoner employed on labour the weight of such prisoner at the time."*

[Section 35(2) of J&K Prison's Act, 1920 A. D.]

36.6) *"When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labour, such prisoner shall not be employed on that labour but shall be placed on such kind or class of labour as the Medical Officer may consider suited for him".*

[Section 35(3) of J&K Prison's Act, 1920 A. D.]

36.7) No prisoner shall be required to perform any labour, other than such as may be necessary for the conduct of the internal management and domestic economy of the jail, or to meet any call of emergency, on any of the Sundays and all national holidays.

36.8) The Inspector General may, with the previous sanction of the Government, by general or special order in that behalf, exempt any prisoner from labour on any particular day or days other than those that may be specified.

36.9) *Upon the admission of every convict sentenced to rigorous imprisonment the Medical Officer shall, enter the class of labour (if any) for which such convict is fit in the prescribed book, cause a similar entry to be made in the history ticket of the prisoner.*

[See Section 24 (2) of the Prisons Act, 1920 A. D.]

36.10) *The Medical Officer shall, from time to time, cause to be entered in the history tickets of every prisoner, any direction as to the employment of such prisoner or the class or form of labour on which he is to be employed, which he may deem fit to give.*

[See Section 35 of the Prisons Act, 1920 A. D.]

36.11) No prisoner shall be employed on any kind or class of labour which the Medical Officer considers unsuitable or for which that officer considers him unfit, or shall be subjected to any labour unless the Medical Officer certified his fitness for the same.

36.12) No convict who is under sentence of rigorous imprisonment, or who is employed on labour at his own desire, shall be required to work:-

- (i) if a member of a convalescent or special group, between the hours of 12 noon and 2 p.m throughout the year ; and
- (ii) if not a member of a convalescent or special group, between the hours of 12 noon and 2 p.m from the fifteenth of April to the fifteenth of October (both days inclusive)

36.13) The periods of rest prescribed under the preceding paragraph are to be in addition to one hour allowed daily at 11 a.m. to all prisoners throughout the year for the midday parades and rest.

36.14) Prisoners shall commence work as soon as the morning parades and distribution into groups are completed, that is, usually about an hour after the opening of the wards, and in the afternoon work shall be stopped about an hour before sunset according to the season.

36.15) During the hours of rest, prisoners shall be locked up in their sleeping wards or in their workshops if the latter are suitable and secure.

36.16) Convict labour shall be utilized to the fullest extent in the erection and repair of all jail buildings and for the preparation of materials for the same.

36.17) No convict shall at any time be employed on any work outside the jail walls for the purpose of being so employed unless and until the Superintendent shall have:-

- (i) sanctioned his being so employed ; and
- (ii) recorded or cause to be recorded on the prisoners history ticket the fact that such sanction has been given.

36.18) Only short term convicts and prisoners having good behaviour shall be employed in the jail, put to garden work except on the recommendations of the Medical Officer or when a sufficient number of eligible prisoners are not available.

36.19) Frequent change of work, except on medical grounds, shall be avoided, but the same form of hard labour shall not be exacted indefinitely without variation, and sedentary work should occasionally be changed for work involving more general movement. Every Superintendent and Deputy Superintendent shall make himself acquainted with the tasks fixed for the various industries carried on in his jail.

36.20) Whenever the material is given to a prisoner to work upon, it shall be measured or weighed out to him before he begins to work.

36.21) Before the prisoners leave their places of work in the afternoon, the Factory Manager or Deputy Superintendent and Head Warders shall measure and mark off the work done by each prisoner and note the same against his name in the labour register. The entries in this register may be made in the vernacular and in large jails, by an educated convict. If in any case, owing to the nature of the work, the task cannot be taken daily, it should be taken whenever it is possible to do so.

36.22) Convict labour shall ordinarily be employed to supply :-

- (i) the requirements of the jail and of Jail Department ;
- (ii) the requirements of the Government in any other respect ; and
- (iii) other demands which the Inspector General may from time to time approve.

36.23) No convict shall at any time be employed on any labour outside the walls of the jail:-

- (i) until he has undergone not less than one third of the substantive term of imprisonment to which he has been sentenced .

(ii) without the sanction of the Inspector General if the unexpired term of sub-stantive imprisonment together with imprisonment, if any, in lieu of fine, by which he has been sentenced, exceeds two years ; and

(iii) if any other charge or charges are pending against him. Provided that paragraph 36.23 (i) and (ii) shall not be deemed to apply to any jail established for the purpose.

36.24) No prisoner shall at any time be employed by any officer of the jail, or other person, on any private work or service of any kind whatsoever. Provided that nothing in this rule shall be deemed to prohibit the employment of any prisoner on any work carried on within the walls of the jail , in the ordinary course of any jail industry, with the knowledge and permission of the Superintendent and subject to the payment of the usual charges for such work.

36.25) The employment of prisoners as Office Assistants in jail offices is forbidden. The Inspector General may sanction the employment of an educated prisoner to copy letters , prepare rolls, write up registers and other work having no connection with warrants, remissions or money transactions. A prisoner so employed shall be provided with a place for writing inside the main gate, and under the eye of a Warder. He shall not be permitted to enter the jail office unless called before the Superintendent or an inspecting officer.

36.26) The raw material for manufactories shall be under the charge of a responsible officer, who shall issue each morning what is required for the day's work and receive into store in the evening the material which has not been used up. He shall also, as far as possible, satisfy himself that there is no waste of material, but this shall not relieve the Factory Manager or Deputy Superintendent, as the case may be, of the responsibility for the safe custody and proper disposal of the manufactory stores.

36.27) All accounts relating to jail manufactory shall be kept by a responsible official, under the supervision of the Factory Manager or Deputy Superintendent.

36.28) No officer of any jail shall at any time retain in his possession, or dispose of :-

- (i) any article at any time supplied for use in any industry carried on in any jail, or manufactured by any prisoner ; and
- (ii) any sum of money realised from or received on account of the sale of any such article or of the earnings of any prisoner; and the whole amount of every sum of money so realised or received shall, as soon as may be, paid to the credit of the Government in the nearest public treasury.

Prisoners Wage Earning Scheme

36.29) *"The Principal aims and objects of the Scheme shall be to;*

- (i) provide financial incentives to the prisoners ;*
- (ii) increase national production ;*
- (iii) provide vocational training to the prisoners in trades and crafts ;*
- (iv) impart reformatory education to the prisoners during their stay in the prison, so that their mental build-up is oriented for rehabilitation ; and*
- (v) introduce a follow-up programme, after the prisoner is released to ensure that he takes up some profession in line with the task taken up in the prison."*

[Section 2 of the Prisoners Wage Earning Scheme, 1979]

Wages

36.30) *Under the authority of the Prisoners Wage Earning Scheme and the rules made thereunder, prisoners shall be required to perform work in different sections of the jail and shall be paid wages for the work performed.*

[See J&K Wage Earning Scheme, Govt, order No. 406/ Jail of 1979 dated 13.08.1979.]

36.31) The scale of wages for skilled, semi-skilled and unskilled work shall be fixed by the Inspector General of Prisons from time to time.

36.32) *"The scheme shall apply to the prisoners in Central Jails of the State. The Controller of Prison may at any time, with the approval of the Government, apply the scheme to the prisoner of any other Jails in the State."*

[Section 3 of the Prisoners Wage Earning Scheme, 1979]

Eligibility

36.33) *"The following classes of prisoners are eligible for the benefit of the scheme:—*

- (i) all prisoners sentenced to rigorous imprisonment ; and*
- (ii) prisoners sentenced to simple imprisonment and under trials who volunteer to work ; provided that no such undertrial shall be punished for neglect of work."*

[Section 5 of the Prisoners Wage Earning Scheme, 1979]

Disqualification

36.34) *"The following classes of prisoners shall not be entitled for the benefit under this scheme namely:-*

- (i) sick and infirm prisoners;*
- (ii) prisoners undergoing such jail punishment as to prevent them from any employment;*
- (iii) prisoners sentenced to simple imprisonment and undertrial prisoners who do not volunteer to work ; and*
- (iv) unskilled prisoners sentenced to imprisonment up to three months."*

[Section 6 of the Prisoners Wage Earning Scheme, 1979]

Working hours

36.35) *The working hours of prison labour shall be as under :-*

- (i) adult criminal offenders not more than 9 hours a day ; and*
- (ii) woman offenders not more than 6 hours a day.*

Note:-1 Time occupied in educational and vocational training activities shall not be counted as work period.

Note:-2 The hours of working as stated above are based on the assumption that the remaining period shall be usefully utilized in educational and other activities.

Note:-3 The Superintendent Jail shall be competent to suitably adjust the hours of working in accordance with conditions of each Institution's requirements of additional training and seasonal variations, with the approval of the Controller of Prisons.

[See Section 7 of the Prisoners Wage Earning Scheme, 1979]

Rest days

36.36) *"After six days of work prisoners should be given one day as rest from usual employment."*

[Section 8 of the Prisoners Wage Earning Scheme, 1979]

Allotment of work

36.37) *The following factors shall be taken into consideration for allotment of work to prisoners:-*

- (i) physical and mental health,*
- (ii) age,*
- (iii) length of sentence,*
- (iv) requirements of security and discipline,*
- (v) results of vocational aptitude tests, where given,*
- (vi) previous occupation, training and experience,*
- (vii) level of work-skills and abilities,*
- (viii) area (urban and rural) where the inmate is likely to re-settle after release and possibilities of employment,*
- (ix) vocational training needs,*
- (x) possibilities of imparting multiple skills,*
- (xi) rehabilitation needs, and*
- (xii) inmate's occupational preference so far as they are compatible with institutional conditions and available facilities for work and training.*

[See Section 9 of the Prisoners Wage Earning Scheme, 1979]

Shifts

36.38) Excepting prisoners working in the kitchen in the early morning shift and prisoners doing night patrol work inside the barrack and hospital, prisoners should not be required to work after lock-up. Prisoners required to work in an early morning kitchen shift should not be employed in the subsequent day shift.

36.39) Prisoners doing night patrolling inside the barrack should not be required to do more than two hour's patrol duty at one time. Rotation of patrolling may get enough rest.

Facilities

36.40) The following facilities shall be provided in places where prisoners work:-

- (i) protection from heat, cold, rain, dust, smoke, fumes, gases and chemical ;
- (ii) adequate ventilation and light ;
- (iii) drinking water ;
- (iv) washing and bathing facilities, spittoons, urinals and latrines ; and
- (v) first-aid facilities.

Compensation

36.41) In case a prisoner while employed in a prison job or work, inspite of having taken all reasonable precautions, meets with an accident resulting in physical or mental disability, or serious injury or death, or loss of health due to occupational disease as certified by the Medical Officer, suitable compensation may be paid to the prisoners or to his dependents. In such case the Superintendent shall submit a report with his recommendation to the Inspector General. The amount of compensation to be paid shall be decided by the Government.

Miscellaneous

36.41) Subject to the approval of the Inspector General, the Superintendent is authorised to make suitable changes relating to hours of work, changes in shifts, periods of rest, intervals, reserve pools for essential prison services, rotations, weekly rest days etc. in accordance with the requirements at each institution.

36.42) The Superintendent of Industries shall annually inspect the factories, workshops, and areas where prisoners, are required to work to ensure that minimum standards are properly maintained. Where necessary the State Labour and Industries Departments may be consulted.

Tasks

36.43) While fixing standard tasks, the following factors should be taken into account :—

- (i) conditions of equipment, tools and implements of production ;
- (ii) type and quality of raw material ;

- (iii) content and analysis of the product or job ;
- (iv) specification, pattern and quality of the product ;
- (v) labour and skill required for the product or job ;
- (vi) break-up of separate operations involved in each type of product or job and sequence arrangement of these operations ;
- (vii) determination of the needs of each operation, such as labour, equipment, material, space etc. ;
- (viii) estimates of number of man-hours needed for each operation ; and
- (ix) determination of units of product or job out-put in unit or units of time.

36.45) Suitable standard tasks should be prescribed for adolescent and woman prisoners.

36.46) The Classification Committee should prescribe the job performance for prisoners who are mentally or physically handicapped and also for prisoners who are advanced in age.

36.47) Charts of prescribed tasks should be kept in respective work-shops for the information and guidance of the staff members and prisoners.

36.48) An efficient system of supervision direction and control at various phase of production of articles or performance of prison jobs should be established with a view to ensure that the tasks and jobs are performed according to prescribed specifications, quality and quantity and in the prescribed unit or units of time. Concerned staff members should check the quality of performance of each individual prisoner against the prescribed standards of production and work performance.

36.49) The tasks performed by prisoners should be measured at the end of the prescribed units of time. The technical personnel will be responsible for measuring tasks and for checking performance of each individual prisoner. Task sheets should be maintained by staff members in charge of each section.

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CHAPTER XXXVII

TECHNICAL AND VOCATIONAL TRAINING

Essential elements

37.1) Vocational training and vocational guidance should be treated as essential features of the correctional programmes.

37.2) Vocational training projects should aim at :-

- (i) imparting training in vocational ethics, vocational principles and practices, material, tools, implements and machines, processes, operations and stages, skills and techniques, costing, marketing and other related procedures ;
- (ii) improving work-habits, work-skills, work-performance, job-intelligence and craftsmanship of inmates and thus equipping them for conditions of work in the outside labour market ;
- (iii) creating an active interest in work ;
- (iv) developing a sense of self-confidence and pride in vocation ;
- (v) building up reserve pools of trained inmates to maintain continuity in prison work programmes ; and
- (vi) training and equipping inmates for lasting vocational adjustments and for rehabilitation.

37.3) The institution should have adequate staff for the efficient organisation of the various training projects. It should be properly equipped with training aids, class-rooms etc., for conducting multifarious training projects to suit the training needs of its inmates.

37.4) The institution should have a properly defined and set organisation for training projects in terms of formation of homogenous training groups, routing and time-scheduling of training projects.

37.5) The cost incurred in the training projects that is expenditure on staff, equipment, material etc., should be treated as essential investment for the purpose of training, salvage and resettlement of the offenders.

37.6) Special emphasis should be given on the vocational training of adolescent offenders, young adult offenders and other offenders who may derive maximum benefits from the training projects.

Training projects

37.7) The Classification Committee should plan training projects for such prisoners as have got abilities for benefiting from such opportunities.

Vocational Aptitude tests

37.8) In order to find out inmate's abilities, skills and vocational interests, as far as possible they should be given intelligence tests and vocational aptitude tests during the admission and quarantine period. Where necessary, vocational aptitude tests should be given subsequently to find out inmate's potential for acquiring multiple vocational training. Results of the vocational aptitude tests should be used for chalking out work and training programmes for inmates.

Vocational guidance

37.9) At the time of initial classification of inmates, vocational guidance should be extended to them according to their needs and abilities. Even subsequently, inmates should be given vocational guidance. Indeed it should be a continuous process.

Basis

37.10) While planning training projects for inmates the following factors should be taken into account :—

- (i) requirements of security and discipline,
- (ii) age,
- (iii) length of period available for training,
- (iv) physical and mental abilities,
- (v) results of intelligence tests and vocational aptitude tests, wherever known,
- (vi) previous training and occupational experience if any,
- (vii) educational level,
- (viii) ability for deriving benefits from training projects,
- (ix) occupational interests,
- (x) areas (urban-rural) where and inmate is likely to settle after release and employment opportunities, and
- (xi) rehabilitation needs.

Phases

37.11) The training projects should be phased as follows:-

- (1) Apprenticeship training : After initial allotment of work, the inmates should be given a short course comprising demonstration, class-room instruction and practical work. This will equip the inmates for the work allotment to them. This phase may be treated as apprenticeship period. As soon as the inmate has completed the apprenticeship stage, he should be put on the production line.

Note:- A prisoner having previous occupational experience need not undergo the apprenticeship stage. He should be put on the production line immediately after his initial classification.

- (2) On the job training : While inmates are working in industries or in agriculture and allied fields, the technical personnel in charge of each section should impart on-the-job instruction aiming at improving inmate's work-skills, per formances, job-intelligence and craftsmanship. Work opportunities afforded through essential services and maintenance jobs should be utilized for the purpose of imparting on-the-job training. For such purposes, possibilities for training in occupations like cooking, plumbing, hair-dressing, construction and repair of building etc. should be explored.

Note:- Details regarding the techniques and content of the on-the-job training should be worked out for the guidance of staff members in charge of these programmes.

- (3) Vocational training : Vocational training project should be designed in the following areas in accordance with the rehabilitation needs of inmates and available facilities at each institution:-
 - (i) mechanised industries,
 - (ii) small scale industries,
 - (iii) cottage and village industries,
 - (iv) essential service unit and maintenance unit, and
 - (v) agriculture and allied fields.

Content

37.12) Curricula, duration and time schedules for apprenticeship, on-the-job training and vocational training projects should be so drawn as to suit the educational background and vocational abilities of inmate groups. As far as possible, the curricula followed in Technical and Vocational Training Institutes outside should be followed.

Training techniques

37.13) Techniques like class-room instruction, practical demonstrations, visual education etc. should be used for training purposes. These techniques should be based on the methods used for training schemes in recognised Technical and Vocational Training Institutes.

Progress reports

37.14) The technical personnel in charge of the training projects should maintain brief progress reports about each inmate undergoing a training course. These reports should be included in the inmate's case file for being reviewed by the Classification Committee.

Tests and examinations

37.15) At the end of each vocational training project, tests and examinations of the inmate trainees should be conducted by the State Department of Industries or Department of Technical Training. Inmates who successfully pass these tests and examinations will be awarded certificates by the Industries, Education and Technical Training Departments.

Minimum standards

37.16) Minimum standards for attendance in vocational projects should be adopted in respective institutions in accordance with local conditions and available facilities. In suitable cases, hours of attendance in vocational training projects may be increased as would be necessary and practicable.

Multiple vocational training

37.17) Inmates having long sentences and requisite abilities should be afforded opportunities for acquiring multiple vocational training. Such opportunities would be helpful in maintaining interest in the work and also levels of progress achieved in various fields by the inmates.

Co-ordination

37.18) As far as practicable, on-the-job training programmes and vocational training programmes should be linked up and co-ordinated. The Classification Committee should ensure that planning, organisation and co-ordination of the training projects is properly done. The training projects undertaken at the institution should be integrated and co-ordinated with institutional routine, work programmes and other activities.

Costing and sale of products

37.19) The costing and sale of the products of the training projects should not necessarily be done from the profit point of view. Where necessary these articles may be sold at cost price.

Liaison

37.20) Aftercare agencies should be closely associated with vocational guidance and training projects. The institution should establish liaison with Education, Technical Training and Agriculture Departments and with Technical Training and Vocational Guidance Institutes. Such liaison would bring in improved efficiency in institutional training projects and also practical utility from the point of view of the rehabilitation of the inmates.

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CHAPTER XXXVIII

AFTERCARE AND REHABILITATION

Essential elements

38.1) Aftercare service is based on an approach of help, service, guidance, counselling and protection. It is a helping process, service programme and a constructive vigilance over a particular condition of the individual which had handicapped him. Aftercare is the released person's convalescence. It is the bridge which can carry him from the artificial and restricted environment of institutional custody, from doubts and difficulties, hesitations and handicaps to satisfactory citizenship, resettlement and to ultimate rehabilitation in the free community.

38.2) Institutional training treatment and handling and post-release assistance is a continuous process. Aftercare service, therefore, forms an integral part of correctional work. A well organized aftercare service is an essential requisite for institutional training, treatment and handling.

38.3) The objects of the aftercare service are :-

- (i) to extend help, guidance, counselling, support and protection to all released prisoners whenever necessary,
- (ii) to help a released person to overcome his mental, social and economic difficulties,
- (iii) to help in the removal of any social stigma that may have been attached to the inmate for his family because of incarceration,
- (iv) to impress upon the individual the need to adjust his habit, attitude, approaches and value schemes on a rational appreciation of social responsibilities and obligations and also of requirements of community living,
- (v) to help the individual in making satisfactory readjustment with his family, neighbourhood, work group and community,
- (vi) to assist the individual in functioning as a self-dependent and self-reliant socially useful citizen,
- (vii) to assist in the process of the individual's physical, mental, vocational, economic, social and attitudinal post-release readjustment and ultimate rehabilitation, and
- (viii) to complete, in all respects, the process of inmate's final readjustment, resettlement and rehabilitation in the free community.

38.4) Aftercare service should be extended to all needy persons released from the institutions, conditionally or unconditionally or on licence.

38.5) Aftercare problems of an individual should be treated in their totality and not in isolation. Not only the individual but his whole social situation must be tackled at the same time.

38.6) Aftercare work should broadly be phased as follows :—

- (i) while the individual is under institutional care and treatment,
- (ii) immediately after release from the institution, and
- (iii) post-release period.

38.7) There should be full co-ordination between the Correctional Services and the aftercare services. Their work should be very closely dovetailed.

38.8) While extending help, the aftercare services should devote special attention to the protection and post release care and help of children, adolescent, woman, sick, old, infirm and handicapped persons. Special emphasis should be laid on the aftercare of habitual offenders also.

38.9) Planning for aftercare should be initiated immediately after an inmate's admission in the institution.

38.10) An aftercare plan should be in the interest of the individual. It should be based on the inmate's needs. The Classification Committee should plan aftercare programmes. While planning post-release assistance, factors like the inmate's personality set-up, his weaknesses and strength, his limitations and capabilities and his rehabilitation needs should be taken into consideration. The inmate's desires for post-release help should be considered on a practical and realistic basis.

38.11) The inmate should be told what type of assistance would best suit his needs. He should be encouraged to plan his post-release life as this would be helpful in his willing acceptance of the aftercare plan. The inmate should be prepared for his post-release life.

38.12) From the time of a prisoner's admission into prison, consideration should be given to his post release needs and he should be encouraged and assisted to maintain or establish such relations with persons or agencies outside the institution as may promote the best interests of his family and his own social rehabilitation. Special attention should be paid to the maintenance and improvement of such relations between a prisoner and his family as are desirable in the best interest of both.

38.13) The Welfare and Aftercare Officer should contact the inmate soon after his admission that is during admission-quarantine period. Such early contact will be helpful in planning over-all help for the inmate and also for his family. He should meet the inmate at least once a month throughout his stay in the institution.

38.14) During the inmate's stay in the institution, the Welfare Officer should extend all possible assistance in maintaining the inmate's continued relationship with his family, employer and community. So also the welfare of the family members and dependants of the offenders as well as of the victim of the crime should be looked after.

38.15) The Welfare and Aftercare Officer should be associated with the work of the Classification Committee.

Scope of aftercare help

38.16) The following matters should be kept in view while planning aftercare help to released persons:-

- (i) subsistence money to cover initial expenditure after release till such time as the released person reaches his family or obtains employment,
- (ii) provision of food,
- (iii) temporary accommodation till housing arrangement are made,
- (iv) stay in a District Shelter/Aftercare Hostel/State Home, where available,
- (v) assistance in securing housing in urban areas,
- (vi) assistance in securing apprenticeship in a workshop/technical institute/ industry /trade,
- (vii) supply of artisan's tools or trade equipment,
- (viii) assistance in starting a cottage industry/ small business/a small trade/ workshop/stall,
- (ix) assistance in getting employment,
- (x) assistance in getting land, agricultural equipment, draught or milch cattle, seeds, etc., for those settling in agriculture,
- (xi) assistance in starting a small dairy or poultry or duck or sheep farm/ piggery/vegetable gardening/sericulture/bee-keeping, etc.,
- (xii) liaison with and assistance to prisoner's family during the period when he is serving the sentence,
- (xiii) help in maintaining continuity in relationship with family/neighbours/ employers/ community etc.,
- (xiv) preparing the family, employer, neighbours etc., for receiving the individual after release, and
- (xv) guidance in getting married and setting up a home and in resettling in life.

Family or marital adjustments

38.17) The following adjustments would be required :

- (i) explaining to the police the background and problems of the individual and getting their help and co-operation in the process of resettlement,
- (ii) interpretation to the Panchayat / Community Development authorities about the background, problems and needs of the released person and getting the co-operation and the help of the Panchayat/Community Development and National Extension Service workers/Gram Sevak, etc., in his resettlement,
- (iii) reference to Social Service Organization in the neighbouring area where the prisoner is likely to settle after release,
- (iv) assistance in continuation of education and vocational training,

- (v) creating interest in education, study, acquisition and improvement of skills, healthy recreation, constructive use of leisure, etc.,
- (vi) encouragement in building up good habits or life,
- (vii) help in planning and balancing his budget,
- (viii) encouragement in thrift, saving and keeping away from costly habits,
- (ix) medical treatment on long-term basis for tuberculosis, venereal diseases, leprosy, cancer, etc. in an outside hospital,
- (x) posting the released person under the care of a person or family interested in his welfare and resettlement, and
- (xi) guidance and protection from getting associated with anti-social groups, agencies of moral hazard (like gambling dens, drinking places, brothels etc.) and with demoralized and deprived persons, help in establishing contacts, acquaintance and friendship with reliable neighbour or co-residents or co-workers.

Legal aid and protection

38.18) The following aid and protection may be required :-

- (i) help in all matters relating to the resettlement and rehabilitation of the released person ; and
- (ii) the Aftercare agency should be closely associated with the planning of aftercare programme for the inmate.

38.19) The aftercare plan should be subject to such changes as would be found necessary by the aftercare services.

38.20) The Welfare and Aftercare Officer should intensify his work during the pre-release period. He should maintain all the prescribed record under the directions of the Superintendent.

38.21) After release from the institution, the case of a released person should be followed up for a period ranging from one to five years according to the requirements of each case.

38.22) Welfare and Aftercare Officer shall establish follow-up study through interviews or correspondence. A six monthly report evaluating the released person's adjustments and resettlement should be prepared by the Welfare and Aftercare Officer and copies thereof should be sent to the correctional institution where the individual had undergone treatment and to the record branch in the headquarters organization.

38.23) The record branch in the head-quarters, should maintain all the case-files and follow-up reports according to the central indexing system.

Note :—Such record should be useful in evaluating the effectiveness of institutional care, training and treatment programmes and also for reference and research purposes

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CHAPTER XXXIX
CULTURAL ACTIVITIES

Essential elements

39.1) Cultural and recreational activities will have the following objectives:-

- (i) to break the tedium and boredom of institutional regimentation and bring in an atmosphere of relaxation and joy in the institution ;
- (ii) to offer opportunities to inmates for restoration of energies, outlets in socially accepted ways, establishing helpful social relations, aesthetic pursuits and cultural development, creative satisfaction, and channelising surplus energies in a constructive manner;
- (iii) to utilize group living in the institution for the purpose of imparting training in group adjustment, gaining mastery over self, environment and situation, good standards of social relations, good attitude towards fellow men, respect for rules and procedures and fairness, and proper way of living ;
- (iv) to inculcate a discipline of healthy interests so that after release the inmate may utilize his spare time constructively;
- (v) to minimise the possible harmful effects of incarceration occurring through abnormal sex activities, reveries, day-dreams etc.;
- (vi) to offer healthy substitutes for perverted practices like gambling and other under world pursuits;
- (vii) to improve the tone of institutional discipline and to promote good morale ; and
- (viii) to improve the tone of institutional discipline in attitudes.

39.2) Cultural and recreational activities should be provided in all institutions for the benefit of mental and physical health of prisoners. These activities are basic elements of the rehabilitation programme for inmates. They should form integral part of the institutional regime. Recreation and cultural pursuits should be considered as important factors in the social development of the inmates.

39.3) The effects of good recreational and cultural projects can be just as constructive as the products of education and vocational training. Cultural and educational activities should be co-ordinated. The inmates can be socially educated through cultural programmes. Sufficient time in the daily programme should be allowed for recreation so that the institutional programme gets well rounded and properly balanced.

39.4) There should be a sufficient variety for choice in cultural and recreational opportunities, so that inmates of various age groups and interests can participate in these programmes. Cultural and recreational activities should be so organised as would be within the range of interests and abilities of inmates.

39.5) Recreation through small size groups prove of special value in the institutional set-up.

Cultural and recreational activities

39.6) Recreation has to be a guided and supervised activity. Each institution should have a well designed organisation for this purpose. Recreational and cultural projects need trained leadership, proper supervision and guidance and minimum facilities such as requisite staff, equipment, play grounds, gymnasias, akhadas and recreational centres.

39.7) Cultural and recreational opportunities should be extended to inmates in accordance with their institutional behaviour and their response to institutional regime. Grant of wider recreational facilities should work as incentives for good behaviour, self-discipline and attainment of progress. A good level of security and discipline should be maintained during cultural and recreational activities. These programmes should be conducted in an orderly manner.

39.8) Cultural and recreational opportunities outlined in the subsequent paragraphs should be suitably extended to each inmate or group of inmates and also in accordance with available facilities, local conditions and requirements of security and discipline.

Games

39.9) Games offer opportunities for physical exertion and relaxation. They provide opportunities for social recreation and promote team work, co-operation and fair play. The possibilities of organizing the following games may be kept in view:

- (i) indoor games:— chess, draughts, carrom,
- (ii) outdoor games:—wrestling, volley ball, foot ball, basket ball, ring ,tennis, and other suitable outdoor games, and
- (iii) gymnastics:—physical culture, single and double bars, roman rings, barbell, mal-khamb.

Films

39.10) Films can play an important role in the education-cum-recreational activities of the institution. Each institution should have projectors and wherever possible open air theatres. Special precautions should be taken to see that thrillers, erotic, suspense, stunt and crime films are not shown in correctional institutions. Films dealing with social themes or films having educational value should be shown. The Head-quarters or regional Head-quarters office should set up a film library having educational, historical, mythological, biographical and scientific films, travelogues, documentaries, newsreels, "Crime-does-not-pay" series, cartoons etc. These films should be distributed to various institutions.

Music

39.11) Music has universal appeal. It has unique power over emotions. It can be of great value for the lonely, the distressed and the unhappy. It can soothe jaded nerves and frayed tempers. It can relieve boredom and promote and increase interest in life. It can stimulate healthy activity. Music can be used as a means of relieving feelings. Properly utilized, music can have important values in the abnormal atmosphere of a prison. Musical programmes may consist of radio music, recorded music, group singing, folk music, instrumental music (solo and orchestral), band etc.

Community and folk dances

39.12) Dancing is the universal mode of expression for human beings. It reflects the general spirit of the times. Community and folk dances are expressions of national life and tradition. They derive inspiration from natural surroundings. They are direct and spontaneous expressions of the innermost spirit and temperament of the people. Community and folk dances in prisons will afford opportunities to the inmates for relaxation,, expression of the inner spirit, sense of belonging, desire for community life and also for the development of latent capabilities. Properly used dance can have significant values in the prison set-up. Dance can reveal individual social problems and allow new social experience. It can give aesthetic experience and satisfaction. These programmes may consist of :—

- (i) community dances performed on festivals and social occasions, and
- (ii) folk dances.

Drama

39.13) Drama is an embodiment of the development of literary expression and fine arts. It is the symbol of the culture of people. In a prison setting dramatic activity can

offer a variety of opportunities for re-education . It can have educative values in speech, co-operative participation and organization. It can also afford possibilities for aesthetic development and expression of artistic sensibilities and urges. Through dramatic medium, models of behaviour can be presented . Drama can also work as a cathartic agency. The subtle values suggested through dramatic performances can be used as techniques of social implantation . Features like dramas dealing with social problems, pageants, musical dramas, tableau, soliloquies, dialogues, radio plays, play reading etc., may be kept in view for organizing dramatic programmes.

Arts and crafts

39.14) Arts and handicrafts express the inmate's artistic taste and capabilities of people. The instinct for beauty and design gets manifested in arts and crafts through an infinite variety of forms. Utility and beauty get combined in handicrafts. In the restricted and depressed atmosphere of a prisoner, arts and handicrafts can play an important role. They afford opportunities for the inmates for creative activity and satisfaction. Even under conditions of imprisonment an inmate who has taken to arts and handicrafts can maintain his individuality and independence of artistic expression through a variety of forms and designs. An inmate by being a craftsman can remain conscious of his freedom. He can take pride in his own craft . The possibilities to be kept in view for arranging programmes in arts and crafts to suit the varied interests of inmate groups includes spinning , pottery, basketry, wood carving, home carpentry, masquetry and veneers, wood turning, fret work; leather work, home decorating, lamp shade making, horn craft, clay modelling, lacquer work, drawing, painting, stencilling, papercraft, rug making, raffle work, felt work, knitting, embroidery, needle work, crochet, sewing, tattooing, paper mache, shawl making, willow work, crewel embroidery, namda making etc.

Reading

39.15) Reading affords recreational and educational opportunities. Inmates should be given facilities for reading books, newspapers and periodicals. Group reading and guided reading may also be arranged.

Sports meets

39.16) Annual sports meet may be held in institutions. Carefully selected prisoners may be allowed to take part in local tournaments and matches. During such events necessary security precautions should be taken.

Miscellaneous

39.17) The latent talents of inmates for recreational and cultural activities should be discovered and developed. Wherever possible, properly selected inmates may be utilized for assisting institutional personnel in organizing cultural and recreational activities. In institutions where a proper atmosphere has been developed, inmate recreational committees may be set up. These committees can assist the administration in planning and organising cultural and recreational programmes and celebrations on national holidays and festivals.

39.18) Correctional Services should maintain liaison with the District authorities for recreational and cultural programme. Wherever possible facilities for social, recreational and cultural activities should be availed of on a selective basis. Such a liaison will be helpful in developing a good public relationship and also for promoting healthy cultural activities in prisons.

PART H**PRISON SECURITY****CHAPTER XL****SECURITY AND CUSTODY****Main principles of guarding**

40.1) Every prisoner in a jail shall at all times, both by day and night, be in charge of some officer, in such a manner that responsibility for an escape, resulting from negligence, can be definitely fixed. A record of the names of prisoner made over to each officer during the day shall be kept in a group-book and every subsequent change of a prisoner from one group to another shall be recorded therein under the authority and signature of an officer not under the rank of a Head Warden, who likewise at every change of guard shall be present to witness and verify the number of prisoners made over to the relieving officer.

Procedure to be observed in guarding

40.2) The following procedure shall be observed in guarding the jail and the prisoners confined therein—

(i) The Warden guard shall, after due allowance has been made for leave, sickness, transfer etc. be divided into 5 squads out of which one is kept as Reserve Guard while other 4 shall perform the guarding duty at different beats as per necessity and requirement round-the-clock, with 3 hours duty at a time twice in 24 hours or 4 hour's maximum at a time twice in 24 hour's or six hours at a stretch in a day as feasible from time to time. Squad No. 1 will be relieved by No. 2 and likewise. Every personnel should get the label of rather act as Reserve Guard each week.

(ii) The Deputy Superintendent and the Senior Assistant and Assistant Superintendents together with the Warders who are to go on duty in the morning shall enter the jail together.

(iii) The wards shall be opened and the prisoner counted out by Head Warders in pairs in the presence of the relieving Warders who are to take charge of the prisoners during the first period of day duty. The Deputy Superintendent,

Senior Assistant and Assistant Superintendents or Senior Head Warder shall verify the number counted out of each ward by comparison with the entry in the lock-up register. A Head Warder shall take charge of the Convict Functionaries who are to watch the jail walls during the first turn of duty and post them round the enclosure walls. When this has been done, the relieved Warders of the last night watch shall be marched out of the jail.

(iv) On completion of the parade, the prisoners shall be distributed in respective groups and a responsible officer shall be placed in charge of each group. The responsibility for the charge of a group shall never be divided between two or more officers. The strength of a group working outside the jail walls, but within the jail precincts shall not, without the sanction of the Inspector General, exceed 12 prisoners, which number shall include two Convict-Functionaries ; there shall be at least one Warder in charge of every such group. In the case of prisoners working inside jail walls, each group may, including the Convict-Functionaries attached, contain as many men as can be conveniently and effectively supervised and may, when the Warders are insufficient in number, be placed in charge of selected Convict Functionaries. Prisoners shall not be employed beyond the jail precincts without the special sanction of the Inspector General.

(v) The Warders coming on duty at the opening of wards in the morning shall be relieved at noon by the squad B which shall be brought into the jail by the Head Warders taking the second turn of day duty. They shall remain in charge until the prisoners are locked up and the night guard posted. The Convict-Functionaries guarding the walls shall in like manner be changed by the senior Head Warder accompanying the squad of Warders entering the jail at noon.

(vi) When the Warders and Convict-Functionaries are posted to the several groups in the morning, the names of the prisoners composing each group shall be called from the group book in the presence of the officer about to take charge, who shall verify the total by counting them. The officer's name shall then be recorded in the group book and his receipt taken. Every long termed and dangerous prisoner should be specially pointed out to the Warder about to take charge of him, so that a particular watch may be kept on him. At every change of guard the number of prisoners in each group shall be counted, and in the case of groups outside the jail, the names of the prisoners composing each group shall be called over. In large jails

there should be several group-books, so that the rolls may be called simultaneously to save time. Vernacular convict-writers may, when necessary, be employed to assist in writing up the group-books.

- (vii) On the cessation of work in the evening, the groups shall be collected and the prisoners in each group counted and verified.
- (viii) Every Warder in charge of a group working outside the jail walls shall keep a vigilant eye on the prisoners in his group and shall not allow them to wander or go out of sight on any pretext whatever. He shall be personally responsible for their safe custody throughout the whole period of his duty. Convict-Functionaries assisting a Warder in charge of an outside group shall similarly be responsible for the safe custody of the group, but their responsibility shall in no way diminish, or detract from the responsibility of the Warder. Prisoners working all day at a distance from the jail should be provided with a temporary latrine in close proximity to the work and under the eye of the Warder in charge. A Warder in charge of a group inside the jail shall accompany any of the prisoners of his group when they go outside the jail, leaving the prisoners remaining inside, in the charge of Convict-Functionaries. Only Warders of experience should be placed in charge of outside groups.

Evening count, lock-up, and disposal of keys

40.3) After completion of the evening parades, the first section of night guard shall be brought inside the jail by the patrolling officer; the Deputy Superintendent, Senior Assistant and Assistant Superintendents and Head Warders shall then count the prisoners in their wards, cells or other compartments. When all the prisoners except the Convict-Functionaries at the walls and those who are to take part in the first watch, have been locked up, the total number of prisoners shall be verified. If found correct, the patrolling officer shall then post the first section of night guard on the main wall on their respective beats and a Head Warder shall then collect the Convict-Functionary patrolling the walls, take them to the latrine and ablution platform and thereafter count and lock them up. The number of prisoners locked up in each ward of other building, as well as the total number of prisoners in the jail, shall be shown in the lock-up register, to which the Deputy Superintendent shall append his signature in token of its correctness.

40.4) On the completion of the lock-up, the keys of the wards, cells and other compartments where prisoners are confined, shall be collected and counted in the presence of the Deputy Superintendent who shall note the number in the lock-up

register. He shall then lock the keys into the receptacle provided for the purpose at the main gate and make over the key of such receptacle to the patrolling Officer of the first watch. Each patrolling Officer shall in turn make over the key to his successor, and the Officer of the last watch shall deliver it to the Deputy Superintendent on his entering the jail in the morning. The keys of the cook-house and of the wards in which the Cooks and Convict Functionaries for the night duty are confined shall also be placed in the charge of the patrolling officer.

Periods of night duty

40.5) The last section of the night guard shall not be employed in Squad A on the following day.

40.6) No Warder or Head Warder shall be on whole day duty except the Gardener and the Head Warder who shall be required to serve on night duty.

Deployment of Convict Functionaries on night guarding

40.7) Prisoners who have been appointed as Convict Functionaries shall be deployed on night guarding under the close supervision of jail guards.

40.8) The barracks shall be guarded inside by Convict-Functionaries and they shall be responsible for escapes from sleeping barracks.

40.9) Convict Warders and Overseers may be employed in guarding the main wall by night when the number of Warders is insufficient. There should be at least two Warders to every Convict-Functionaries on duty at any time.

40.10) No Convict-Functionary shall be placed on any beat where he cannot be under the observation of a Warder.

40.11) Convict-Functionaries shall not be employed to guard the main wall at night to a greater extent than is necessary or to relieve Warders of their ordinary spell of night duty.

40.12) Convict-Functionaries shall not be employed to guard prisoners condemned to death or under-trial prisoners or prisoners in huts or tents outside the jail except in cholera or extra-mural camps. They shall not in any case be so employed without the previous sanction of the Inspector General.

40.13) Only the most trustworthy Convict Functionaries and those with the shortest unexpired sentence should be selected for duty outside the barrack at night.

Warders to accompany large groups taken beyond the jail precincts

40.14) When more than 40 prisoners are taken out side the jail to such a distance that the alarm if sounded cannot be heard at the jail and such prisoners are allowed to work together as one party, two or more Warders according to circumstances (in addition to the Warders and Convict-Functionaries in charge of the groups), armed with rifles and buckshot cartridges, shall be told off to follow the groups and to station themselves in a suitable position to render assistance, should it be required.

Charge of the undertrial ward

40.15) Undertrial prisoners shall be guarded by Warders and not by Convict-Functionary.

Duties of the night watch

40.16) During the night the officer on duty outside shall patrol the main wall of the jail and shall not quit his beat or sit down. He shall be armed with a baton.

40.17) The barracks shall be visited ones in every hours through-out the night by a patrolling officer who should examine the gratings and doors and satisfy himself that they are secure and that the Convict-Functionary on duty inside is on the alert. He should frequently challenge him with this object and enquire the number of prisoners and if all are present.

40.18) There shall be sufficient lighting arrangements in the jail premises. Stand by generators shall be kept available in each jail depending upon the requirement.

Roster of officers for duty

40.19) A roster showing the terms of day duty of each Warder and Convict-Warder shall be prepared every week in advance, by or under the orders of the Deputy Superintendent, and pasted up in some prominent and accessible place. All subsequent change of duty of officers on the roster should be noted thereon.

40.20) No officer should be placed on the same beat two nights in succession, nor informed of his beat till he is about to be posted. A record shall be kept showing the officer put on each beat during each watch.

System of watch inside the wards at night

40.21) Every ward or compartment in which prisoners are confined shall be patrolled inside by Convict-Functionaries who should be changed daily and relieved at the time

the patrolling officer is changed. A roster showing the names of the prisoners told off to patrol each ward, with the hours of duty, shall be kept. The patrolling Officer shall satisfy himself that the Convict-Watchman inside the wards is changed at the time the patrolling Officer is relieved.

40.22) When exceptional precautions are necessary or a ward is of unusual length, two or more Convict-Functionaries may be placed on duty at one time, each being allotted a definite beat. Convict-Functionaries whilst on duty shall patrol their wards, prevent, as far as lies in their power, the commission of any breach of jail discipline, satisfy themselves by frequent counting that the prisoners are all present and intimate the fact to the outside patrol at least once every fifteen minutes. At each change of watch, the relieving Convict-Functionary shall report to the patrolling officer the number of prisoners present ; in case of any unusual occurrence, he shall give immediate notice to the patrolling officer to take any action that may be necessary.

Duties of Head Warder on patrol duty at night

40.23) The Head Warder or Senior Warder on patrol at night shall keep on the move, visiting the Warders and Convict-Functionaries if any. He shall, on taking over charge, satisfy himself that the correct number of prisoners is reported to be in custody and that everything is secure. When changing guard at night, both the relieved and relieving Head Warder or Senior Warder shall change the guard in company. In cases where sickness is reported, he shall forthwith send notice to the Medical Subordinate and Deputy Superintendent who shall, if necessary, take steps for the removal of the sick prisoner to hospital. Should any irregularity on the part of Warders or prisoners come to his notice he should report the matter to the Deputy Superintendent next morning. Immediate notice shall be given to the Deputy Superintendent or any occurrence requiring prompt action, such as an escape, attempt at escape, riot, fire, or serious sickness. He shall see that the main-gate Sentry is at his post between the gates and on the alert. Each patrolling Head Warder or Senior Warder shall carry a control-watch to record the time at which he visits each part of the jail.

40.24) Punctually at the hour for the relief of the guard, the Head Warder or Senior Warder who is to take the next watch shall bring in the relieving Warders. He shall search them between the gates both on entering and leaving the jail. This search should be personally conducted atleast once a week by the Deputy or Assistant Superintendent. In large jails, the Superintendent may, to save time, arrange for the relief of guard in two places simultaneously.

Note :—A special Warder will be employed for awakening the various night guards for their turns of duty.

Custody of (dangerous) prisoners

40.25) Every convict should be allotted a definite sleeping berth, the number of which should be noted in his history ticket. Wandering about the sleeping barracks at any time is to be strictly prohibited, and the fact of any convict leaving his sleeping berth for any purpose whatever should at once be reported by the Convict Functionary on duty to the patrolling officer who will note the case and inform the Deputy Superintendent on the latter official entering the jail on the following morning.

40.26) Prisoners should not be allowed to approach the gratings unnecessarily, and sleeping on the floor between the sleeping berths in the barracks is to be strictly prohibited.

40.27) Special precautions should be taken for the safe custody of dangerous prisoners whether they are awaiting trial or have been convicted. On being admitted to the jail they should be (a) placed in charge of trustworthy Warders, (b) confined in the most secure building available, (c) as far as practicable confined in different barracks or cells each night, (d) thoroughly searched at least twice daily and occasionally at uncertain hours (the Deputy Superintendent must search them at least once daily and he must satisfy himself that they are properly searched by a trust worthy subordinate at other times), and (e) fettered if necessary (the special reasons for having recourse to fetters should be fully recorded in the Superintendent's journal and noted in the prisoner's history ticket). They should not be employed on any industry affording facilities for escape and should not be entrusted with implements that can be used as weapons. Warden on taking over charge of such prisoners must satisfy themselves that their fetters are intact and the iron bars or the gratings of the barracks in which they are confined are secure and all locks, bolts, etc., are in proper order. They should during their turns of duty, frequently satisfy themselves that all such prisoners are in their places, and should acquaint themselves with their appearances.

Light to be kept at night

40.28) From sunset to sunrise sufficient lighting arrangements shall be made in front of the grated door of every cell in which a dangerous prisoner is confined.

Letting out cooks to prepare early morning meal.

40.29) When it is necessary to let out cooks before day-break to prepare the early morning meal, the patrolling Officer shall, at the hour fixed let out the necessary number and put them in charge of a Warden or Convict-Functionary as may be directed.

Surprise visit at night

40.30) To enable the jail to be entered at night without the knowledge of the patrolling Officer and Warders on duty inside, a duplicate key of the lock, the original key of which is in the possession of the patrolling officer on duty, shall be kept by the Officer in charge of the picket for the relief of the sentry at the main gate.

Visits by officials at night

40.31) Every Deputy Superintendent, Senior Assistant Superintendent and Assistant Superintendent shall, in the case of a Central Jail, ordinarily visit all parts of the Jail at night at least once a week and of a District Jail twice a week, each on different nights, and see that the officers on duty are on the alert and moving on their beats, that the prisoners are quiet and on their berths and that the lamps are showing sufficient light. The time of the visit should not be made known beforehand. The date of the visit, the hour of entering and leaving the jail and a report of any unusual occurrence that comes under observation, shall be recorded in a book which shall be provided for the purpose at the main gate. This book shall remain in the custody of the Gate-keeper during the day and the Sentry during the night . The Gate-keeper should produce it before the Superintendent on his arrival at the jail in the morning.

Opening wards at night, precautions to be taken

40.32) Should it be necessary to open a sleeping ward at night for purpose other than the emergency of fire, the Deputy Superintendent or Assistant Superintendent and one more officer are present except in the case of fire.

Locks to be out of reach

40.33) The locks of the doors of all sleeping wards and cells shall be so arranged that no prisoner can reach them from the inside.

Custody and control of prisoner out side the jail

40.34) A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison-officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same restrictions as if he were actually in prison.

Police guards to be provided under certain conditions

40.35) Whenever it is necessary to place prisoners in confinement in any place without the walls of the jail, the Superintendent shall apply to the Superintendent of

Police for such Police guard as may, in the opinion of the later Officer, be necessary and the Superintendent of Police shall supply such guard accordingly.

Responsibility of Police guards when guarding prisoners

40.36) In every case in which any prisoners are guarded by the Police under the provisions of the preceding paragraph, the responsibility for the safe custody of the prisoners shall rest with the Police.

Action when any jail becomes temporarily insecure

40.37) If, from any cause, any jail, at any time becomes temporarily in-secure, the Superintendent shall inform the Superintendent of Police of the fact, and it shall be the duty of that officer to supply such Police guard as he may think necessary to provide for the safety of the prisoners until the jail is made secure.

Perimeter security

40.38) The Inspector General shall review once every year the quantum and type of perimeter security to be provided to each jail / institution, including Sentries to be posted on watch towers and other key locations and patrolling within the premises and outside the main wall of the jail / institution. These reviews shall be done in consultation with the Deputy Inspector General of the Range in which the jail/institution is located. Over all security cover shall be provided through adequate strength of armed police or para-military forces depending on the security grading of the jail/institution determined in such security reviews.

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CHAPTER XLI

MAIN GATE

Out of bound area

41.1) An area demarcated around the institution shall be out-of-bounds for the public. Only persons who have been authorised shall be permitted to enter this area.

Enquiry Office

41.2) All initial inquiries by the persons of the public shall be made at the Enquiry Office which shall be set up at a suitable spot in every institution.

Waiting Room

41.3) The waiting room for visitors shall be located near the Enquiry Office. A notice put in English / Urdu / Hindi listing contraband articles and prohibited acts shall be prominently displayed near the waiting room. Printed informative material in English/Urdu/Hindi explaining important rules shall be kept at the waiting room for the information and guidance of visitors. The waiting room shall have necessary conveniences like attached bath room, seating arrangement and drinking water.

Jail armoury

41.4) A separate room near the main gate shall be set apart for storing arms and ammunition ; it shall be furnished with suitable racks for the muskets and pegs to hang accoutrements.

Firearms not to be taken into the Jail

41.5) The firearms with the exception of those allowed for the Sentry on duty on the central tower, shall only be taken inside the jail at alarm parades or under the orders of the Superintendent or Deputy Superintendent in times of emergency.

Gate

41.6) The gate shall have adequate security measures external as well as internal.

Equipment

41.7) The equipment that shall have to be kept at the gate includes bell, gong, live wire and alarm indicators, metal detectors, first aid kits , fire fighting equipment , emergency

and security equipment , weighing platform , clock etc, the standing desk with lock and key for the Incharge main gate personnel, registers and writing materials, the wall almirah or box for keys, cash chest, the box for torches and other stand-by lighting arrangement, fire extinguishers and lock-up board.

41.8) The gate shall be equipped with telephones and inter-communication system and other security devices.

Personnel

41.9) An experienced officer of the rank of Assistant Superintendent shall be in charge of the gate. As and when necessary, additional staff shall be detailed at peak hours. The officer on night duty shall be in charge of the gate after lock-up.

41.10) The Officer Incharge Gate or any other officer of the prison may examine anything carried in or out of the prison, and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and, if any such article or property be found, shall give immediate notice thereof to the Dy. Superintendent

41.11) *In addition to the duty prescribed for Gate-keepers , the Gate-keeper shall maintain such registers and enter therein such particulars as the Inspector General may from time to time prescribe in that behalf.*

[See Section 21 of J&K Prisons Act, 1920 A. D.]

41.12) The Gate-keeper shall comply with all rules, regulations, directions and orders for the time being in force, regulating the persons who may be permitted in-gress to and egress from and the articles which may be taken into and brought out of the jail and generally, the duty which he is to perform and the manner in which he is to perform these.

41.13) The Gate-keeper shall keep a record, in the prescribed register, of the names of all persons who at any time pass into or out of the jail, with the hour and minute, of the entrance and exit of every such person, and, as far as may be the name and sufficient description of every article of whatever kind passed into or out of the jail.

41.14) The record of all persons who pass in or out of the jail prescribed by the preceding paragraph shall be kept in two separate books, namely :—

- (i) a register of all prisoners with the names of the officers in charge of them, and
- (ii) a register of all other persons.

41.15) The sufficient description of every article means the name, number or weight, as the case may be, and such other particulars as may be necessary, of all goods, tools, stores or other articles passed into or out of the jail.

41.16) At the opening of the jail, the Gate-keeper of the first watch shall come on duty and remain between the gates until duly relieved. For these officers, the day may be divided into two or four watches as may be deemed expedient.

41.17) In Central Jails and large District Jails a convict, able to read and write, may, with the sanction of the Inspector General be employed to assist the Gate-keeper. When applying for sanction, full particulars of the prisoners should be stated. A convict allowed to assist the Gate-keeper shall on no consideration be entrusted with keys.

41.18) In jails provided with double gates and wickets, the Gate-keepers shall open only one gate or wicket at a time, and before doing so, shall assure himself that the other means of entry and exits are securely bolted and locked. Ingress or egress for ordinary purposes shall take place through the wicket doorways. The inner gate shall be provided with an eye-hole to enable the Gate-keeper to see into the jail without the necessity of opening either the inner gate or wickets.

41.19) When prisoners have to be passed into or out of the jail with double gates, the following procedure shall be followed--

- (i) On passing prisoners out, the Gate-keeper shall first let them through the inner wicket and having locked it, shall write in full in the register provided for the purpose, the names of all the prisoners, the Warders incharge, and the Convict Functionaries assisting them. He shall then open the wicket in the outer gate and count the prisoners as they pass out, to verify the total.
- (ii) The list of the group having once been entered in the gate register need not be re-written on each occasion of its passage through the main gate, but every change in the group must be noted and attested by the signature or seal of the Warder incharge, as well as by that of the Gate keeper, who shall at once report to the Deputy Superintendent the circumstance.
- (iii) On a group returning to the entrance from outside, the gate keeper shall open the outer wicket, (the inner one being locked first) and admit the group to the passage between the gates. He shall then lock the outer wicket and call out the names of each prisoner, Convict Functionary and Warder as recorded in the register. The group having been found correct, he shall open the inner wicket and count the prisoners as they pass into the jail to verify the total number.

(iv) The Gate-keeper shall not allow any prisoner to be taken out of the jail, who is not wearing the prescribed ring on his left ankle, or who is not in charge of a guard of the proper strength duly authorised to take him outside.

41.20) The Gate-keeper shall be responsible for the cleanliness of the jail front. The main gates and the passage between them and all articles placed there under his charge. He shall also be responsible that the torches, and accoutrements required in case of a night alarm are present and in serviceable condition.

41.21) The Gate-keeper shall be furnished with a list of all officials and Visitors who are entitled to enter the jail and shall admit such persons on their presenting themselves for admission. He shall not admit any one else except the officers of the jail who are authorised to enter, unless under a written order from, or when accompanied by, the Superintendent, the Inspector General or the Magistrate of the District.

41.22) All official and non-official Visitors, casual visitors admitted by order of the Superintendent, Inspector General or District Magistrate as well as the higher officials of the jail, including Head-Warders shall ordinarily be exempt from being searched.

41.23) Should the Gate-keeper have reason to suspect that any officer ordinarily exempted from search is introducing or removing prohibited articles, he may detain the person between the gates and send notice to the Dy. Superintendent, who shall himself search the person. A copy of this order shall be hung up in the passage between the main gates for general information.

41.24) Pending the making of a report to the Deputy Superintendent and Superintendent, the Gate-keeper may detain, or cause to be detained, in custody, any person who may, in his presence or sight or hearing commit any crime or prison offence at or in the vicinity of the jail gate.

41.25) The gate and the wicket of the gate of every jail shall, except when it is necessary to open the same for the purpose of lawfully passing any person or thing into or out of the jail, be kept shut and locked, and the Gate-keeper for the time being on duty shall retain the keys of the locks of such gate and wicket in his personal possession until the prisoners are locked-up for the night.

41.26) When the prisoners are locked up for the night, a second padlock shall be locked on the wicket of the inner gate, and the Gate-keeper shall then deliver the keys of the inner and outer gates to the Deputy Superintendent for custody in the receptacle provided for the purpose in whose presence he shall make over the key of one of the locks of the inner wicket

to the patrolling officer on duty inside the jail and the key of the other lock of the inner wicket, together with the key of the outer wicket to the gate Sentry.

41.27) The Gate-keeper shall keep the keys of the main gates and wickets attached to his waist belt by a chain, and in a bunch with a few others, so that it may be difficult for any prisoner obtaining possession of the bunch, to ascertain what key belonged to any particular lock.

41.28) There shall be sufficient lighting arrangements at the main gate at night.

Initial admission at the gate

41.29) Subject to specific provisions in this respect, there shall be no admissions of prisoners between lock-up and opening of the prison.

41.30) The following procedure shall be adopted at the time of all initial or subsequent admission of prisoners :-

- (i) checking of papers and documents and initial identification;
- (ii) explanation of relevant rules regarding cash, personal property, contraband articles etc. to newly admitted prisoners ;
- (iii) careful accounting and verification of prisoners cash, personal belongings property etc. verification of these inventories with other documents, if available
- (iv) preliminary physical examination to check up whether the prisoner is suffering from contagious diseases like leprosy, etc.,
- (v) thorough searches ;
- (vi) listing of contraband, unauthorised and undeclared articles found during the search and necessary action as per standing rules ;
- (vii) entries should be made in relevant registers about property, cash, jewellery, etc., of prisoners, and the same should be read out to the prisoners and their signatures / thumb impressions obtained the officer-in-charge of escort should also sign ;
- (viii) handing over report to the police or military or prison escort about receipt of prisoners documents, cash property etc., and also about discrepancies if found any ; and

- (ix) handing over the newly admitted inmates to the officer in charge of the quarantine yard.

Registers

41.31) The gate registers and other record should be so maintained as to give a correct picture of all ingress and egress at the gate. The officer in charge of the gate shall be responsible for all entries in the registers and records.

Miscellaneous

41.32) Except trollies / ambulance / fire-fighter, no other vehicle shall be allowed to enter the institution.

41.33) No article shall be allowed to go inside or outside the prison unless accompanied by a gate pass issued by the competent authority.

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CHAPTER XLII

ADMISSION : QUARANTINE

General

42.1) No prisoner shall, except on transfer from another jail, be admitted into any jail after the hour of lock-up for the night or before sunrise on any day.

42.2) No person shall be admitted into any jail as a prisoner, otherwise than under a lawful warrant or order of commitment addressed to the Superintendent or officer in charge of the jail by a competent judicial tribunal or other proper authority.

42.3) Before admitting a prisoner, the Deputy Superintendent shall question him and ascertain that his name and other particulars correspond with those entered in his warrant.

42.4) On receipt of information from the Police that a prisoner has not been identified, the Superintendent of Jail will cause the word "Un-identified" to be entered prominently in red ink on the prisoner's history ticket, warrant and in the admission register. When such a prisoner receives or despatches a letter, the Deputy Superintendent who will open and inspect all such correspondence, shall make a note of the name and address of the sender or addressee, as the case may be, and if any facts mentioned in the communication which may afford a clue to the identity of the prisoner and shall forward the same through the Superintendent of the Jail to the Superintendent of Police of the district from which the prisoner was received.

42.5) The Deputy Superintendent shall similarly communicate to the Superintendent of Police the names and addresses of relatives or friends who visit the prisoner in jail.

Procedure if a warrant is illegal or irregular

42.6) If, in any case, the Superintendent is in doubt as to the legality of any warrant or order of commitment received by him with any prisoner admitted to the jail, or as to the competency of the person whose official seal and signature are affixed thereto, to pass the sentence and issue such warrant, he shall proceed in the manner provided in section 17 of the J&K Prisoners Act, 1920 A. D.

42.7) If any error of omission, which in the opinion of the Superintendent, due to mere oversight or mistake, is found in any warrant or order commitment, or, if the

sentence or order passed, though within the competency of the tribunal or authority which passed it, is in any way defective in form or otherwise irregular, he may receive the prisoner subject to reference to such tribunal or authority, as the case may be, for orders.

Examination of warrant

42.8) All warrants shall be examined to ascertain whether these conform to the Code of Criminal Procedure and the Orders of the High Court.

Note 1 :—A warrant ordering imprisonment without specifying whether it is simple or rigorous imprisonment, an undated, unsigned or unsealed warrant shall be returned for correction.

Note 2:—The amount of solitary confinement ordered on a warrant is dependent on the term of sentence and should not be more than is allowed under section 73 of the Ranbir Penal Code.

Note 3 :—The Superintendent of a jail is justified in refusing to receive or detain a prisoner in jail on a warrant to which is affixed a signature by means of a stamp.

Note 4 :—All warrants should be signed in full (not initialled) by the Judge or Magistrate who issues it and should be sealed with the seal of the Court.

Note 5:—In the case of persons on which separate sentences are passed, care should be taken to state in the warrant of commitment the dates from which each sentence is to have effect.

Note 6 :—In the case of under-trial prisoners, the warrant of commitment for intermediate custody should be prepared with the greatest care possible with reference to the above instructions.

Note 7 :—The Superintednent of a jail should not refuse to admit a person where the above instructions have not been carried out, but he should draw the immediate attention of the Magistrate concerned to the defect, and ask for its rectification at once sending at the same a copy of his letter to the Magistrate of the District for his information.

Note 8 :—Warrants for the release or remission of sentences of prisoners confined in jail, warrants for the release of prisoners on bail and intimations of payment of fines sent to jail authorities should always be drawn up in the vernacular of the officer issuing the order and should be signed in full by such officer and sealed with the seal of his Court. They should be sent to the jail authorities through an official messenger of the Court or through the agency of the post and not through the friends or relatives of prisoners.

Note 9 :—There should be a separate warrant or notice for every prisoner even if two or more prisoners have been jointly charged or convicted.

Procedure when representations are not attended to

42.9) The Superintendent shall, in any case in which his representations have not been attended to by the Court addressed, take action under section 17 of J&K Prisoner's Act, 1920 A. D.

Copy of warrant returned for correction to be kept

42.10) When a warrant is returned for correction, a copy shall be retained in the appropriate compartment of the warrant almirah until the original is returned. Blank forms of warrants shall be kept for this purpose.

Procedure when the legality of a warrant is doubted

42.11) "(1) *When an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution, or the competency of the person whose official seal and signature are affixed thereto to pass the sentence and issue such warrant or order, he shall refer the matter to the Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.*

"(2) *Pending a reference made under sub-section (1), the prisoner shall be detained in such manner and such restrictions or mitigations as may be specified in the warrant or order.*"

[Section 17(1) (2) of the J&K Prisoner's Act. 1920 A. D.]

Date of release

42.12) The date on which a prisoner is entitled to be released shall be calculated by the Deputy Superintendent and an entry made in the release register under that

date, giving the name and serial number, etc., of the prisoner. It is not the duty of the committing officer to note the date of release on the warrant; if such date is noted incorrectly or omitted, the warrant shall not be returned for correction on that account.

42.13) In case that date of release be changed either by the imposition of additional imprisonment, or by remission of any part of the sentence, or by absence on bail or after escape, a new date of release shall be fixed and an entry made under that date. The old entry should be scored through with red ink and a reference made against it to the new date fixed.

42.14) The Deputy Superintendent shall himself check each entry in the release register and admission register and shall be personally responsible for their correctness.

Certain days to count as days of sentence.

42.15) In calculating the day on which any prisoner is entitled to be released, the day on which the sentence is passed and the day on which the prisoner is released, shall be deemed to be days of imprisonment provided that if, in the case of any prisoner, two or more sentences are to be undergone otherwise than concurrently, no day shall be counted as a day of imprisonment in respect of more than one such sentence, and that a sentence of imprisonment for one day or for twenty-four hours shall be deemed to expire on the morning of the day following that on which the sentence was passed.

42.16) In calculating periods of imprisonment expressed in months, a month shall be deemed to be a calendar month.

Example 1 :—A prisoner sentenced to one year's imprisonment on the 15th January, 1998 shall be released on the 14th January, 1999 ; a prisoner sentenced on the 1st January to one month's imprisonment shall be released on the 31st of the same month.

Example 2:—A, B and C are sentenced, respectively, to one month's imprisonment on the 29th, 30th and 31st January, 1999 all three sentences expire on the morning of the 28th February.

Periods to be excluded from sentence

42.17) When, by order of any competent authority, any prisoner is released on bail or the operation of any sentence of imprisonment passed upon any prisoner is, for any reason, suspended for a time, and such prisoner is subsequently again lawfully

committed to prison, the period during which such prisoner was so released on bail or the sentence of imprisonment passed on such prisoner was so suspended, shall, unless the warrant or order of recommitment otherwise directs, be excluded in calculating the period of the sentence:

Provided that--

- (i) a prisoner who is released on bail on the day on which the sentence of imprisonment is passed, shall not be deemed to have undergone any part of his sentence until he is again placed in confinement ; and
- (ii) this rule shall not be deemed to apply to persons undergoing imprisonment under the provisions of section 123 of the Code of Criminal Procedure.

Date of release when a period has been excluded from sentence

42.18) When a period has been excluded from a sentence under the preceding rule, the mode to be adopted in calculating the date of release taking the full term of the sentence as commencing from the date of admission and deduct from it the number of days already passed in jail ; the date so arrived at will be the date on which the sentence expires.

Operation of a second sentence when a first sentence is set aside

42.19) When a prisoner has been committed to jail at one trial under two separate warrants, the sentence in the one to take effect from the expiry of the sentence in the other, the date of such second sentence shall, in the event of the first sentence being set aside on appeal, be presumed to take effect from the date on which he was committed to jail under the first or original sentence.

42.20) Where separate sentences have been passed in separate trials, the sentences being consecutive under section 397 of the Code of Criminal Procedure the operation of the second sentence will, in the event of the first sentence being set aside on appeal, commence from the date of decision in that appeal. If, however, an appeal is also filed in the second case it will be competent for the Court hearing the second appeal to direct that credit shall be given for such period as is covered between the date of the second conviction and the date on which the first appeal was accepted.

42.21) No credit can be given in the second case, however, for any period passed in jail under the first sentence prior to the date of the conviction in the second case by the Court of original jurisdiction.

Date from which a sentence finally passed shall count

42.22) When an appellate Court modifies a sentence passed by a lower Court without change of section, or when an appellate Court passes a new sentence by changing the conviction section or the punishment section or otherwise, the sentence finally passed shall count, unless otherwise specially directed, from the date of imprisonment under the original sentence.

Date of release when two or more sentences run consecutively

42.23) When a prisoner is sentenced to two or more terms of imprisonment to be served consecutively, the date of release shall be calculated as if the sum of the terms was awarded in one sentence.

Calculation of date of release when a fine is partially paid

42.24) If a prisoner be sentenced to imprisonment of which the whole or any portion is in default of the payment of any fine, and if the fine or a portion of it be not immediately paid, the date of release shall be fixed and entered in the release diaries on such dates as shall correspond to payment as well as non-payment of the fine. When any portion of the fine is subsequently paid, the date of release shall be altered accordingly.

Example.—If a prisoner be sentenced on the 1st January to six months' imprisonment and to pay a fine of Rs.300, or in default of payment to be imprisoned for a further period of six months, then, supposing that the prisoner, immediately on conviction, pays Rs.100, the date of release shall be first fixed at the 31st October, that is, six months plus four months (being the term proportionate to the amount of the fine unpaid), and entries shall be made in the release register on the 30th June and 31st October; if he afterwards pays another Rs. 100, the latter date shall be changed to 31st August; on his paying the whole, the fact shall be noted opposite the entry on the 30th June.

Calculation of remission on payment of fine

42.25) If a prisoner who is sentenced to a fine and in default to imprisonment for a certain number of months, pays any part of his fine, the remission for the payment shall be calculated in calendar months, and not in days. Any fraction of a month obtained by such calculation shall be reduced to days. A fraction of day less than one-half shall not be counted; any greater fraction shall count as one day.

Disposal of notice of payment of fine

42.26) If a fine is paid in part or whole after a prisoner is admitted to jail, the Court receiving it will, unless it has already received back the prisoner's warrant with an endorsement showing that he has been released, notify the fact to the Superintendent of the jail in which the prisoner was first confined after conviction. This notification shall be filed with the warrant and returned with it after the sentence has been carried out.

Procedure when a prisoner with imprisonment in lieu of fine is transferred

42.27) When a prisoner whose sentence includes an order of imprisonment in default of payment of fine, is received by transfer from a jail other than the jail in which he was first confined, intimation shall forthwith be given by the receiving jail to the Superintendent of jail where he was first confined, who shall cause a record of the receipt of such intimation to be made in the admission register of his jail. The Superintendent of the jail to which a prisoner was first committed, is responsible for seeing that notifications of payment of the fine received by him are promptly transmitted to the jail in which the prisoner is confined ; such notices shall be sent under a registered cover.

The payment of fine at the jail

42.28) The Superintendent is authorized to receive fines tendered at the jail. In the absence of the Superintendent, the Deputy Superintendent shall receive the fine or portion thereof tendered to him and shall on the first opportunity produce the warrant with any entry of the fact that such payment has been made, for the signature of the Superintendent.

Note:—Fines received at the jail shall without delay be remitted into the local Treasury through the District Magistrate. All fines tendered at a jail shall be received irrespective of the fact whether the prisoner is due for release or not provided he is in the jail at which the fine is paid.

Imprisonment in lieu of fine to succeed substantive sentences

42.29) If a prisoner sentenced to a term of imprisonment in default of payment of fine, either at the same time or subsequently sentenced to a term of imprisonment without the option of fine, the imprisonment in default of payment of fine shall be kept in abeyance till the expiration of all the substantive sentences of imprisonment.

Note:—This covers the case of a prisoner whose first sentence of imprisonment is in default of payment of fine. Any substantive sentence of imprisonment subsequently passed shall count from the date of the first sentence, and the imprisonment in lieu of fine shall take effect last, although a portion of it may have been already served when the substantive sentences was awarded ; if, however, the imprisonment in default of payment of fine is of a different character to that of the substantive sentence, such imprisonment in default shall be completed before the substantive sentence of imprisonment shall take effect.

Imprisonment under sections 106, or 108, Cr. P. C. in addition to a substantive sentence

42.30) *If any person, in respect of whom an order requiring security is made under section 106 or section 118, is, at the time such order is made , sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiration of such sentence.*

[See Section 120(1) of Cr.P.C,1933 A.D.]

42.31) *In other cases such period shall commence on the date of such order unless the Magistrate, for sufficient reason, fixes a later date.*

[See Section 120(2) of Cr.P.C.1933 A. D.]

Management and custody of warrants

42.32) The date of a prisoner's admission into jail and the register number given him shall be endorsed on his warrant and signed by the Deputy Superintendent ; the warrants shall be arranged according to the date of release and put together in open fold in monthly bundles and docketed outside with the month and year. Each bundle shall occupy a separate receptacle in the warrant almirah, of which the Deputy Superintendent shall keep the key.

Prisoners to be examined on admission

42.33) *Whenever a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.*

[See Section 24 of J&K Prisons Act, 1920 A. D.]

42.34) Every prisoner shall also, as soon as possible after admission, be thoroughly examined under the general or special orders of the Medical Superintendent, who shall enter or cause to be entered in a book, to be kept by the Deputy Superintendent, a record of the state of the prisoner's health, and of any wounds or marks on his person, the class of labour he is fit to add.

42.35) In the case of female prisoners the search and examination shall be carried out by the Matron under the general or special orders of the Medical Superintendent.

Record for the purpose of identification

42.36) A full personal description of every prisoner, with a note of any special marks on his person, and his left thumb-impression, shall, for purposes of identification, be recorded in the admission register.

The search of prisoners on admission

42.37) Prisoners sentenced to rigorous imprisonment and prisoners sentenced to simple imprisonment if classed as habituals, shall have every article of private property other than those permitted removed from them. The clothing of military prisoners shall be returned to the escort.

42.38) Prisoners sentenced to simple imprisonment shall have all articles other than necessary clothing removed from them.

42.39) Under-trial prisoners shall have all articles removed from them, other than necessary and suitable articles of clothing and bedding, and if allowed to cook, the requisite cooking utensils.

42.40) Civil prisoners shall have only dangerous weapons, articles likely to facilitate escape, drugs, spirits and immoral books taken from them.

42.41) Female prisoners shall be searched by a female Warder.

Quarantine on admission to jail

42.42) Prisoners on first admission to jail shall at the discretion of the Medical Superintendent, be kept in the quarantine ward or cells for such period as may, in his opinion, be necessary.

Prisoners to wash themselves and their clothing

42.43) As soon as possible after admission to jail, all prisoners shall be required to wash themselves and their clothing thoroughly. Such of the private clothing of convicts as can be boiled without damage shall be boiled before it is stored.

Class and serial numbering of prisoners to be quoted in communication

42.44) Every convict shall receive a serial number corresponding with the entry relating to him in the admission register ; the series of numbers in each jail shall run from 1 to 10,000.

42.45) Casual prisoners shall for brevity be known as Cas : class and habitual prisoners as Hab : class.

42.46) The convict's number and the letter signifying his class shall precede his name whenever he is referred to in any official communication thus.

42.47) When any reference is made to the Inspector General concerning any prisoner, a descriptive roll of the prisoner duly filled in shall be sent with it.

State of education on admission

42.48) The State of every prisoner's education shall be ascertained on admission and the entries in the admission register shall be made as follows :-

- (i) able to read and write ;
- (ii) able to read only ; or
- (iii) illiterate.

Abstract of rules to be read and hung up in a conspicuous place

42.49) An abstract of the rules relating to the conduct and treatment of prisoners shall be read over to every prisoner as soon as possible after his admission into jail, and proper means shall from time to time thereafter be taken by the Superintendent to make every prisoner acquainted with the purport of all such rules for the time being in force.

42.50) A translation of the abstract of the rules, in the Urdu or the Hindi language, shall be hung up in every convict ward and in some other conspicuous place in every jail.

Procedure on completion of entries in registers

42.51) On completion of the necessary entries in the admission and release registers and of the procedure prescribed in this chapter in so far as it may be applicable in each case, the Deputy Superintendent shall bring these registers and all newly admitted prisoners with their warrants before the Superintendent, who shall satisfy himself that the entries are correct and attest them in token thereof.

* * * *

PART I

MANAGEMENT PROCEDURES

CHAPTER XLIII

RIGHTS AND DUTIES OF PRISONERS

(I) RIGHTS

Rights of prisoners

43.1) All prisoners have the right to human dignity and non-deprivation of fundamental rights. Deprivation of rights shall be restricted to incarceration and other reasonable restrictions.

Basic minimum needs

43.2) All prisoners shall be provided adequate diet, health, medicare, clean and hygienic conditions and proper clothing, bedding and equipment.

Communication

43.3) All prisoners shall be provided adequate facilities regarding interviews with their family members frequently, subject to security requirements.

Speedy trial

43.4) All prisoners shall be provided facilities to contact their lawyers to plead their cases before the Court of law.

43.5) The prison authorities shall take steps, in collaboration with the competent Courts, for ensuring speedy trial.

43.6) The law and order machinery shall be approached for providing timely escort and transport on the date of hearing.

43.7) All the prisoners who are unable to engage lawyers shall be provided legal aid at Government expenses.

43.8) The indiscriminate confinement in prisons of persons accused of various offences shall be discouraged and the authorities in collaboration with the judiciary/prosecution shall take steps for ensuring speedy trial and grant of bail.

43.9) The Superintendent of each jail shall send a periodic report to the District Judge / Magistrate on all cases of undertrial prisoners pending for two months in the prisons.

Living conditions

43.10) Authorised capacity shall be fixed for each institution, subject to security requirements and availability of space. Norms may be laid for lodgement of prisoners in barracks/ cells/ yards and hospitals from time to time.

Hospital accommodation

43.11) Necessary provision for hospital accommodation on the basis of 5% of average jail inmate population shall be made in all the jails subject to security considerations and availability of space.

Woman prisoners & children

43.12) Adequate clothing and bedding in keeping with the requirements of various seasons and geographical areas shall be provided to all the prisoners in the jail as laid down in the chapter on clothing and bedding. The children of woman prisoners shall be provided clothing on Government cost in case they cannot afford from their own sources.

43.13) In every jail having 10 children, one creche / nursery may be provided.

Medical treatment

43.14) All seriously ailing jail inmates shall be referred to the hospitals for admission / treatment and investigations.

Interviews

43.15) Interviews shall be conducted with full respect to prisoners privacy by keeping them within sight but not within hearing unless there are reasons to do otherwise.

Diet:

57.16) All prisoners shall be provided diet as per the prescribed scale. Special diet shall be provided on medical grounds to all the prisoners and to pregnant mothers and to dependant children (upto 5 years of age).

Kitchen

43.17) In all the jails, proper management of the kitchen shall be ensured and provision for ventilation, place to eat and hygeinic conditions made. The kitchen should be so equipped as to ensure that no person is subjected to any hazardous condition.

Water supply and electricity

43.18) In jails, adequate water supply for drinking, bathing and washing shall be ensured besides the continuous supply of electricity and stand by arrangements in case of its failure.

Severage system

43.19) In order to maintain the requisite level of sanitation and hygiene, in every jail, a proper sewerage system shall be provided which will include arrangements for garbage collection and its removal.

43.20) There may be a provision of mechanised laundry in every jail having a population of more than 200 prisoners.

Canteen facilities

43.21) In every prison having a population of 200 prisoners or more, canteen facilities shall be provided to them.

Visitors to the prison

43.22) In every prison official and non-official Visitors shall be appointed from amongst retired criminal justice functionaries, social scientists and eminent public spirited individuals. They shall perform functions as laid in the chapter on Visitors.

Handcuffs

43.23) The instruments of restraint, such as handcuffs and irons, shall be used on undertrials, only in exceptional circumstances in the interest of security on the grounds to be recorded in writing by the officer concerned.

43.24) The undertrial prisoners shall be allowed to undergo vocational training or to engage themselves in productive work available in the prison on voluntary basis and shall be provided wages as mentioned in the chapter on Work.

Institutional treatment

43.25) Every prisoner shall be provided with institutional treatment within the overall framework of sound custody. The institutional programme is required to be geared towards reformation and rehabilitation.

43.26) Every prisoner shall be medically examined and a thorough study/diagnosis shall be made regarding his/her personality traits, behavioural pattern and socio-economic back-ground.

43.27) A comprehensive vocational programme shall be made for each prisoner.

43.28) Prisoners shall be provided reasonable wages/ remunerations.

Segregation of Prisoners

43.29) Within the overall framework of institutional care and subject to requirements of security and space, the following categories of prisoners shall be provided specialized treatment :-

- (i) Woman offenders,
- (ii) Adolescent offenders,
- (iii) Life convicts,
- (iv) Habitual offenders,
- (v) Simple Imprisonment prisoners,
- (vi) Military prisoners,
- (vii) Prisoners sentenced to death,
- (viii) Civil prisoners and
- (ix) Lunatics.

(II) DUTIES

43.30) Prisoners during their confinement shall obey all prison rules, regulations, lawful orders and instructions.

43.31) All prisoners shall maintain prescribed standards of cleanliness, hygiene and prison discipline.

43.32) Prisoners shall respect human dignity of fellow prisoners, prison staff and others. They shall refrain from making false or exaggerated allegations.

43.33) Prisoners shall abstain from hurting religious feelings, belief and faiths of others.

43.34) The Govt. property shall be used with care and not damaged or destroyed negligently or willfully.

43.35) Prisoners shall assist prison authorities in the performance of duties, maintenance of discipline and provisions of security in the jail.

CHAPTER XLIV

PRISONERS ROUTINE

Essential elements

44.1) Routine procedures are intended primarily to ensure uniformity and to help in the maintenance of good discipline. Routine operations should aim at setting standards of performance for the inmates as well as for staff members. They should set the pattern of institutional life.

44.2) Routine procedures and operations should be enforced with intelligence, insight and understanding. The manner in which the routine is enforced would determine the difference between good and bad discipline. Enforcement of routine would bring in an atmosphere of co-operation and good inmate staff relationship.

Removal from wards and lockings

44.3) Prisoners, other than those who may at any time be lawfully confined in cells by day and night, shall be removed from their sleeping wards, cells and other compartments, as soon as possible, and shall be placed in their proper sleeping wards and locked up for the night, before sunset.

44.4) Prisoners shall be kept and shall remain under strict order, discipline and control both by day and night.

Inspector General to issue directions

44.5) The Inspector General may in his discretion from time to time, issue detailed directions as to the manner in which the order, discipline and control prescribed in the preceding manner are to be maintained.

Unlocking wards and counting prisoners at day break

44.6) When the bell or gong is sounded at day-break, the Convict Functionaries on duty inside the wards shall wake the prisoners and superintend the folding of the bedding. The prisoners (each having arranged his bedding on his sleeping berth) shall then sit in double file down the centre of the wards. On the arrival of the Deputy Superintendent /Asstt. Supdt. and Head Warders, the wards shall be opened, the prisoners marched out in pairs, searched, counted and their numbers checked with entries in the lock-up register.

Prisoners movement to be directed

44.7) Whenever prisoners are marched from one part of the jail to another or are sitting or standing in groups, except when at meals or at work or when paraded for inspection, they shall be arranged in files of pairs and shall rise, move forward, stop or sit down at the word of command or signal. At parades the signal shall usually be the stroke of a bell or gong and the movements shall be carried out simultaneously in all parts of the jail.

Prisoners to salute at word of command

44.8) Prisoners shall be required to salute the Deputy Superintendent or other officer superior to the Deputy Superintendent, at the word of command of the officer in whose charge they are, in the following manner :—

- “Halt”- to stand still if marching.
- “Rise”- to rise from the sitting position.
- “Attention”- to stop work if working.

44.9) When it is desired to conclude the salute the following words shall be used:-

- “ March”- to move forward.
- “ Sit”- to assume the sitting position.
- “Work”- to resume work.

Arrangement in groups and march to work

44.10) On the completion of the early morning meal, the prisoners shall be allowed to wash their hands and feeding vessels, and thereafter shall be arranged in groups according to the group-roll. Each group shall be made over to its responsible officer and marched to its working place. The gate of every work-shed provide with a gate shall be kept locked after the prisoners have entered, and the key shall be kept by the officer in charge of the group, or if there is more than one group, by the senior officer, who shall be held responsible that no prisoner passes into or out of the workshed without proper permission.

Access to a urinal and latrine

44.11) Every prisoner shall have access to a urinal and latrine at all hours, but any prisoner who uses the latrine out of hours shall be reported to the Medical Subordinate, who shall, if the visits have been frequent, place the prisoner under observation, and if there is reason to believe that he has visited the latrine unnecessarily report the irregularity. In the

case of newly convicted prisoners, some latitude should be allowed in the enforcement of this measure.

Procedure regarding prisoner's complaints

44.12) When the bell for the morning and evening parade rings, the following events shall take place in sequence:-

- (i) The Head Warden shall enquire as to the cause of complaint of any prisoner concerning his food. If the complaint is of short distribution he shall have the ration weighed and then, and if the quantity is short, have the deficiency supplied and report the defaulting Cook to the Deputy Superintendent.
- (ii) If the complaint is of bad quality or bad cooking, the Head Warden shall retain a sample of the food for examination by the Deputy Superintendent, who shall make such further enquiry regarding the complaint as may be necessary and report the circumstances to the Superintendent on the first opportunity.
- (iii) On the completion of the food parade in the morning the prisoners shall be marched to the place, where their distribution into working group is to take place. At this time the Deputy Superintendent shall make any alterations in the groups that may be necessary and record the same or cause them to be recorded in the group books.

44.13) The same procedure shall be followed in conducting the evening meal parade.

Resumption of work in the afternoon and cessation of work for the day

44.14) When the work-bell sounds in the morning, the groups shall be marched with their spare clothings, plates and cups as before described and resume work until the evening bell rings for its cessation. Each prisoner shall then take up his clothing, etc. and the groups shall march to their respective wards or appointed place, to be counted and compared with group-books. They shall then perform the feeding and latrine parades as in the morning, if necessary, the groups shall then be broken-up, re-arranged and marched to their sleeping wards, where they shall sit in double file till counted and locked up. As far as practicable prisoners who work together shall occupy the same ward.

Mid-day meals

44.15) The mid-day ration shall be distributed to the prisoners whenever they may be at work. All prisoners outside the jail, except those working at a considerable distance and

or whom special arrangements for the convenience of distance and for whom special arrangements for the convenience of food are made, shall be brought inside the jail to receive the ration.

Prisoners not to leave their berths

44.16) No prisoner shall be allowed to leave his sleeping berth for any purpose, without first obtaining the permission of the Convict Functionary on duty, or to sit or lie on any other prisoner's berth.

Prisoners to be instructed what to do and what to avoid

44.17) Every prisoner shall be:-

- (i) instructed as to the course he is to pursue on the occasion of a riot, disturbance or whenever the alarm is sounded;
- (ii) informed of his liability to be fired on if he joins in any riot or disturbance or attempt to escape or refuses or neglects to pursue the course laid down for his guidance; and
- (iii) warned to avoid the acts that are prison offences.

44.18) In those jails where no Central Laundry system exists all prisoners shall wash their cotton clothing on the day preceding the Superintendent's weekly parade. When necessary, the Superintendent may detail prisoners to boil and wash blankets, woolen coats and bedding, a special boiler being provided for the purpose.

Disposal of prisoners on non-working days

44.19) Prisoners may, on the days they are exempt from labour, be either locked up in their wards, or, if the weather is favourable, be allowed to sit in file in the yards and take walking exercise in groups for an hour in the morning and an hour in the afternoon.

Matters affecting caste or religion

44.20) No undue interference with religion or caste prejudice of prisoners shall be permitted.

44.21) Every prisoner shall be allowed to perform his devotions, in a quiet and orderly manner, during the mid-day rest and when locked up for the night.

44.22) No gathering together of prisoners for the purpose of performing any caste ceremony or religious function shall, under any circumstances, be permitted.

44.23) Muhammadan prisoners, other than those placed in hospital or in any convalescent or special group, who may express a desire to be allowed to keep the fasts of Ramzan, shall be permitted to do so. Provided that the Medical Officer may, in the case

of any prisoner, if he is of opinion that the continuance of the fast by such prisoner is likely to be injurious or dangerous to health direct its discontinuance or direct any special diet.

44.24) When a Superintendent feels any doubt as to validity of any plea advanced by a prisoner on grounds of caste or religion, he should refer the matter for the orders of the Inspector General, whose decision shall be final.

Rules regarding the cutting of hair

44.25) The hair of every convict sentenced to simple imprisonment, and of every undertrial prisoner, shall be trimmed only to such extent, and at such time, as may be necessary for the purpose of securing health and cleanliness:

Provided that prisoners who are:-

- (i) Sikhs, shall not have their hair cut or removed in any way;
- (ii) Hindus shall be allowed to retain the Choti or top-knot;
- (iii) females shall not have their hair cut or removed in any way;
- (iv) Muslims shall be permitted on religious grounds to keep their beard.

Privileged exemption from the operation of the preceding rule

44.26) No Convict Functionary shall be compelled to have his hair cut more than is, in the opinion of the Superintendent, necessary for the purpose of keeping him in a state of proper cleanliness.

Routine for a working day

44.27) The following routine should be followed at each institution subject to modification to suit local conditions:-

(i) Early morning

- Toilet,
- Meditation / prayer
- Preparation for opening
- Unlocking according to conditions of visibility, counting,
- Search
- Leaving the barrack or cell

(ii) Morning

- Toilet
- Prayers in groups
- P. T. drill, individual and group exercises, light yogasanes etc.

- Light meal
- Educational classes
- Work
- Vocational training
- Bath
- Meal and rest.

(iii) Afternoon

- Work
- Toilet and wash
- Games, recreational and cultural activities according to weekly time-table.

(iv) Early evening

- Wash
- Evening meal
- Preparation for lock-up
- Search
- Counting
- Lock-up at dusk.

(v) Evening

- Reading newspapers, books, etc.
- Radio music
- Group music, spinning, recorded talks about social education etc., as per weekly programme
- Meditation / prayer
- To bed.

Routine for Sundays and Holidays

44.28) The following routine should be followed on a Sunday or a prison holiday :—

(i) Early s morning

- As in para 44.27 (i)

(ii) Morning

- Toilet
- Prayers in groups
- Light meal
- General cleaning of barracks, cells open spaces etc.

- Cleaning of equipment
- Washing of clothes
- Bath
- Inspection of equipment
- Meal and rest.

(iii) Afternoon

- Moral lectures
- Educational films
- Groups music
- Folk dances
- Dramatice
- Newspapers, books, radio
- Toilets and wash
- Games.

(iv) Early evening

- As per para 44.27 (iv)

(v) Evening

- Newspaper, books radio etc.
 - Meditation / prayer
 - To bed.
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CHAPTER XLV
APPEALS AND PETITIONS

Prisoner to be given facilities for appealing

45.1) Every convict shall, on first admission to jail, be informed of the period within which an appeal from the order under which he has been committed to jail may be filed, and, if he desires to appeal and is entitled to do so, every facility shall be granted him for the purpose. A request to be allowed to appeal, made at any time within the period allowed by law for the purpose, shall, if the period is about to expire, be forthwith attended to, but, if there is no urgency, the preparation of the appeal may be postponed to such day of the week as the Superintendent may from time to time fix in that behalf.

Periods allowed for appealing

45.2) *For appeals from a subordinate Magistrate's decision to the Sessions Judge or the District Magistrate, if authorised by the government under proviso to section 406 of the Criminal Procedure Code to receive appeals against the orders of subordinate Executive Magistrate, 30 days are allowed.*

[See J&K Limitation Act]

45.3) For appeal to the High Court where the sentence against which the appeal is made is not a sentence to death passed by a Sessions Judge, 60 days are allowed.

45.4) For appeal to the High Court against a sentence of death passed by the Sessions Judge, 7 days are allowed.

45.5) *In computing the above periods, the day from which such period is reckoned and the time required for obtaining a copy of the sentence appealed against shall be excluded. The Court may admit appeals after the period of limitation for sufficient cause under section 5 of the Indian Limitation Act of 1908. The periods allowed under paragraph 1 of Order XXI of the Supreme Court Rules, 1950 for Criminal Appeals by the Supreme Court are as follows:-*

- | | |
|--|---|
| <p>(i) <i>Appeals under article 132 (1) and article 134 (1) of the Constitution.</i></p> | <p>(i) <i>30 days from the date of certificate granted by the High Court.</i></p> |
| <p>(ii) <i>Appeals under article 134 (1) (i) and (ii) of the Constitution or under any other provision of law.</i></p> | <p>(ii) <i>60 days from the date of the judgement, final order or sentence appealed from.</i></p> |

[See Section 5 of J&K Limitation Act and Supreme Court Rules, 1950]

45.6) The officials in charge of appeal work will be held personally responsible for seeing that avoidable delay does not occur in the preparation and presentation of appeals of prisoner to the Appellate Courts.

Petition to High Court or Supreme Court

45.7) The Superintendent should see that before forwarding petitions for special leave to appeal to the Supreme Court, the procedure governing the presentation of such petitions detailed above are explained by the Deputy Superintendent/ Assistant Superintendent or any other officer to the prisoner. Such facilities as the prison rules permit, e.g., swearing of affidavits, consulting his legal advisers etc., shall be extended to the prisoner.

Interview for the purpose of appealing

45.8) Every convict shall be allowed reasonable opportunities of personally interviewing his relatives, friends and legal advisers, for the purpose of preparing his appeal.

45.9) Provided that every such interview shall be held within sight, but out of the hearing, of the jail official in whose charge the prisoner is placed for the purpose of such interview.

Prohibition against writing appeals without permission

45.10) No prisoner or officer of the jail shall prepare, write out or submit any appeal or petition on behalf of any prisoner, without the previous permission in writing of the Superintendent.

Appeal for a prisoner who has no friend or agent

45.11) If a prisoner desires to appeal and declares that he has no relative, friend or agent who is willing to make an appeal for him, the Superintendent shall forthwith apply for a copy of the judgement or order relating to such prisoner from which he desires to appeal.

45.12) On receipt of the copy of the judgement or order, the prisoner shall, if he is able to write, be allowed to write his own appeal. If the prisoner is not able to write, the Superintendent shall cause his appeal to be written for him by another prisoner or by a jail official / Welfare Officer.

45.13) A prisoner or official deputed to write an appeal shall do so at the appellant's dictation and shall neither make any suggestions to the prisoner as to what should be

stated nor add anything to what the prisoner himself desires to have stated in the appeal.

45.14) The Superintendent shall forward the appeal, with a copy of the judgement or order appealed from, to the District Magistrate to be forwarded to the Appellate Court with the files of case.

45.15) If, after the receipt of the copy of the judgement or order, a relative, friend or agent of the prisoner undertakes to make the appeal on his behalf and the prisoner consents to that course, the copy of the judgement shall be delivered to such relative, friend or agent as the case may be.

45.16) The above provisions shall, as far as may be, apply to petitions for revision or clemency and the like.

Note 1.--An appeal made by the Superintendent on behalf of a prisoner should, before despatch, be read over to the appellant in the presence of the Superintendent, who shall, if the prisoner approves of the appeal, countersign the document and cause the official seal of the jail to be stamped thereon.

Note 2.--One copy of the judgement of the committing Court will be supplied free on application ; this copy will not be returned should the prisoner desire to submit a further appeal for revision.

When an appeal is not desired

45.17) If any prisoner states that he does not desire to appeal, the fact shall be recorded on his history-ticket.

Prisoners not to be transferred pending appeal

45.18) With the exception of such classes of prisoners for whom, transfer orders are from time to time issued, convicts who have not completed their term of appeal without appealing or until their appeals have been disposed of shall not ordinarily be transferred to another jail without the special sanction of the Inspector General.

Appeals of prisoners transferred

45.19) When any communication relating to the appeal of a prisoner, who has been transferred, is received, it shall be forwarded without delay by registered post to the

Superintendent of the jail in which the prisoner is confined after noting the same in Register No. 2 of the jail from which the prisoner has been transferred.

Reminders enquiring the result of appeal

45.20) If the result of an appeal to the District Magistrate or Sessions Judge is not communicated within one month, or in the case of an appeal to the High Court, within three months of the date on which such appeal was submitted, the Superintendent shall send a reminder to the Court concerned and repeat the enquiry at reasonable intervals. The result of an appeal shall, when received, be communicated to the prisoner concerned and entered in his history-ticket and Admission Register.

Procedure when a Court directs the re-trial of a prisoner

45.21) If the Appellate Court directs that a prisoner be re-tried and a warrant for his release on bail or for his custody pending trial is not at the same time received, the prisoner shall, unless he has a sentence on another warrant to undergo, be remanded to the ward for unconvicted prisoners and the Superintendent shall apply to the Court for a warrant for his custody pending trial.

Petition for clemency

45.22) Every prisoner shall be at liberty to petition the Government for clemency, and should he so desire, be accorded reasonable facilities for preparing and submitting such a petition.

Rules relating to the duties of Superintendents of jails in connection with petitions for mercy from convicts under sentence of death

45.23) Immediately on receipt of a warrant for execution, consequent on the confirmation by the High Court of a sentence of death, the jail Superintendent shall inform the convict concerned that if he desires to submit a petition for mercy it should be submitted in writing within seven days of the date of such intimation

45.24) If the convict submits a petition within the above prescribed period of seven days it should be addressed both to the Government and to the Governor and the Superintendent of the Jail shall forthwith despatch it to the Secretary to the Government in the Home Department, together with a covering letter reporting the date fixed for the execution, and shall certify that the execution has been stayed pending receipt of the orders of the Government on the petition. If no reply is received within 15 days from the date of the despatch of the petition, the Superintendent shall send a reminder to the Secretary to the Government, Home Department drawing his attention to the fact; but he shall in no case carry out the execution before the receipt of the Government's reply.

45.25) If the convict submits a petition after the prescribed period of seven days, the Superintendent of the Jail shall at once forward it to the Home Department through Inspector General and at the same time send substance of it, requesting for orders whether the execution should be postponed, and stating that, pending a reply, the sentence will not be carried out. If such petition is, however, received by the Superintendent later than noon on the day preceding that fixed for the execution, he shall at once forward it to the Government through Inspector General and at the same time also the substance of it, giving the date of execution and stating that the sentence will be carried out unless orders to the contrary are received.

45.26) If the convict submits a petition for mercy addressed to the President of India, the Superintendent shall at once forward it to the Government and shall at the same time send the substance of the petition and the date of execution to the Government. He shall not further postpone execution unless specially ordered by the Government.

45.27) In the event of its coming to the knowledge of the Superintendent at any time before the execution of the sentence that altogether exceptional circumstances have arisen which plainly demand a reconsideration of the sentence, he is at liberty, anything contained in the foregoing rules notwithstanding, to report the circumstances by crash message to the Government and ask for its orders and to defer execution till they are received.

45.28) The Superintendent shall at once repeat back to the Secretary to the Government, Home Department all communicating orders to him regarding petitions for mercy, by way of acknowledgement of their receipt.

Note :—Every petition shall be accompanied by a carefully prepared translation, which, to ensure its accuracy, should be read by the Superintendent, while the vernacular papers are being read out to him. The documents shall then be countersigned by the Superintendent and forwarded without delay by registered post. The covering envelopes should be superscribed "Urgent."

45.29) In the event of final orders from the Government to carry out execution being received after the date fixed for execution by the Sessions Judge, the Superintendent shall appoint a day for execution not more than a week later than the date on which such orders actually reach him so as to complete the usual antecedent formalities, e.g., summoning of relatives and friends to bid farewell, the making of a will, etc., being observed in due order and without precipitation.

45.30) When final orders are received by a Superintendent of a Jail from Government to carry out execution on the date fixed by the Sessions Judge, the

Superintendent of the Jail should comply without waiting for confirmation, provided such date has not elapsed at the time he receives final orders. If this has expired, the Superintendent shall be governed by above procedure.

Appeal procedure with regard to prisoners convicted by Court Martial

45.31) *No prisoner can file an appeal against his sentence passed by a Court Martial, but he has a right to submit one petition only against the Judgement for disposal by the highest authority to whom he is authorised to apply.*

[See Army Act, 1950]

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CHAPTER XLVI

EXECUTION OF SENTENCES

Examination of warrants

46.1) The Warrants of all convicts whose release becomes due in any month shall be examined on the 20th day of the month preceding to ascertain their correctness.

Irregular warrants

46.2) Warrants with the following discrepancies shall be considered as irregular warrants:-

- (i) warrant/order not issued in the prescribed form,
- (ii) warrant written in pencil,
- (iii) warrant with incomplete and/or incorrect name of the offender,
- (iv) warrant without the seal of the appropriate Court,
- (v) warrant without signature of the appropriate Court or other competent authority,
- (vi) undated warrant,
- (vii) warrant not stating whether fine is paid or not,
- (viii) warrant without mention of previous convictions in case of habitual prisoner,
- (ix) warrant with incomplete columns, and
- (x) warrant with any other omission or discrepancy.

Such irregularities should be brought to the notice of the Court in the prescribed form with a request to send a fresh warrant correctly drawn up. On receipt of such correct warrant, the irregular warrant should be returned to the Court for cancellation.

Illegal warrants

46.3) Warrants with the following discrepancies should be treated as illegal warrants :-

- (i) warrant awarding sentence beyond the competency of the awarding Court,

- (ii) warrant awarding sentence more than what is prescribed by law,
- (iii) warrant awarding sentence less than the minimum laid down by law, and
- (iv) warrant issued contrary to the provisions of law.

46.4) In any of the cases mentioned in para 46.3, a reference shall be made to the State Government through the Inspector General, together with a copy of the warrant.

46.5) Deputy Superintendent and Assistant Superintendent having charge of the judicial work shall everyday or at intervals personally check each fresh entry in the concerned register of convicted prisoners and shall see that for correct entry therein a corresponding entry has been made against the proper date in the Release Diary and that in case of the prisoner obtaining a remission of sentence or receiving any additional sentence while in prison, the entry in the Release Diary is transferred to the correct date.

Concurrent and consecutive sentences

46.6) Sentence of imprisonment passed by a criminal Court may be concurrent or consecutive. In the absence of any direction, as to the manner in which such sentences shall be carried out, it should be assumed that they are consecutive.

[See sections 35 (1) and 397, 398 of the Criminal Procedure Code, 1933]

46.7) In whatsoever order the sentences are served, a prisoner is liable to serve the aggregate term of all the sentences, provided that under no circumstances shall a prisoner be detained in prison beyond the period indicated by the terms of the warrant of commitment.

46.8) In case of the doubt as to the order in which sentences shall take effect, the instructions of the Court imposing the latest sentence shall be taken.

Calculation of date of release

46.9) The duration of a prisoner's sentence shall be calculated in years, months and days. In like manner, the remission of sentence shall be calculated in years, months and days. The term year means a year according to the British calendar, a month means thirty days, a fortnight means fourteen days and a week means seven days.

46.10) When a prisoner is sentenced to two or more sentences, the date of release shall in the absence of any instructions from the convicting Court be calculated as though the sum of the terms was awarded in one sentence.

46.11) When the aggregate of sentences consists of fractions of a month, fortnight, week and day, such aggregate should be converted first into days then into months and years.

46.12) If the month in which the sentence of a prisoner expires has no date corresponding to the sentence, the last day of the said month should be taken as day of expiry of sentence. The same principle would apply where sentence is reduced and reduction in sentence on account of payment of fine or grant of remission.

46.13) When a convict has been committed to prison under two or more separate warrants and the first sentence is set aside on appeal or revision, the second sentence shall take effect from the date on which it was passed.

46.14) If the date of release falls due on Sunday or a prison holiday, prisoners should be posted for release on the previous working day.

46.15) In case of a convict who has to attend the Court on the very day of his release for a case for which he is not on bail, he shall be treated as released in the morning and sent to Court as an undertrial prisoner. If he receives additional sentences on that very date he shall be treated as fresh admission.

46.16) If a foreigner apprehended and detained under section 4 of Foreigners Act, 1864 is sentenced to a term of sentence, the period of detention under section 4 of the Foreigners Act shall be exclusive of an additional to the period of imprisonment passed upon him.

46.17) If a sentence of death is commuted to one of imprisonment for life or imprisonment, the sentence of imprisonment for life or imprisonment shall be deemed to commence from the date on which the sentence of death was passed.

46.18) The sentences of all prisoners sentenced to imprisonment for life or to more than 20 years imprisonment in the aggregate or imprisonment for life and imprisonment for terms exceeding in the aggregate 20 years shall, for the administrative purpose of calculation of the normal date of release, be deemed to be sentences if imprisonment for 20 years.

46.19) When a person already undergoing imprisonment for life is sentenced on a subsequent conviction to imprisonment or imprisonment for life, subsequent sentence shall run concurrently with such previous sentence

[see section 397 of the Criminal Procedure Code, 1933]

46.20) Where the sentences passed on a prisoner are run consecutively and the aggregate of the sentences is more than 20 years, the State Government shall review the case prior to the prisoner's completing 20 years in prison. In such cases, the "14-year rule" should be followed. If the State Government consider that it would be safe to release the prisoner, unexpired sentences can be remitted under the provision of section 401 of the Criminal Procedure Code. Where the expired sentence or sentences relate to an act to which the executive power of the Central Government extends suitable recommendation for remission should be made to the Central Government.

46.21) A prisoner who is punished till the rising of the Court only, shall be released from the Court and shall be admitted in the prison.

46.22) In case of a prisoner who is punished till the rising of the Court and is awarded another sentence on the same day, the later sentence shall start from the date on which the sentence is awarded.

46.23) A prisoner sentenced to one days' imprisonment shall be admitted in the prison and released on the same day.

46.24) If a prisoner is sentenced to imprisonment for 24 hours, he must be kept in imprisonment for that period in terms of hours. In such cases the warrant shall state the hour at which he was sentenced. The sentence shall be deemed to have commenced from the hour of sentence as indicated the warrant.

46.25) If a prisoner be sentenced to imprisonment of fractions of a whole or any portion is in default of the payment of fine and if the fine or a portion of it be duly paid, the date of release shall be fixed in the Release Diary on such dates as shall correspond to non-payment of the fine. When any portion of fine is subsequently paid, the date of release shall be fixed accordingly.

Suspension of the execution of a sentence

46.26) When an appellate Court directs that the execution of a sentence or order appealed against be suspended, appellant shall, if detained in prison pending the further orders of such appellate Court, be treated in all acts as an undertrial prisoner.

46.27) Should the appellant be ultimately sentenced to imprisonment or imprisonment for life, the period during which the original sentence was suspended shall, if passed in prison, be included unless specifically mentioned otherwise and if passed out of prison, be excluded in computing the term for which he is sentenced by the Appellate Court.

46.28) If a convicted prisoner is to be handed over to Police for the purpose of investigation, Government order for suspension of sentence is necessary.

Modification of sentence

46.29) When a sentence on a prisoner is reversed or modified on appeal by a Court other than the High Court, fresh warrant will be issued by the appellate Court to the officer in charge of the prison and its order will be communicated to the lower Court. Provided that when the appellate Court orders the retrial or committal for trial of a prisoner under section 423 of the Code of Criminal procedure, it shall communicate its order to the Court that decision has been reversed and that Court shall thereupon make such orders as are conformable to the judgement of the appellate Court.

46.30) When an appeal is rejected or a sentenced confirmed by the appellate Court other than the High Court, intimation to the effect will be sent to the officer in charge of prison by such appellate Court and order will be communicated to the lower Court for record.

46.31) When a case is decided on appeal or revised by the High Court, the Court or Magistrate to which the High Court certifies its order will proceed, under the provisions of section 425 or 442 of the Code of Criminal Procedure to issue, when necessary, a fresh warrant or order to the prison officer.

46.32) On the rejection by the High Court of an appeal or application for revision from a prisoner in prison being communicated to the Court by which he was convicted, such Court is at once to cause intimation of the decision to be given to the prisoner.

46.33) In cases referred by the Court of Sessions for the confirmation of a sentence of death by the High Court, the High Court shall send a copy of its order to the Court of Sessions, which shall then issue warrants to the other officer in charge of the prison.

46.34) In all cases in which a sentence or order is modified or reversed, whether in appeal or revision, separate warrant shall be issued as regards each prisoner whose sentence has been so modified or reversed.

46.35) In all cases, the Superintendent of the prison shall acknowledge by letter, the receipt of any warrant or order or intimation and shall inform the prisoner of the result of his appeal or application.

46.36) When the Appellate Court simply modifies the sentence passed by the lower Court without change of section or when, the appellate Court passes a new sentence by changing the conviction sentence or punishment section or otherwise, the sentence finally passed shall count, unless otherwise specially directed from the first day of imprisonment under the original sentence.

46.37) When a prisoner has been committed to prison at one trial under two separate warrants, the sentence in the one to take effect from the expiry of the sentence being set aside in appeal, be presumed to take effect from the date on which he was committed to prison under the first or original sentence.

46.38) When separate sentences have been passed in separate trials and the sentences run consecutively under section 307 of the Code of Criminal Procedure, the operation of the second sentence shall, in the event of the first sentence being set aside on appeal, commence from the date of conviction in the second case.

46.39) If however, an appeal is also filed in the second case, it will be competent for the Court hearing the second appeal to direct that credit shall be given for such period as is covered between the date of the second conviction and the date on which the first appeal was accepted.

46.40) No credit can be given in the second case, however, for any period passed in prison under the first sentence prior to the date of the conviction in the second case by the Court of original jurisdiction.

46.41) When an appellate Court annuls a sentence and directs that the prisoner shall be retried and a warrant for the prisoner's release on bail is not received, the prisoner shall be remanded to the undertrial yard (unless he is undergoing some other sentence), and the Superintendent shall apply to the committing Court for a warrant for his custody pending trial if such warrant is not at the same time furnished. Such warrant should set forth the Court by which the prisoner is to be tried and the date on which he is to be produced before the Court.

Fine

46.42) Sentences imposed in default of payment of fine cannot run concurrently.

46.43) *If a prisoner sentenced to imprisonment in default of payment of fine receives another sentence while undergoing such imprisonment, the second sentence*

shall begin from the date on which the first sentence expires or if the fine is paid, from the date of payment.

[See section 398 (2) of the Criminal Procedure Code, 1933]

46.44) If a prisoner sentenced to a term of imprisonment in default of payment of fine is also either at the same time or subsequently sentenced in other term, or to other terms of imprisonment, imprisonment in default of payment of fine shall be kept in abeyance till the expiration of all the absolute sentences of imprisonment and shall be annulled wholly or partially by the payment of fine in whole or in part, before that period or so long as imprisonment continues.

Note:—This provision covers the case of a prisoner whose first sentence of imprisonment is only in default of payment of fine. The substantive sentences of imprisonment subsequently passed shall count from the date of the first sentence and the imprisonment in default of payment of fine shall take effect last, although a portion of it may have been already served when the substantive sentences were awarded. Unless the imprisonment is of a different denomination to that of the substantive sentences, in which case the imprisonment in default of payment of fine shall be completed before the substantive sentences shall take effect.

46.45) The imprisonment which is imposed in default of payment of a fine shall terminate wherever that fine is either paid or waived by process of law.

46.46) If a prisoner who is sentenced to a fine and in default to imprisonment for a certain number of months, pays any part of his fine, the remission for the payment shall be calculated in calendar, months, and not in days. Any fraction of a month obtained by such calculation shall be reduced to days. A fraction of a day shall be counted as a day in favour of the prisoner.

46.47) When fines inflicted on prisoners are recovered by a Court, intimation of the same will be received by the Superintendent from the Court. If the convict is transferred to a different prison, the fine intimation shall be sent by registered post to the concerned prison. All fine intimations shall be acknowledged.

46.48) If a fine or portion of a fine imposed on prisoner as a sentence or part of a sentence by a Magistrate is tendered at the prison, it shall be received by the prison officers on duty between the hours of 8 a.m. and 5 p.m. except on Sundays and prison holidays, provided the prisoner is due for immediate release.

46.49) No action shall be taken on the fine intimations which do not bear the seal of the Court, but returned to the Court for the seal being affixed, nor on telegrams intimating the recovery of a fine or any portion of a fine. When intimation of payment of the fine of a prisoner is received from a Police officer, it shall be returned to that officer with a request that it may be forwarded through the sentencing Court.

46.50) When a prisoner is sentenced to fine and the fine is paid in instalments, the period of sentence to be remitted should not be calculated on the individual payments, but on the aggregate of the several previous payments.

46.51) When the fine has been paid, the prisoner concerning shall be informed and the payment shall be duly noted in the register, on the warrant and on the prisoner's History Ticket. The entries in the register and on the warrants and History Ticket shall be signed by the Deputy Superintendent and the Assistant Superintendent. A separate Inward Register for the receipt of fine intimation should be maintained.

Combination of sentences under Criminal Procedure Code and Ranbir Penal Code

46.52) Detention for failure to give security is not a substantive sentence of imprisonment within the meaning of section 397 of the Criminal Procedure Code.

46.53) If a prisoner who is detained until such time as he may furnish security under the provisions of Chapter VIII of the Code of Criminal Procedure is later sentenced to a further term of imprisonment for any other offence committed prior to the date of order under section 123, Criminal Procedure Code, the sentences of imprisonment awarded in default of furnishing security shall run concurrently with the subsequent sentence of imprisonment or conviction.

46.54) Sentences awarded under section 52 of the Prisons Act, commence on the expiry of imprisonment in default of furnishing security or from the date of receipts at the prison of an intimation that the security has been furnished.

46.55) If a person while undergoing imprisonment in default of furnishing security is convicted of an offence committed after the making of the order under section 123 of the Criminal Procedure Code and sentenced to imprisonment, such sentence shall commence at the expiration of the imprisonment for failure to furnish security unless the Court directs that such sentence shall run congruently with the imprisonment for failure to furnish security.

46.56) Where a prisoner who is already undergoing a substantive sentence of imprisonment, has been ordered to undergo a further sentence in default of furnishing

security for keeping peace or good behaviour under chapter VIII of the Code of Criminal Procedure, 1898, then :-

- (i) if such order has been passed by a Judicial Magistrate, the order shall be brought to the notice of the Sessions Judge to whom such Judicial Magistrate is subordinate ; and
- (ii) if such order has been passed by an Executive Magistrate, the order shall be brought to the notice of the District Magistrate to whom such Executive Magistrate is subordinate for such action as the Sessions Judge or the District Magistrate, as the case may be, may deem necessary under section 435 or 124 of the said Code.

46.57) When a person in respect of whom an order requiring security is made under section 106 or 118 of the Code of Criminal Procedure is, at the time such order is made, sentenced to or undergoing a sentence of imprisonment, the period for which such security is required shall commence on the expiry of such sentence

[See section 120 of the Code of Criminal Procedure, 1933]

46.58) If such a person fails to give security on or before the date of expiry of his substantive sentence, he shall be detained in prison until the expiry of the period for which security is required to be furnished or until the requisite security is given. It is not necessary in such cases that a formal warrant be issued by the Magistrate for the detention of such person in the prison after the expiry of the substantive sentence.

46.59) The period mentioned in the provision to section 123 (2) Criminal Procedure Code, must be counted from the date of the order of the Sessions Judge or High Court unless the latter specially directs in the warrant that it is to be counted from some other date. In such a case, the direction of the superior Court must be complied with.

Bail

46.60) Under section 426 of the Criminal Procedure Code, an Appellate Court may order that the execution of a sentence or order appealed against be sustained and if the convicted prisoner be in confinement, that he be released on bail or on his own bond. Prison officers shall obey the terms of such order.

46.61) If a convicted prisoner who has been released on bail commits an offence during his bail period and is re-admitted in the prison. The period will be counted

upto his date of readmission. On readmission in prison, he shall be treated as a convict for his first conviction.

Escape

46.62) When an additional sentence is passed on an escaped convict, such sentence shall take effect as follows :-

- (i) if the new sentence is one of death or fine, it shall take effect immediately, subject to the provisions relating to these punishments ;
- (ii) if the new sentence is one of imprisonment or life imprisonment, it shall (a) if more in its kind than that which the convict was undergoing when he escaped, shall take effect immediately and the unexpired portion of the sentence he was undergoing when he escaped shall be served subsequently ; and (b) if not more severe in its kind, shall take effect after he has served the period of his original sentence which at the time of his escape remained unexpired ; and
- (iii) in the case of an escaped prisoner subsequently arrested in connection with another offence, any period spent on that account in police custody or as an undertrial prisoner shall not be reckoned as imprisonment under the original sentence.

Outperiod and readmission

46.63) In the following cases the period spent by prisoners outside the prison shall not count towards sentence :-

- (i) escape,
- (ii) bail,
- (iii) emergency release,
- (iv) unauthorized extension of temporary release.
- (v) suspended period of sentence if directed by Court,
- (vi) suspension of sentence for Police investigation,
- (vii) violation of conditional release, and
- (viii) extradition,

46.64) A prisoner released on bail in Court on the day he is sentenced without

having been sent to prison, shall not be deemed to have served any part of his sentence.

46.65) Convicted prisoners removed from a prison in one State to a prison in another State under the provisions of the Transfer of Prisoners Act, shall be deemed to be undergoing their original sentence in the prison where have been transferred.

46.66) When a conditionally released prisoner is remitted within two years owing to an infringement of terms on which he was released, the unexpired portion of his sentence shall be carried out without waiting for receipt of Government orders which should, however, be applied for through the Inspector General immediately on admission of the prisoner. In such cases, the unexpired sentence shall be deemed to have commenced from the date of readmission in prison.

Recalculation of date of release

46.67) All outperiods shall be calculated up to the date of readmission in prison or sub-jail.

46.68) The following method shall be adopted in re-calculating the date of release of prisoner who after conviction was out of the prison subsequently readmitted :-

- (i) the date of going out of prison and the date of admission in prison shall be taken as days of sentence undergone ;
- (ii) a prisoner released on bail on a day subsequent to that on which he was committed to prison but who is again committed to undergo sentence in the same case shall be entitled to count every day of admission and every day of release as days of imprisonment in respect of such sentence ; and
- (iii) in cases where there are more than one outperiods, the aggregate total of all outperiods shall be added to the substantive sentence in years, months and days. The date on which the sum of these periods elapses counting from the date of conviction is the date of expiration of the sentence. If the prisoner has any fine sentence, the date of his release shall be governed by the appropriate rule.

Release

46.69) A prisoner, in whose case Government have fixed a specific date of release shall be released on such date.

46.70) Prisoners, in whose case release order have been arrived on Sundays and prison holidays, should be released on Sundays and prison holidays.

46.71) In calculating the exact date of release of prisoner, the number of days of remission earned shall be converted into years, months and days at the rate of 30 days to each month and the remission earned should be deducted from the date of release. Years should be subtracted first and then months and then days. When a prisoner has earned such remission as entitles him to release, he shall be released except in case of a prisoner in whose case specific Government orders are necessary for final release.

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HISTORY TICKETS

47.1) *"History Ticket means the ticket exhibiting such information as is required in respect of each prisoner by this Act or the rules thereunder."*

[Section 3(6) of J&K Prisons Act, 1920 A. D.]

Preparation and maintenance of History Tickets

47.2) Every prisoner shall, immediately on his reception into jail, be provided with a History Ticket which shall be maintained, in the manner hereinafter provided, throughout the period during which such prisoner remains in confinement.

47.3) Every History Ticket shall contain the following particulars, namely :—

- (i) the name, prison number and other particulars necessary for the identification of the prisoner ;
- (ii) a brief entry of every order passed and direction given relating to, and punishment inflicted on, the prisoner ; and
- (iii) a brief record of every other occurrence of any importance, affecting the prisoner, which takes place while he remains in confinement.

47.4) The History Ticket of every convict shall contain the following further particulars, namely :—

- (i) the nature of the offence of which he has been convicted and the provision of the law applicable thereto ; and
- (ii) the date, nature and extent of the sentence passed.

47.5) Every entry made on the History Ticket shall be so made at the time of, or as soon as possible after, the occurrence of the event to which it relates, and shall be dated and initialled by the officer who makes it.

47.6) Subject to the requirements of the rule, the Inspector General may, from time to time, prescribe the form of History Tickets.

Entries by Medical Officer in History Tickets

47.7) In the heading of the History-Ticket of every prisoner, the Medical Officer shall enter or cause to be entered under his supervision-

- (i) the prisoner's weight on admission ;
- (ii) his state of health ;
- (iii) the class of labour for which he is fit, if sentenced to labour ; and
- (iv) whether he has been protected by vaccination, inoculation or small-pox.

47.8) The Medical Officer shall also subsequently enter or cause to be entered-

- (i) if a convict, the fact of vaccination having been performed and the result;
- (ii) admission to and discharge from hospital on every occasion, with the disease for which admitted ; and
- (iii) admission to and discharge from the convalescent group.

47.9) The Medical Officer shall himself enter such other directions or recommendations as he may from time to time consider necessary for the maintenance of the health of the prisoner.

Particulars to be entered and the officers to enter them

47.10) On the History-Ticket of every prisoner shall be entered as far as such entries may be applicable—

- (i) the date of admission into jail ;
- (ii) the number and name of every article of clothing and equipment, issued on admission and subsequently ;
- (iii) the particular work and task in weight, number or measurement, to which the prisoner is put ;
- (iv) every change of work or task on other than medical grounds;
- (v) any complaint made by the prisoner of sickness or report of his sickness;
- (vi) the action taken on any direction or recommendation of the Medical Officer or Medical Subordinate ;

- (vii) application for a copy of judgement, if the prisoner desires to appeal ;
- (viii) receipt of the copy judgement ;
- (ix) despatch of appeal ;
- (x) substance of the order of the appellate Court ;
- (xi) the fact of an appeal not having been made before the expiration of the term allowed for appealing ;
- (xii) the amount of remission awarded quarterly ;
- (xiii) the total remission in days earned up to the end of each quarter ;
- (xiv) every prison-offence alleged to have been committed ;
- (xv) every interview allowed and the receipt or despatch of private letters ;
- (xvi) despatch to a Court, or transfer, discharge, escape or death ;
- (xvii) any recommendation of the Factory Manager or the Deputy Superintendent;
- (xviii) action taken on any order entered by the Superintendent ;
- (xix) location in a cell by day or night ;
- (xx) the use of the latrine out of hours ;
- (xxi) the fortnightly or weekly weighments ;
- (xxii) the number of the cell in which placed on account of warrant confinement;
- (xxiii) the total confinement undergone on warrant on each occasion of removal ; etc.

47.11) The entries in para 47.10 (i), (ii), (v), (vii), (viii), (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvi), (xx), (xxii), and (xxiii) above may be made by the Senior Assistant Superintendent or Assistant Superintendent. Entry (ix) may be made by the Senior Assistant Superintendent or any other officer authorized to award remission, and entry (xxi) by the Medical Subordinate or by an Assistant Superintendent or Dispenser if deputed to assist him. Entry (iii) shall be made by the Factory Manger ; when there is not an officer of this grade, it shall be made by the Deputy Superintendent, but in large jails a portion of the duty may, under the orders of the Superintendent, be performed by the Senior Assistant or Assistant Superintendent. The duty of making entries (iv), (vi) and (xviii) shall not be delegated to any officer subordinate to the Deputy Superintendent.

Entries to be made by the Superintendent

47.12) On the History Ticket of every convict, the Superintendent shall record-

- (i) any special order he may have to give related to any prisoner, e.g., the imposition or removal of fetters, permission to hold an interview or write a letter, separation by night, & c.;
- (ii) the award of every punishment ;
- (iii) sanction for employment on extra mural work ;
- (iv) promotion to the grade of Convict-Watchman, Convict-Overseer or Convict-Warder ; and
- (v) the award of special remission.

Custody and management of History Tickets

47.13) The History Ticket of each prisoner shall be kept in a proper receptacle by the Convict-Functionary in whose charge the prisoner is placed, and shall be produced by him whenever required by any officer of the jail or superior Convict-Functionary, so to do. It shall go with the prisoner whenever he is transferred from one group to another, or from one kind or place of work to another or is sent to hospital. At the weekly parades, each prisoner shall hold his ticket in his hand for inspection. The history-ticket shall be produced, with the prisoner, whenever he is reported for an offence, or is brought before the Superintendent or Medical Officer for any reason.

Note 1:—Every undertrial and civil prisoner may be allowed to retain possession of his History Ticket.

Note 2:—At weekly inspections the tickets will be issued just before, and removed immediately after, the advent of the Superintendent.

Retention of History Ticket after release or death

47.14) The History-Ticket of every prisoner shall be retained in safe custody -

- (i) in the event of his escape or release, for one year,
- (ii) in the event of his death, for two years, after such event occurs, and
- (iii) in the event of release on bail, for a year after the result of appeal is known.

* * * *

CHAPTER XLVIII

PRISONER'S PROPERTY

48.1) *The Superintendent Jail shall keep or cause to be kept a record of money and other articles taken from the prisoners.*

[See Section 12(5) of J&K Prisons Act 1920 A. D.]

List of property to be attached to warrant

48.2) A list of all money, clothing or other property removed from each convict on admission to jail, shall be attached in each case in the prisoner's warrant.

48.3) The property of civil prisoners shall be entered in the civil prisoner's Admission Register.

48.4) All additions, erasures or alteration to the list of any prisoner's property shall be initialed by the Superintendent or any other officer authorised not below the rank of Assistant Superintendent.

List of property to be read over

48.5) Every prisoner shall, as soon as possible after his first admission to jail, have read over to him, in the presence of the Superintendent, a list of all property of whatever description which was removed from the person of or received with such prisoner at the time of his admission.

48.6) If the prisoner acknowledges the correctness of the list, the fact that he does so ; and if the prisoner makes any objection to any entry in or to the omission of any article from the list, the nature of the objection ; shall be noted on the list.

48.7) If the prisoner can write, he shall be required to sign the list in token of the correctness thereof and of the objections (if any) noted thereon.

48.8) The Dy Superintendent/Asstt. Superintendent shall attest every entry in the list by initialling the same.

Note. :- When such property is made over by an official receiving it to another official, the receipt of the later official will be taken in concerned registers, as

the case may be and all such property shall, with the exception of clothing, be kept in charge of the Deputy Superintendent.

Property to be received

48.9) All property received with or found on the person of a prisoner on his admission to jail, or subsequently sent by the Magistrate on his account, shall be received by the jail authorities.

48.10) Property tendered by the friends or relatives of any prisoner, on his behalf, either at the time of such prisoner's admission to the jail or subsequently, may, in the discretion of the Superintendent, be either received provided it is of reasonable value and for valid purpose or refused.

Property received after admission to be entered in list

48.11) When any property is, after the admission of any prisoner to the jail, received by the Superintendent on his behalf, such property shall be entered in the list of property belonging to such prisoner in the manner prescribed in the case of property taken from or received with the prisoner at the time of his admission to the jail.

Treatment of the property of prisoners

48.12) Prisoner's property shall be dealt with in accordance with the following provisions, namely—

(i) Such articles as are, in the opinion of the Superintendent, of a perishable nature or are likely to deteriorate by keeping, or to involve expenditure in the keeping, shall, unless, with the consent of the prisoner to whom they belong, they are made over to any relative or friend of such prisoner, be sold and the sale proceeds thereof credited to the prisoner's account and a note to that effect made in the list of the property of such prisoner, and attested by the Superintendent.

(ii) If by reason that any prisoner is, at the time of his admission to the jail or at any subsequent time, suffering or likely to suffer from any contagious or infectious disease, or on other sanitary grounds, the Medical Officer shall certify that any article of clothing or bedding or the like, belonging to any prisoner, should be destroyed, the Superintendent shall cause the same to be forthwith destroyed accordingly and a note to that effect to be made in the list of the property of such prisoner, and shall attest the note so made.

- (iii) If any article of clothing or bedding or the like belonging to any prisoner is, in the opinion of the Superintendent, in such a damaged or filthy state as not to be worth keeping, or fit to be sold, he shall cause such article to be forthwith destroyed and a note to that effect to be made in the list of the property of such prisoner, and shall attest the note so made.
- (iv) The clothing of every prisoner sentenced to a substantive term of rigorous imprisonment of three years or more shall, if not liable to be destroyed under the preceding provisions of this rule, on the confirmation of the prisoner's sentence or if no appeal is made, on the expiration of the time allowed for appealing, be sold and the proceeds credited to the prisoner's account and a note to that effect made in the list of the property of such prisoner, and attested by the Superintendent.
- (v) Subject to the preceding provisions, the property (other than property in regard to which any special provision is hereinafter made) of every prisoner, the term of whose substantive sentence of imprisonment is less than three years, shall be carefully packed, stored and kept.
- (vi) The jewellery, trinkets, securities and other valuable (if any) of every prisoner shall be placed in a separate packet and the prisoner's register number, name and the date of sentence shall be endorsed thereon. Every such packet shall be kept in the jail cash chest.
- (vii) Money which is the property of prisoners (including the sale-proceeds of any articles sold) shall, subject to any directions which the Inspector General may from time to time give in that behalf, be kept in the jail cash chest or deposited in the local public Treasury.
- (viii) Every prisoner shall be allowed to retain one pair of shoes for use in jail. Sikh prisoners and others exempt from having their hair cut, shall be allowed to retain a comb.
- (ix) Sikhs shall be allowed to retain kara (iron bangle). Hindus who wear sacred thread may retain it when confined in a jail.

Clothing to be stitched in bundles & labelled

48.13) The clothing belonging to any prisoner retained in the jail under the provisions of sub para (v) of the preceding paragraph, shall be first thoroughly washed and stitched into a bundle before being stored.

48.14) Every bundle shall be labelled with the number, name and date of sentence of the prisoner and arranged in the prisoners' property godown according to the month of sentence.

Disposal of money, the property of prisoners

48.15) The cash property of the prisoners to be made over to them on release, or which for other reasons is disposed of, shall, during any month, be paid by the Deputy Superintendent from the cash property of prisoners received during the same month.

48.16) Should the cash received be in excess of that disbursed, the balance shall be remitted into the Treasury at the close of the month, but if the disbursements are in excess of the receipts at any time, the difference shall be paid from the permanent advance, which shall be recouped by the withdrawal of a similar sum, when the month closes, from the prisoners' cash account in the Treasury.

48.17) The receipt and disposal of all money belonging to prisoners shall be entered by the Deputy Superintendent in the cash-book, and when articles belonging to prisoners have been sold, the amount realized by the sale shall also be entered on the memorandum of property attached to each prisoner's warrants, with the date of entry.

48.18) The Superintendent shall occasionally satisfy himself that the amount of cash lodged in the Treasury to the credit of prisoners, corresponds with the amount shown in the Deputy Superintendent's cash-book, under the same head.

Disposal of property on transfer of a prisoner

48.19) On the transfer of a prisoner from one jail to another, all his money and other property shall be sent to the jail to which he is transferred.

Disposal of clothing of certain prisoners on transfer

48.20) The clothing of every prisoner sentenced to three years or more shall, whenever possible, be disposed of as laid down in sub-para (iv) of the paragraph 48.12 before the prisoner is transferred to any other jail.

Property tendered for certain prisoner not to be received

48.21) Property tendered at a jail on behalf of a prisoner already transferred to another jail, shall not be accepted, but the person who tenders the property shall, if so desires, be informed of the jail to which the prisoner has been transferred, so that he may send the property to him.

Property may be made over to a relative or friend

48.22) The Superintendent may, at the request or with the consent of any prisoner, at any time make over the whole or any part of the money or other property belonging to such prisoner, which may be in the keeping of the Superintendent, to any person (not being a prisoner), whom such prisoner may specify. Provided that the Superintendent may withhold and retain so much of the money or other property of such prisoner as he may think necessary for the purpose of providing such prisoner with sufficient clothes and money, upon his release.

Disposal of forbidden articles found on prisoners

48.23) Any prohibited article found on any prisoner, after his admission into any jail, shall be confiscated, and all money so confiscated and all money realised from the sale of any article so confiscated, shall be credited to the Government in the public Treasury. Provided that the Superintendent may award any sum, not exceeding one-half of any money of the sale-proceeds of any property so confiscated, to any person concerned in the finding or discovery thereof.

Disposal of the property of an escaped prisoner

48.24) The money and other property of every prisoner who escapes, shall be retained at the jail from which he effected his escape for one year after the date of his escape. If the prisoner is not recaptured within that period, his money and other property (if any) shall be made over to the Police as being unclaimed property.

Property of deceased prisoners

48.25) The money and other property of deceased prisoners shall, unless claimed by a person holding a succession certificate, probate or letters of administration entitling him to receive it, be made over to the Police as being unclaimed property.

Procedure when forwarding unclaimed property

48.26) With the property made over to the Police under the preceding paragraph, a descriptive roll of deceased prisoner and a certified copy of the record of such property shall be forwarded.

48.27) Any wish expressed by a dying prisoner as to the disposal of his property, shall be made known to the Police to whom the property is made over.

48.28) A receipt should be obtained for all unclaimed property made over to the Police.

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CHAPTER XLIX

DISCIPLINE

49.1) Discipline in prisons has to be maintained with fairness and firmness. It has to cover every aspect of life in the prison. A punishment for indiscipline has to be balanced in relation to the gravity of the violation. A positive approach towards prison discipline involves not only a strict adherence to rules and regulations but also a fair, just and equitable handling of prisoners on the part of the staff. After their admission, all prisoners may be informed of their rights, duties and disciplinary requirements in the prison in a language understandable to them. This aspect may be displayed on a board accessible to prisoners.

49.2) The following and such other acts as may be specified from time to time may be deemed as prison offences :

- (i) Endangering the security and custody of a prison in any way through a wilful or negligent act.
- (ii) Doing any act calculated to create any unnecessary alarm in the minds of other prisoners.
- (iii) Doing or omitting to do any act with intent to cause to himself any illness, injury or disability.
- (iv) Omitting to report any prison offence.
- (v) Offending, against law and order and discipline.
- (vi) Planning, instigating, abetting directly or indirectly in the commission of any prison offence.
- (vii) Refusing or omitting to abide by standards of behaviour, rules and regulations, lawful instructions and orders.
- (viii) Failing to assist in the maintenance of prison discipline.
- (ix) Failing to give assistance to a prison official when called upon to do so.
- (x) Making any complaint against prison official, written or oral, which is proved to be false, malicious or groundless.
- (xi) Committing nuisance or mischief of any sort.
- (xii) Quarrelling with prisoners.
 - (xiii) Smoking at places or at times other than appoint.

- (xiv) Attacking or assaulting or causing gross personal violence.
- (xv) Participating in a riot or mutiny, abetting another prisoner to riot or mutiny.
- (xvi) Escaping or attempting to escape from prison or legal custody or failing to report to prison officials about attempted escape.
- (xvii) Possessing, hiding, smuggling or attempting to smuggle, obtaining, giving or receiving or bartering contraband articles ; failing to report to prison officials about contraband articles.
- (xviii) Stealing, damaging, destroying, disfiguring misappropriating any prison property or prisoners' articles and property.
- (xix) Failing to report at once any loss, breakage or injury which the prisoner may accidentally have caused to prison property or implements.
- (xx) Tampering with or defacing identity cards, records or documents.
- (xxi) Breaches of the conditions of leave and special release.
- (xxii) Refusing to eat food or going on hunger-strike.
- (xxiii) Eating or apportioning any food not assigned to him or taking from or adding to the portions assigned to other prisoners.
- (xxiv) Wilfully or negligently destroying or spoiling food or throwing it away without orders.
- (xxv) Introducing into food or drink anything likely to render it unpalatable or unwholesome or dangerous for human consumption.
- (xxvi) Cooking unauthorisedly.
- (xxvii) Violating rules and regulations framed for the orderly running of canteen.
- (xxviii) Flattering canteen articles.
- (xxix) Being idle, careless or negligent at work, refusing to work, malingering, disturbing other prisoner at work on in barracks.
- (xxx) Manufacturing any article without the knowledge or permission of a prison officer.
- (xxxi) Performing any portion of the task allotted to another prisoner or obtaining unauthorized assistance of another prisoner in the performance of his task.
- (xxxii) Apportioning to any prisoner any part of the task performed by another prisoner.
- (xxxiii) Mixing or adding any foreign substance to the materials issued for work,
- (xxxiv) Wilfully disabling himself from labour.

- (xxxv) Converting or attempting to convert a prisoner to a different religious faith, and wilfully hurting others' religious feelings, beliefs and faith.
- (xxxvi) Agitating or acting on the basis of caste or religious prejudices.
- (xxxvii) Having any communication, in writing or by word or by signs without permission with any outsider undertrial prisoners, prisoners of different class, detenus, civil prisoners, approvers and other prisoners.
- (xxxviii) Sending messages surreptitiously by writing or speech.
- (xxxvix) Participating or organizing unauthorised activities like gambling etc.
 - (xl) Using indecent, abusive, insolent, threatening or improper languages ; being disrespectful, making indecent or vulgar acts or gestures.
 - (xli) Soiling or befouling any place or article.
 - (xlii) Loitering or lingering, leaving the appointed area or work-group without permission.
 - (xliii) Falling to assist or preventing other person from assisting prison officials in suppressing violence, assault, riot, mutiny, attack, gross personal violence or any other emergencies.

Punishments

49.3) The following are the punishments that may be given for the offences mentioned in paragraph 49.2 :—

- (i) The Inspector General may forfeit all earned remission except State Government remission or remove a prisoner from the remission system for a specified period or during prisoner's whole term of imprisonment.
- (ii) The Superintendent may—
 - (a) order forfeiture of remission upto a maximum period of thirty days at one time ;
 - (b) remove a prisoner from the remission system upto a period of six months ;
 - (c) when a prisoner escapes from legal custody, the total remission earned by him upto the date of escape may be cancelled ;
 - (d) when a prisoner attempts to escape from legal custody or plans or abets escape, the question of revoking his entire remission may be referred to the Inspector General ;

- (e) if a prisoner has been punished during the quarter otherwise than by a formal warning, following action should be taken :
- (1) if a prisoner is punished for bad conduct and if the violation was a minor one, one day may be cut from his monthly remission for good conduct ; if the violation was of serious nature, he/she may not be awarded the remission for good conduct for that month,
 - (2) if the prisoner has been punished for a minor violation related with work, one day's remission may be cut for each offence from his monthly remission for work ; if the violation is serious, he she may not be granted monthly remission for work for that month.
- (iii) The Superintendent may award the punishment of stoppage of recreational facilities upto a maximum period of one month.
- (iv) The Superintendent may stop canteen facilities upto a maximum period of three months at a time.
- (v) The Superintendent may stop interviews upto a period of one month.
- (vi) Where a prisoner wilfully or negligently spoils production or damages Government property, the Superintendent shall :—
- (a) cut the prisoner's wages upto a maximum of 50% of wages earned during a month ; or
 - (b) deny 50% of the wages for the work done upto a maximum period of three months with the approval of Inspector General of Prisons.
- (vii) The Superintendent may, with the approval of Inspector General of Prisons, transfer a prisoner to special ward or another prison as a punishment. This punishment may be awarded to prisoners who are persistently violating prison discipline. When the punishment of transfer to another prison is awarded, a nominal roll alongwith a statement of details of the offences and punishments may be sent to the Superintendent of the other prison and copy to the Inspector General for issuance for formal transfer order.
- (viii) Subject to medical advice, the Superintendent may order fatigue work for thirty minutes a day upto a maximum period of seven days.
- (ix) The Superintendent may forfeit to Government cash, currency, other articles etc., found in the possession of the inmates.
- (x) The Superintendent may inflict punishment for breaches and violations in the conditions of leave as shown below :
- (a) not counting leave period towards sentence and treating it as out-period,

b) cut in remission upto five days for each day of overstay, provided that where the prisoner has not sufficient remission to his credit, he/she may cease to earn remission in future for such period as the Superintendent may direct, or

(c) postponement of the next due leave upto a period of two years.

In case of armed force prisoners, the orders' of the concerned armed forces authority will be obtained.

(xi) The Superintendent may award the punishment of segregation for a maximum period of three months at one time. Under sanction of the Inspector General, this punishment can be extended upto six months. Prisoners kept in segregation yard may be confined in barracks / cells from lock-up to opening. At other times, they may remain in earmarked places only. They may work in the verandah in front of the cell / barrack during prescribed work hours. Exercise for one hour in the morning and one hour before lockup may be allowed. Letters, interview, books and newspapers may be allowed as per rules. Except soap and other hygienic requirements, all other canteen facilities may be withdrawn. Grant of remission may be subject to close review of the prisoner's work and behaviour during the period of segregation. Prisoners undergoing this punishment may not be released on leave during the period of this punishment.

(xii) The Superintendent may award the punishment of separate confinement upto one month at one time. Under the sanction of the Inspector General this punishment can be extended upto three months. Where a separate exercise area is attached to each cell, the inmate may be allowed exercise facilities for one hour each time in the morning and evening. If a separate exercise block is not attached to each cell, inmates undergoing this punishment may be taken out one by one at prescribed times for exercise, forty-five minutes in the morning and forty-five minutes in the evening. If bath and w.c. facilities are not attached to the barrack/cell, inmates confined in the cells may be taken out one at a time for bathing and other purposes. They may not be allowed to communicate or congregate during such periods. Except for periods as mentioned above, the prisoner may be confined in the cell. Food should be served in the cell. The following concessions may be extended to prisoners undergoing this punishment :—

(a) letters as per rule,

(b) interviews with family members and relatives may be granted in the discretion of the Superintendent provided he thinks that such interview will have a solitary effect on the conduct and behaviour of the inmate,

- (c) religious and moral books and religious pictures may be allowed as per rules,
- (d) work may be given in the cell at the discretion of the Superintendent, and
- (e) remission may not be granted for the period of separate confinement.

Formal warning

49.4) Before any punishment is given, a formal warning shall be personally addressed to the prisoner by the Superintendent, to be recorded in the punishment book. The warning shall, however, not be treated as punishment.

49.5) No prisoner may be punished unless he has been informed of the offence alleged against him and given a proper opportunity of pressing his defence. The competent authority may conduct an inquiry into the case. No prisoner may be punished except in accordance with the terms of law or regulation.

49.6) No prisoner may be punished twice for the same offence, provided that any security measures (separate confinement, fetters, etc.) taken for the safe custody of a refractory and dangerous prisoner or for preventing him from committing mischief or the stoppage of privileges which are otherwise admissible to well behaved prisoners only, may not be construed as prison punishment for this purpose.

49.7) The punishment of separate confinement or fatigue work may not be implemented unless the Medical Officer has examined the prisoner and certified in writing that he/she is fit to sustain it. The same rules may apply to any other punishment that may be prejudicial to the physical or mental health of a prisoner.

49.8) The Medical Officer may daily visit prisoners undergoing any such punishments and may advise the Superintendent, if he/she considers the termination or alteration of the punishment necessary on the ground of physical or mental health.

49.9) If a prisoner is guilty of an 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 infliction of any prison punishments, the Superintendent may send a statement of the circumstances, along with the prisoner concerned to the Court of a Magistrate, having jurisdiction for being dealt with by way summary trial and imprisonment upto six months.

49.10) In respect of offences committed or abetted by prisoners which are punishable both under the Ranbir Penal Code or any other criminal law, it may be discretionary with the Superintendent either to use his own powers of punishment as set forth in rules or to prosecute the offender before a Magistrate, provided that in the case of cognizable offences having a punishment above three years a prosecution shall be initiated.

49.11) The Government may formulate detailed rules for the holding of enquiries and for the segregation of the prisoner pending enquiry, medical examination in the case of an injury, inform the prisoner of the charge against him, conduct of the enquiry, recording of statements and the decision arrived at, and an opportunity for any appeal or revision.

49.12) If any condition on or subject to which a sentence has been suspended or remitted or release on leave or special leave is granted is in opinion of the authority exercising such power; not fulfilled, such authority may cancel its order granting such suspension, remission or release on leave or special leave, and there upon the person in whose favour such order was made may if at large, be arrested by any Police Officer without warrant and remanded to undergo the unexpired portion of his/her sentence.

49.13) If any prisoner fails without sufficient cause to observe any of the conditions on or subject to which his/her sentence was suspended or remitted, or release on leave or special leave was granted to him/her, he/she may, on conviction, be punished (such punishment being in addition to any punishment which such prisoner was undergoing when he committed such offence) with imprisonment for a term which may extend to two years or with fine which may extend to one thousand rupees, or with both.

49.14) The Superintendent may be made responsible to undertake effective measures to ensure safe custody and security of prisoners, including the use of handcuffs and fetters in keeping with the directives of the Supreme Court of India. In an emergent situation the Superintendent may be empowered to use handcuffs and fetters for reasons to be recorded in writing under intimation to the Magistrate concerned within 48 hours. Similarly, the confinement of a prisoner in a separate cell may also be resorted to in the interest of custody and security.

49.15) In order to evolve a suitable mechanism for grievance redressal, a Discipline Committee may be set up in the jail under the chairmanship of the Superintendent with Deputy Superintendent, Medical Officer and Welfare Officer drawn on it. Such a committee may meet atleast once a month to review grievances, petitions and representations from prisoners.

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CHAPTER L
TRANSFER

Circumstances of transfer

50.1) Prisoners may be transferred from one prison to another for the following reasons:—

- (i) for custody and treatment in a suitable institution in accordance with the classification procedure;
- (ii) for attendance in Court for the purpose of standing trial, giving evidence, etc;
- (iii) on medical grounds;
- (iv) on humanitarian grounds, in the interest of their rehabilitation;
- (v) for post-release vigilance by the police ; and
- (vi) on grounds of security; expediency or any other ground.

50.2) (I) *"The Government may, by general or special order, provide for the removal of any prisoner confined in a prison:-*

- (i) under sentence of death, or*
- (ii) under, or in lieu of, a sentence of imprisonment or imprisonment for life,*

or

- (iii) in default of payment of a fine, or*
- (iv) in default of giving security for keeping the peace or for maintaining good behaviour, to any other prison in the State.*

"[The Government], and (subject to its orders and under its control) the [Inspector General] may in like manner, provide for the removal of any prisoner confined as aforesaid in the State to any other prison in the State."

[Section 29(1)(2) of J&K Prisoners Act, 1920 A. D.]

50.3) The Inspector General of Prisons is authorised, under the reciprocal arrangements, to admit prisoners who are residents of the state in any prison in the State, from other States and to arrange for the transfer of prisoners, ex-military or other

convicted by Courts (other than Court-Martials) to a prison in the State of their origin, in direct consultation with the Inspector General of that State.

50.4) Subject to section 4 of the J&K Prisoners Act, 1920 A.D. or unless otherwise directed by the Inspector General, no transfer of prisoners from one prison to another shall ordinarily be made without his previous sanction. In urgent cases the Superintendent is authorised to transfer prisoners to another prison. In all such cases, however, post-facto sanction of the Inspector General should be applied for quickly.

50.5) The sanction of the Inspector General is not necessary in the following cases :—

- (i) transfer of prisoners to classified institutions as per standing orders ;
- (ii) transfer of prisoners required to give evidence or to undergo trial for an offence in another State;
- (iii) transfer of Police Registered prisoners within the State ; and
- (iv) transfer of prisoners on urgent medical grounds.

Note :-In all such cases prompt intimation should be sent to the Inspector General.

50.6) Except in an emergency not less than six days notice of transfer of prisoners shall be given to the Police and the Superintendent of the receiving prison when prisoners are to be transferred.

50.7) Full details of the following types of prisoners shall always be supplied beforehand to the Police by the Superintendent of the transferring prison:-

- (i) prisoners with sentence of five years and above;
- (ii) prisoners whose conduct in prison has been bad or who have been found to be dangerous;
- (iii) prisoners involved in similar serious offences; and
- (iv) prisoners sentenced under section 224 of the Ranbir Penal Code and those who are known to have escaped or attempted to escape at any time.

50.8) Prisoners should be so sent as to reach the receiving prison before lock-up. Prisoners should not as far as possible be transferred so as to reach their destination on a Sunday or other prison holiday.

50.9) The District Magistrate and the Prison Superintendent should be informed in advance while prisoners who are likely to attract public attention, cause stir, etc are under transfer

50.10) Special facilities for writing welfare letters before transfer may be extended to prisoners in the discretion of the Superintendent.

50.11) No prisoner shall be transferred unless he is certified as fit for travel by the Medical Officer. No prisoner shall be transferred to or from a prison in or around which an epidemic is prevalent until medical authority of the district declares the cessation of the epidemic.

50.12) The Medical Officer is responsible for seeing that all hospital entries have been made in the History Ticket. The Dy. Superintendent shall see that all other forms and entries are duly filled in and that the prisoners record is complete in every respect.

50.13) The following forms shall be completed before transfer :-

- (i) transfer forms ;
- (ii) descriptive roll ;
- (iii) list of warrants, orders on appeal and other connected papers ;
- (iv) list of private property ;
- (v) list of Government property ; and
- (vi) certificate of receipt (cash to be entered in words) to be signed by the receiving prison.

50.14) All cash, jewellery, private property of the prisoners under transfer should be carefully accounted and handed over to the escort officer for being given at the prison where the prisoners are being transferred.

50.15) Private clothing shall be worn by the prisoners at the time of their transfer from one prison to another. Each prisoner shall carry his own bundle.

Note :—Refusal on the part of the prisoner to carry his private effects constitutes a prison offence unless the property is such as cannot be reasonably carried by the prisoner in which case, it should be sent at Government cost.

50.16) If a prisoner's private clothing has been destroyed or otherwise disposed of, the prison authorities shall provide him at the expenses of Government with suitable

clothing, which shall be similar to that issued to released prisoners who have no clothing of their own.

50.17) Money, for expenses of journey and of dieting of the prisoners shall, if necessary, be given to the Officer in charge of the escort or prison guard who goes with the party who shall acknowledge the receipt and furnish a written account of the expenditure on his return.

50.18) All prisoners shall prior to transfer be carefully searched and security arrangements shall be examined in the presence of the officer in charge of the escort who shall take over charge of prisoners with a list of property. The officer in charge of the escort shall then be entirely responsible for the safe custody of prisoners until they are made over to the receiving prison.

50.19) The authorities at the transferring prison shall as far as possible, avoid sending prisoners of different categories in the same batch. However, if circumstances made this unavoidable they shall give clear instruction to the officer in charge of the escort to prohibit communication amongst such prisoners. The officer in charge of the escort shall not allow any communication or opportunity of obtaining forbidden articles by prisoners from their friends or relatives while in transit. During the transit period the prisoner shall not be allowed to handle any cash or jewellery or other private property.

50.20) When a prisoner becomes so ill in transit as to be unable to continue his journey, he shall be taken to the nearest hospital or lock up for treatment by a Medical Officer and report of the circumstances shall be made to the Superintendent of the despatching prison and of the prison to which the prisoner was being transferred.

50.21) In case escape occurs enroute, intimation shall at once be given by the officer in charge of the escort to the authorities of the nearest police station to enable them to take steps for the recapture of the prisoner. The Superintendent of the prison to which the prisoner was about to be taken and of the transferring prison shall also be informed of the escape and the latter shall take the prescribed measures for the prisoner's capture. On recapture, the prisoner will be sent to the prison where he was originally being transferred.

50.22) When a prisoner dies in transit from one prison to another, the officer in charge of the escort shall at once report the circumstances to the nearest Magistrate who shall enquire into the case and submit his report direct to the Inspector General and shall arrange for the disposal of the body. The Superintendent of the prison to which the prisoner was being transferred shall inform the deceased prisoner's relative of his death.

50.23) If any breach or neglect of duty on the part of the officer in charge of the escort is noticed, his statement on such points shall be recorded by the receiving prison and shall

be forwarded to the Inspector General ; same shall be given to the Superintendent of the despatching person who shall institute an inquiry into the matter.

Transfer of Police Registered prisoners

50.24) In order to facilitate a watch by the Police over his movements after release, a prisoner who is registered as a habitual offender under the Habitual Offenders Act or other similar Acts or is otherwise a Police Registered criminal, who does not belong to the State where he is confined or convicted, should be transferred, at any time not exceeding two months prior to his release, to a prison in, or nearest to, his home State. Such a prisoner about whom intimation will ordinarily be given by the Police to the Superintendent of the jail in a P.R.Slip is referred to as a police registered prisoner for transfer or briefly PR/T shall be made in red ink in the Convict Register, register of prisoners to be released and other relevant documents; the P.R.Slip should be attached to his warrant and sent with him to the prison to which he is transferred.

Transfer on humanitarian grounds

50.25) It is desirable that prisoners convicted in a State other than the one where their home is situated should, as far as possible, serve their sentence in prisons nearer to their homes, so that the following is facilitated -

- (i) They may have more congenial atmosphere from the point of view of food, climate, interviews, associations, etc.
- (ii) Visits of relations and friends may fill up the gap in the prisoners life and exercise the necessary influence psychologically and socially for their reformation and later rehabilitation in society after release. Such prisoners may, therefore, be transferred to prisons in their home State, unless there are other reasons against the transfer in any individual cases under reciprocal arrangements made between the State Governments.

Prisoners (ex-military and others) convicted by Courts (other than Court Martials)

50.26) Prisoners (ex-military and others) convicted by Courts (other than Court Martials) who do not belong to the State in which they are convicted should normally be transferred to a prison in their home State on humanitarian grounds in view of their rehabilitation after release.

50.27) The prisoners convicted for a short time (months or less) need not be so transferred, since allowing for the time that would be taken to arrange for the transfer , etc, the remaining time will be too short for the purpose mentioned in the preceding paragraph.

Ex-military prisoners convicted by Court Martial overseas or in India

50.28) Ex-military prisoners convicted by Court Martial overseas and repatriated to this country for custody are received in the State where they land; they should be transferred, unless there are security (or other) reasons against such transfer, to prisons in their home States. Escort shall be provided by the transferring State Government according to the procedure laid down in the Police Manual.

50.29) Ex-military prisoners convicted by Courts martial in India should be committed to prisons in the State of their origin, escort being provided by the Government of the State where he is convicted. If escort is not readily available, the prisoner shall be committed to the nearest prison where he should have been committed by the Court Martial,

50.30) Nepalese ex-military prisoners convicted by Court Martial may, on humanitarian grounds, be transferred to suitable prisons in the States of Uttar Pradesh, Bihar or West Bengal nearest to their home in Nepal.

Home State

50.31) In the case of displaced persons who originally belonged to Pakistan, the State of their adoption shall be treated as their home State.

50.32) In the case of a prisoner who has long ceased to have any link with the State of his birth and is domiciled in the State where he is imprisoned and /or where his close relatives live, the latter State may be treated as his home State for the purpose of transfer. This should be ascertained from his antecedents, enquiries regarding his relatives, etc, before deciding to transfer him.

Prisoners willingness

50.33) Keeping in view the objects of transfer due regard must be paid to the wishes of prisoner before transferring him to his home State, unless there are adequate reasons to the contrary, for instance, his being out of mind or obstreperous or an aged parent requests his transfer so that he may be able to see the prisoner during his last days.

In the case of PR/T prisoners

50.34) For transfer earlier than two months before release of a prisoner sentenced to more than three months, the procedure in the preceding paragraph may be followed, that is that such a prisoner, if he is unwilling to be transferred to his home State, may be kept on in the holding prison until two months prior to release, unless there are adequate reasons requiring his transfer earlier, and

50.35) Transfer two months before release of a prisoner sentenced to more than three months and transfer of one sentenced to three months or less should be effected without regard to his wishes in the matter.

Cost of transfer and maintenance

50.36) The cost of transfer is to be met by the transferring State in the case of prisoners mentioned in rule 25(ii) and from the Defence estimates in the case of those mentioned in rule 25(ii). The cost of maintenance of the prisoner is to be met by the home State as from the date on which he is received in their prison on transfer; the cost of maintenance until then will be borne by the State holding the prisoner in custody.

Arrangements for transfer

50.37) In the case of any prisoner to be transferred to another State, the Superintendent of the prison in which he is confined shall send to the Inspector General the nominal roll and the written declaration of the prisoner, in duplicate, which shall contain the details and correct addresses of the prisoner and his relatives in the home State :

- (i) three months before expiry of the sentence of a PR / T prisoner,
- (ii) immediately after admission in the case of an ex-military prisoner, and
- (iii) immediately after the appeal, if any, is disposed of or after the appeal time is over.

50.38) Where reciprocal arrangements between State Governments exist for transfer of prisoner, prior approval of the Government of the State of origin is not necessary in every individual case for the transfer of prisoner, but the advice of the Inspector General of the receiving State may be obtained about the prison to which the prisoner should be transferred. However, if the Inspector General of the receiving State considers it necessary for any reason to take the orders of his Government he may do so.

50.39) The residential and other particulars of prisoner proposed to be transferred should be verified by the receiving State authorities before accepting the transfer so as to avoid future difficulties arising with reference to such particulars.

50.40) The cases of transfer of the prisoners sentenced to shorter periods e.g., four months or so, should be processed expeditiously so that all the preliminary arrangements are finalised in a relatively short time and the transfer of such prisoners effected as quickly as possible.

50.41) Gratuity earned by the prisoner in the prison upto the date of transfer may be sent along with the prisoner to the prison in his home State.

50.42) Necessary information should be given to the Police about the transfer being affected.

Authority for prisoners

50.43) Persons convicted by any Court are the responsibility of the Government of the State in whose jurisdiction they are convicted and sentenced. Transfer of prisoners from the State of conviction to their home State does not deprive the State of conviction of ultimate authority of custody or of remission of sentence vested in them with regard to the prisoners; the prisoners are to be regarded as undergoing sentences during absence from the prison in the State of conviction.

50.44) Ordinary remission, which is prescribed for the purpose of controlling the work and conduct of a prisoner, will be granted by the Superintendent of the prison in which he is confined, in accordance with the scale laid down in the Jail Manual of the State. But any special remission for which a scale is not provided for in the Jail Manual or State Government remission or other remission under section 401 of the Criminal Procedure Code will be as sanctioned by the appropriate Government. The appropriate Government for ordering remission or suspension of sentence under section 401 of the Criminal Procedure Code is the Government of the State where the prisoner was convicted; in the case of conviction for offences relating to a matter to which the executive power of the Union extends, the appropriate Government is the Central Government.

50.45) When it is considered desirable to release a transferred prisoner before he completes his term of sentence, the necessary documents should be sent to the Inspector General who should forward it with his recommendations along with the recommendations of the Advisory Committee, if any, to the Inspector General of the State of conviction for obtaining orders of that State Government. In the case of Court Martial, prisoners or other convicted for offence relating to matters to which the executive power of the Union extends, the orders of the Central Government should be obtained.

Action on release

50.46) Besides the usual release procedure, the State where the prisoner was convicted should be informed and in the case of PR/T prisoners, the Police should be informed in advance of the release.

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CHAPTER LI

REMISSION

51.1) Remission is a concession which can be granted to prisoners by the State Government / Inspectorp General / Superintendent. This concession is subject to withdrawal / forfeiture / revocation. It is not a right. The State Government reserves the right to debar / withdraw any prisoner or category of prisoners from the concession of remission.

Purpose

51.2) Remission is intended to be an incentive for good behaviour and work. It should be granted on the basis of inmate's behaviour, work and general response to various institutional activities.

51.3) In the following paragraphs :-

- (i) 'prisoner' includes a person committed to prison in default of furnishing security to keep the peace or be of good behaviour and also a person convicted by a Military Court ; and
- (ii) 'sentence' means a sentence as finally fixed on appeal or revision or otherwise and includes an aggregate of more sentences than one and an order of committal to prison in default of furnishing security to keep the peace or be of good behaviour.

Kinds of remission

51.4) Remission will be of the following types :-

- (i) ordinary remission ;
- (ii) special remission ; and
- (iii) state Government remission.

Ordinary remission

51.5) The Superintendent or an officer nominated by him on his behalf is authorised to grant ordinary remission.

51.6) The following prisoners are eligible for earning ordinary remission :-

- (i) non-habitual prisoners having a substantive sentence of three months or more;

- (ii) prisoners fulfilling the conditions as mentioned in (i) above, but who are unable to participate in institutional activities because of factors beyond their control such as Court attendance or frequent transit from one prison to another or admission as indoor patients in a hospital, including Mental Hospital, may be granted ordinary remission at the scale earned by the prisoners during the previous month, provided their conduct during the period in question has been good. (if the inability referred to above arises soon after admission, ordinary remission at minimum scale may be given) ;
- (iii) in case of prisoners who fulfil conditions mentioned at (i) above and who are admitted in hospital as indoor patients or during the periods of their convalescence, ordinary remission may be granted subject to certification by the Medical Officer regarding their bona fides ;
- (iv) prisoners fulfilling conditions mentioned in (i) above and who have been certified by the Medical Officers as invalid or infirm ;
- (v) habitual prisoners shall be granted remission as per provisions of chapter XXII;
- (vi) prisoners working on conservancy jobs irrespective of the length of their sentence;
- (vii) prisoners sentenced to simple imprisonment of three months and more and who volunteer to work ;
- (viii) ordinary remission can be earned throughout a period of imprisonment in lieu of fine which immediately follows and is continued with a substantive sentence of not less than three months ; and
- (ix) if a prisoner has not worked for no fault of his own, he shall not be debarred from remission for the period. Such remission shall, however be subject to good behaviour and participation in other institutional activities as may be organized by the institution.

51.7) Ordinary remission shall not be granted in the following cases :—

- (i) in respect of substantive sentence of imprisonment of less than three months ;
- (ii) in respect of any sentence passed in default of payment of the fine which is not annexed to a term of substantive sentence for which the prisoner is otherwise eligible for remission ;

- (iii) If a prisoner's sentence or total of sentences is reduced on appeal to less than three months, he shall cease to be eligible for ordinary remission and any remission that may have been earned prior to the reduction shall be forfeited ;
- (iv) prisoners in whose cases the State Government or the Inspector General has ordered that remission should not be granted ;
- (v) prisoners transferred to special prison on disciplinary grounds for the period of incarceration in a Special Prison ;
- (vi) prisoners who have been removed from the remission system ;
- (vii) prisoners undergoing punishments as mentioned in Chapter LI for the period of punishment ;
- (viii) prisoners who have been in hospital as indoor patients owing to self-inflicted injuries for such periods as would be decided by the Superintendent ; and
- (ix) prisoners who have taken resort to hunger-strike or work-strike.

51.8) Ordinary remission may be granted at the scale shown below to prisoners who are eligible for earning remission :-

- (i) for good behaviour, discipline, interest, effort and participation in institutional activities, three days per completed calendar month ;
- (ii) for performing allotted work at prescribed standards, three days per completed calendar month ;
- (iii) for conservancy jobs, two days per month, (this remission should be in addition to remission as stated in (i) and (ii) above, and
- (iv) any prisoner eligible for ordinary remission may be awarded fifteen days' annual good conduct ordinary remission in addition to any other remission provided that he has committed no prison offence whatsoever for a period of one year reckoned from the date of his sentence or the date on which he was last punished for a prison offence.

Note 1 :- For the purpose of this rule, prison offence punished with a warning only shall not be taken into account.

Note 2 :- In the case of a prisoner whose date of release coincides with that date on which he becomes eligible for grant of annual good conduct remission.

Special remission

51.9) Special remission should be granted on a very selective basis to deserving prisoners only. Special remission may be granted as reward for any special services, achievement or conduct shown below :—

- (i) saving the life of a Government employee or prison Visitor or inmate ;
- (ii) protecting Government employee or prison visitor or inmate from attack ;
- (iii) preventing or assisting in preventing escape of a prisoner or apprehending a prisoner attempting to escape or intimating the attempted escape of a prisoner ;
- (iv) assisting prison officials in emergencies like fire outbreak, riot, strike, etc ;
- (v) assisting in preventing / detecting serious breach of prison regulations ;
- (vi) marked diligence and success in imparting education and in teaching arts and crafts ;
- (vii) outstanding contribution or performance in cultural and other activities ; and
- (viii) special good work in Service Unit.

51.10) Special remission may normally be granted to any prisoner who is eligible for earning ordinary remission. In very exceptional cases, if the Remission Committee thinks that special remission should be granted to a prisoner who is not eligible for ordinary remission for special services rendered by him as per provisions of the preceding paragraph, a report shall be submitted to the Inspector General in the prescribed form giving justification for the reward of special remission. In such cases, special remission shall be granted only after receipt of orders from the Inspector General.

51.11) If a prisoner is undergoing two consecutive sentences, one of which is for a term of three months or upwards, he may, if one of the sentences is not less than three months, be allowed the benefit of any special remission that may be to his credit at the time of reversal of the sentence above referred to. Such special remission should be treated as awarded during the second sentence.

51.12) The Inspector General is authorised to grant special remission upto sixty days during one year.

51.13) The Remission Committee is authorised to grant special remission upto thirty days during one year.

Note :- For this purpose, the year should be reckoned from the date of sentence and any fraction of the year shall be reckoned as complete year.

State Government remission

51.14) Remission granted by the State Government shall be called State Government Remission.

51.15) The State Government remission can be awarded to such prisoners or categories of prisoners as the State Government may decide. In case of prisoners who, at the time of general grant of State Government remission, are released on temporary or emergency release, specific orders of the State Government about the award of this remission to such prisoners are necessary.

51.16) State Government remission shall be granted at such scale or in such quantum as may be fixed by the State Government from time to time.

Remission Committee

51.17) The Discipline Board of each institution shall function as the Remission Committee. The functions of this Committee are :-

- (i) to attend to all matter pertaining to remission ;
- (ii) to recommend cases of prisoners to the Inspector General for grant of special remission as per relevant provisions ; and
- (iii) to grant special remission as per relevant provisions.

51.18) The members of the Committee should assist the Superintendent in all matters pertaining to award of remission. The decision of the Superintendent shall be treated as final. The Remission Committee shall meet on fixed days or as and when required.

Note :- In view of the importance of remission work, it is essential that the Committee meets as per fixed schedules so that remission may be granted in time. Special remission should be so granted as to leave a margin of at least seven days prior to prisoner's release.

51.19) Lists of prisoners granted special remission by the Committee shall be forwarded to the Inspector General.

Remission in respect of life convicts

51.20) Life sentence shall be reckoned as twenty years for purposes of calculation of remission . In the case of a prisoner having more than one life sentences, 20 years shall be treated as the total of his sentences for the purpose of calculating remission. Grant of remission to a life convict shall not mean actual remission in his sentence. When his case will be examined by the Review Board, the remission to his credit will be one of the factors on the basis of which the review of his sentences will be done.

Miscellaneous

51.21) Ex-military prisoners shall be granted ordinary remission for the period they pass in transit or in military custody before their admission in prisons on the same scale as laid down.

51.22)In the case of a prisoner transferred from a Sub-Jail to a prison while undergoing imprisonment, the period spent by him in the Sub-Jail, excluding the period spent as an undertrial prisoner, shall be computed along with the period spent by him in the prison, for calculating remission.

51.23) Ordinary remission shall be calculated from the first day of the calendar month next following the date of the prisoner's sentence. Ordinary remission shall not be granted for the broken period of a calendar month. A prisoner unless sentenced on the first day of a month will not get remission for the month in which he has been sentenced.

51.24) All outperiods such as release on leave , etc., which are reckoned as parts of sentence should not be treated as broken periods. During such periods the prisoners shall be eligible for earning ordinary remission. During all out-periods which are not reckoned as parts of sentence such as bail, emergency release, escape, extradition and other outperiods where specific orders are issued to treat the period as out-period, prisoners shall not be eligible for earning remission. In such cases, the prisoners should be considered as eligible to earn remission from the first day of the calendar month next following the date of readmission.

Note :- In all such cases the date for eligibility for annual good conduct remission will be duly postponed.

51.25) No prisoner shall be granted ordinary remission for the month in which he is released.

51.26) Any prisoner who has been released on bail or whose sentence has been temporarily suspended shall on his readmission to prison be credited with any remission he may have earned previous to his release on bail, or to the suspension of the sentence and be brought under the remission system again on the first day of the calendar month next following his readmission.

51.27) The total of ordinary remission and special remission but excluding State Government remission granted to a prisoner shall not exceed one-third of the sentence.

Forfeiture

51.28) Remission may be forfeited by the State Government / the Inspector General / the Superintendent.

51.29) If the prisoner is convicted of an offence committed after admission to prison under sections 147, 148, 152, 224, 302, 304, 304-A, 306, 307, 308, 323, 324, 325, 326, 327, 332, 333, 352, 353 or 377 of the Ranbir Penal Code or convicted of an assault committed after admission to prison on a prison official or a prison Visitor or a prisoner or any other Government employee, all the ordinary and special remission of whatever kind earned by him under these rules up to the date of said conviction may be cancelled in part or in whole with the sanction of the Inspector General.

Note 1.—All entries about forfeiture of remission shall be promptly made in the remission sheet and in the remission register.

Note 2.—State Government remission is granted on occasions of national importance or public rejoicings. It is granted under section 401 (1) Criminal Procedure Code. An order of unconditional remission of or sentence under this section cannot be rescinded except in cases of fraud or mistake in the grant of such remission. The same procedure as is followed in the State Government remission has also to be followed when State Government remission has to be revoked.

Record

51.30) Assistant Superintendents or other officials in charge of yards or sections shall maintain sheets. On appointed days, these sheets shall be forwarded to the officer dealing with remission work and to the Deputy Superintendent in charge of release work for inspection. These sheets shall be attached to the remission sheet of the prisoners.

Note.—In small and medium size institutions, the Remission Committee may examine each case of remission in detail. In large institutions, the Committee may examine only such cases as have been specially marked by the Committee.

51.31) A remission register shall be maintained in the prescribed form in which all entries about grant and for-feiture, if any, of remission shall be promptly made and duly attested by the officers concerned.

51.32) Entries in the remission register shall be made timely at the end of each quarter. In case a prisoner is due for release prior to the completion of a quarter, entries in the remission register shall be made during relevant months and action regarding release taken accordingly.

51.33) At the end of each quarter, prisoners should be informed about the remission they have earned during the quarter, and also the total of their remission sheet.

51.34) Grant or forfeiture, if any, of all types of remission should be recorded on remission sheet.

51.35) The remission register or remission sheets shall be inspected by Deputy Superintendent incharge of the section.

51.36) Except communication and day to day remission, record shall be treated as confidential. It shall not be allowed to be handled by the prisoners.

51.37) Prisoners should be released on such dates as would be worked out after allowing for the remission granted.

CHAPTER LII

LEAVE AND EMERGENCY RELEASE

Kinds of leave

52.1) A variety of systems exist in States in regard to leave or special leave for prisoners during the period of imprisonment in the form of parole, ticket leave, furlough etc. With a view to bringing in a basic uniformity in these matters, especially as an incentive for good behaviour and responsiveness to correctional treatment, the following norms are fixed for release of a prisoner on leave or special leave :

- (i) A prisoner may be entitled to leave of 21 days in one or two spells during a year on the completion of half of his/her sentence or a minimum period of 3 years of imprisonment, whichever is less. Such a leave may be earned by a prisoner on the basis of his/her good behaviour and conduct in the prison.
- (ii) In the case of a prisoner to be granted leave, the application for leave may be sent to the concerned District Magistrate and the Superintendent of Police for comments before it is placed before the Inspector General of Prisons for consideration. If no comment is received from the District Magistrate and the Superintendent of Police within 3 weeks, it may be presumed that there is no adverse opinion to be offered by them and the recommendation of the Superintendent of Jail may be considered by the Inspector General of Prisons. For the subsequent leave, the Superintendent of Jail may be empowered to grant leave on the basis of the conduct of the prisoner during the previous leave without any consultation with the concerned District Magistrate or the Superintendent of Police. Leave availed of by a prisoner may be counted towards his/ her imprisonment.
- (iii) Special leave may be granted to a prisoner for a maximum period of 14 days on a specific ground of death, marriage, sickness or any other sufficient cause in his/her family. Special leave may be granted to a prisoner on the recommendation of the Superintendent of Jail by the Inspector General of Prisoners under intimation to the concerned District Magistrate and the Superintendent of Police, so as to facilitate the prisoner to attend to the emergency in his/her family. Special leave granted to a prisoner may not count towards his/her imprisonment.

- (iv) If the prisoner on leave or special leave fails to maintain good behaviour and peace and other conditions specified in relevant order, the order of leave or special leave, may be revoked by the competent authority.

Eligibility

52.2) The following categories of prisoners may not be eligible for being released on leave :-

- (i) prisoners whose presence is considered dangerous or otherwise prejudicial to public peace and order by the District Magistrate/ Superintendent of Police ;
- (ii) prisoners who are considered dangerous, or who have been prosecuted for serious prison violation like assault, outbreak, riot, mutiny, escape, instigation to serious violations, strike, etc. ;
- (iii) prisoners transferred to special prisons on disciplinary grounds for the period of their incarceration in such prisons ;
- (iv) prisoners committed to prisons in default of furnishing security to keep the peace or to be of good behaviour ; and
- (v) prisoners suffering from unsoundness of mind.

Note :—In case of prisoners governed by any of the laws relating to armed forces of the Union and having separate mode of trial, these provisions of leave and special leave shall be subject to their laws.

Objects

52.3) The objects of releasing a prisoner on leave are :-

- (i) to enable the inmate to maintain continuity with his family life and deal with family matters ;
- (ii) to save the inmate from the evil effects of continuous prison life ;
- (iii) to enable the inmate to maintain and develop his self-confidence ; and
- (iv) to enable the inmate to maintain constructive hope and active interest in life.

Leave not a right

52.4) Leave is not a right but a concession, which may be granted to convicts. This concession is subject to cancellation. The State Government / Inspector General reserves the right to debar / withdraw any prisoner or category of prisoners from the concession of leave.

52.5) The following categories of prisoners shall not be eligible for being released on leave :-

- (i) offenders classified as habituals ;
- (ii) prisoners sentenced under sections 392 to 402 Ranbir Penal Code ;
- (iii) prisoners whose presence is considered dangerous or prejudicial to public peace and tranquillity by the District Magistrate/Commissioner of Police ; and
- (iv) prisoners who are considered dangerous, or who are involved in serious prison violations like assault, outbreak, riot, mutiny, escape, instigation to serious violations, strike etc. ;

Note :- In case of prisoners mentioned in (iv), the Inspector General will pass orders debarring them from concessions of leave.

- (v) prisoners transferred to special prisons on disciplinary grounds, for the period of their incarceration in such prisons ;
- (vi) prisoners committed to prisons in default of furnishing security to keep the peace or to be of good behaviour ; and
- (vii) prisoners suffering from unsoundness of mind or contagious diseases.

52.6) The Inspector General shall refer to Government the cases of the under mentioned categories of prisoners when they apply for release on leave so as to enable the Government to obtain the prior consent of the Government of India or the State Government concerned :-

- (i) Persons convicted of offences against law relating to a matter to which the executive power of the Union Government extends ; and
- (ii) Persons whose release on leave is likely to have repercussions elsewhere in the country.

52.7) Subject to the provision of rule, eligibility for leave should be regulated as shown below :-

Sentence	When due for first release on leave.	When due for second release.	When due for subsequent release.
Exceeding three years but not exceeding five years.	On completion of one year of actual imprisonment to be counted from the date of admission to prison.	After Completion of one year of actual imprisonment to be counted from the date of his last return form leave.	After completion of one year of actual imprisonment to be counted form the date of his last return from leave.
Exceeding five years but not exceeding fourteen years.	On completion of two year of actual imprisonment to be counted from the date of admission to prison.	After Completion of two years of actual imprisonment to be counted from the date of his last return form leave.	After completion of one year of imprisonment to be counted form the date of his last return from leave.
Prisoners sentenced to life imprisonment and to periods of imprisonment exceeding fourteen years.	On completion of there years of actual imprisonment to be counted from the date of admission to prison.	After Completion of two years of actual imprisonment to be counted from the date of his last return form leave.	After completion one year of actual imprisonment to be counted from the date of his last return from leave.

52.8) For calculation of sentences for the purpose of eligibility for leave, "sentence" shall mean a sentence as finally fixed on appeal or revision or otherwise and includes an aggregate of more sentences than one. Sentences in default of fine shall not be taken into consideration while fixing eligibility for being released on leave.

52.9) Leave should not be granted to a prisoner within a period of six months from the date of his surrender after the expiry of emergency release.

52.10) A register shall be maintained in the prescribed form in which all cases of prisoners eligible for leave shall be posted three months in advance of the date on which they become eligible for being released on leave. On due dates, all such cases shall be placed before the Classification Committee.

Consideration of applications

52.11) The Classification Committee shall examine the case of each prisoner who is eligible for leave to find out whether the prisoner is fit for being released on leave. His case will be considered on the basis of (a) conduct, (b) work, (c) progress achieved in various spheres, (d) efforts for introspection and self-improvement, (e) attitude towards family and community, and (f) the manner in which previous period of leave or emergency leave was utilized.

52.12) Prisoners whose conduct has been found to be unsatisfactory or prisoners who are punished for prison offences shall be considered as unfit for being considered for release on leave. In such cases the period after which the case will be reviewed shall be decided by the Classification Committee and the prisoner informed accordingly.

52.13) A prisoner, in whose case the Classification Committee has decided to recommend for release on leave, should be allowed to submit his application to the Inspector General in the prescribed form. In the application, he shall state amongst other things, the name and address of his relative or friend with whom he wishes to stay during his leave period.

52.14) A copy of this application shall be forwarded to the District Superintendent/ Deputy Commissioner of Police who in turn, will forward the papers to the District Magistrate or Commissioner of Police, as the case may be, along with the requisite information and his recommendations. The Police authorities shall specially state whether the relative or friend of the prisoner is willing to keep him during leave period. If the District Superintendent of Police / District Magistrate / Commissioner / Deputy Commissioner of Police does not recommend release on leave detailed reasons thereof shall be given by him. The District Magistrate or the Superintendent of Police, as the case may be shall forward the requisite information along with his recommendations to the Inspector General.

52.15) The Inspector General is the authority to issue orders for release of prisoners on leave.

52.16) If on receipt of the recommendations of the District Magistrate/ Commissioner of Police, the Inspector General is satisfied that there is no objection to grant the leave applied for, he shall make an order for release of the prisoner on leave for fourteen days and suspension of the execution of sentence on such conditions as may be specified in the order. The following conditions shall invariably be laid down in addition to such other conditions, if any, as may be deemed necessary :-

- (i) that the prisoner shall give cash security for the amount ordered by the Inspector General ; or execute a personal recognizance bond or execute a bond with sureties, according to the directions of the Inspector General,
- (ii) that the said prisoner shall reside at the place designated by the Inspector General and shall not go beyond the limits of that place ;

- (iii) that the said prisoner shall be of good behaviour and shall not commit any offence ;
- (iii) that the prisoner shall contact the Probation Officer or the Aftercare Officer, if any, of the area where he will be staying ;
- (iv) that the prisoner shall not associate with bad characters or lead a dissolute life ;
- (v) that the prisoner shall be liable to be recalled immediately to prison in case he violates any of the conditions ; and
- (vi) that the prisoner shall surrender himself to the Superintendent of the prison on expiry of the leave granted or on recall.

52.17) If the prisoner commits serious violations of prison discipline after the despatch of the application and prior to his actual release on leave from the prison, the Superintendent is authorised to postpone his release on leave. In such cases the Superintendent shall forward a report along with his recommendations to the Inspector General for further orders.

52.18) On the application of the prisoner, the Superintendent may postpone the prisoner's release on leave ordered by the Inspector General so that the leave period may synchronise with agricultural operations like sowing, harvesting or work such as repairing the homestead or attending marriage in the prisoner's family, etc. In such a case, a report shall be submitted to the Inspector General for information.

52.19) Prior to being released on leave, the inmate should be oriented and prepared for his leave.

52.20) On receipt of orders of the Inspector General, the prisoner shall be released on leave, provided he executes the necessary bond and signs the required conditions. At the time of release the prisoner should be supplied with an identification card and a certificate of release on leave. The prisoner should be ordered to report at the prison on the due date before lock-up.

52.21) Whenever any prisoner is released on leave, intimation of his release shall be given to :-

- (i) the District Magistrate and the District Superintendent of Police of the district within whose jurisdiction the prisoner proposes to spend his leave ;

- (ii) the District Magistrate and the District Superintendent of Police or the Deputy Inspector General of Police within whose jurisdiction the prisoner was convicted ;
- (iii) the District Magistrate and the District Superintendent of Police or the Deputy Inspector of Police from whose jurisdiction the prisoner hails ;
- (iv) the Probation Officer / Aftercare Officer of the area where the prisoner will be spending his period of leave ; and
- (v) the Probation Officer / Aftercare Officer of the area where the prisoner was staying during his leave period shall, wherever possible, contact the prisoner and send to the Superintendent, a report about the prisoner's behaviour during leave period.

52.22) The period of release on leave shall count towards sentence.

52.23) The period stated in the release order cannot be extended.

52.24) Prisoners are not allowed to apply for extension of leave period.

52.25) Prisoners returning from leave shall not be admitted after lock-up.

52.26) If a prisoner released on leave does not return to the prison on the due date, police authorities shall immediately be telegraphically requested to arrest and bring him back to the prison. In each case of late surrender or breach of any of the conditions of leave, the Superintendent shall record the statement of the prisoner and hold an enquiry.

52.27) When a prisoner returns from leave, a report in the prescribed form shall be forwarded to the Inspector General. So also intimations to other authorities like the District Magistrate / Deputy Inspector of Police / District Superintendent of Police, etc., shall be sent.

52.28) On return from leave, the prisoner's response to the release on leave shall be evaluated. All these observations shall be kept in the inmate's file for being further studied.

52.29) A leave register showing details of applications for leave, dates of orders, dates of release and surrender, etc. shall be maintained.

Emergency release

52.30) The State Government is the authority to order the release of a prisoner on grounds of emergency. Release of prisoners on emergent grounds may be ordered :-

- (i) to facilitate the inmate's presence in his family during a period of grave emergency like death or serious illness of father/mother/brother/sister/spouse/children ; and
- (ii) to facilitate the inmate in specialized treatment for diseases like tuberculosis, cancer etc., in accordance with the opinion of the Civil Surgeon (Chief Medical Officer) and of the Prison Medical Officer.

52.31) Prisoners who are eligible for release on leave should ordinarily be considered as eligible for emergency release. Under very special circumstances, Government may consider emergency release on leave, on such conditions as may be deemed necessary according to the requirements of each individual case.

52.32) A prisoner who desires to be released for emergency purposes shall submit his application in the prescribed form to the Superintendent who shall endorse his remarks thereon and forward the same direct to Government along with the nominal roll. In case of prisoners required to be released for medical reasons, a certificate from the Medical Officer and the Civil Surgeon (Chief Medical Officer) should be attached to the application. A copy of his application shall be sent to the Inspector General. Prisoners who apply for emergency release on false grounds or who abuse the concession or commit breaches of any of the conditions of emergency release will be liable to be punished.

52.33) The Government may lay down the following conditions and such other conditions as may be deemed necessary in respect of a prisoner applying for release on the grounds of emergency purposes :-

- (i) that the prisoner shall :-
 - (a) give cash security for the amount as ordered by the Government, and
 - (b) execute a personal recognizance bond or execute a bond with sureties according to the directions of Government ;

- (ii) that the prisoner shall reside at the place designated by Government and shall not go beyond the limits of that place ;
- (iii) that the prisoner shall be of good behaviour and shall not commit any offence ;
- (iv) that the prisoner shall contact the Probation Officer / Aftercare Officer, if any, of the area where he will be staying ;
- (v) that the prisoner shall not associate with bad characters or lead a dissolute life ;
- (vi) that the prisoner shall surrender himself to the Superintendent of the prison on expiry of the period of emergency release ;
- (vii) that the prisoner shall be immediately recalled to prison in case of violation of conditions ; and
- (viii) that the prisoner shall stay in a T. B. Sanatorium or hospital or any other specified place in the interest of his health, if so required.

52.34) On receipt of Government order sanctioning the emergency release of a convict, he should be released immediately after the necessary documents have been executed by him.

52.35) The period of release on emergency grounds shall not count towards sentences. It shall be treated as out-periods.

52.36) A report shall be submitted to the Government and copies thereof sent to the Inspector General, the District Magistrate, the District Superintendent of Police and the Probation Officer or Aftercare Officer when a prisoner is released and when he returns to the prison.

52.37) If a prisoner released on emergency grounds, wants extension of the period, he may apply for the same to the Government in good time. If orders authorising the extension are not received before the expiry of his emergency release period, the prisoner shall report back to the prison. As soon as a prisoner released on emergency grounds surrenders to the prison authorities, his original order of release and the bond executed by him will become inoperative. Where, therefore, a prisoner who is released on emergency grounds has applied for extension of the period of emergency release and before his application has been sanctioned, surrenders to the prison authorities, he shall not be released after such surrender without obtaining a fresh release order from Government.

52.38) If a prisoner released on emergency grounds does not return to the prison on the due date, police authorities shall be requested telegraphically to arrest and bring him back to the prison.

52.39) In case a prisoner surrenders late or violates any of the conditions of release, an enquiry shall be held by the Superintendent or the District Magistrate, as the case may be, and a report submitted to Government for necessary orders. The prisoner may be punished by the Government for the violation committed by him.

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CHAPTER LIII

VISITORS

Powers of Government to appointment

53.1) Visitors of jails shall be :-

- (i) either ex-officio Officials,
- (i) or non-officials appointed by name.

53.2) The following officers and such others as Government may from time to time appoint in this behalf shall be ex-officio official Visitors of every jail within the respective areas under their charge or within their jurisdiction :-

- (i) Commissioner of Division,
- (ii) District and Sessions Judge,
- (iii) District Magistrate,
- (iv) Sub-Divisional Magistrate,
- (v) Deputy Inspector General of Police,
- (vi) District Superintendent of Police, and
- (vii) Director, Social Welfare Department.

Visits by official Visitors

53.3) Commissioner and Sessions Judges shall visit the jails at their head-quarters once every six months and those in other districts of their divisions when on tour.

53.4) District and Sub-Divisional Magistrates or Magistrates subordinate to them and appointed by them in this behalf shall visit the jails in their jurisdictions once every quarter.

Duties of official Visitors

53.5) Any Official Visitor may examine all or any of the books, papers and records of any section of the jail and may interview any prisoner confined therein. It shall be

the duty of every Official Visitor to satisfy himself that the provisions of the J&K Prisons Act, 1920 A.D. and of all rules, regulations, orders and directions made or issued thereunder, are duly observed, and to hear and bring to notice any complaint or representation made to him by any prisoner.

Non-official Visitors. Term of office Appointment

53.6) The Government may appoint such number of persons to be Non-official Visitors in respect of any jail. Every Non-official Visitor so appointed shall hold office, as such, for two years, but may be re-appointed on the expiration of that term.

Non-official Visitors to be gazetted

53.7) The names of such persons as are willing to undertake the important duties, and are appointed Non-official Visitors of specified jails, shall be notified in the J&K Government Gazette.

Note:- Where the period of appointment of a non-official visitor is drawing to a close, the Deputy Commissioner of the district in which the jail is situated shall represent the fact to the Commissioner of the Division and at the same time submit the recommendation for filling the appointment for a further period of two years. The Commissioner will then send on his proposals direct to Government, submitting at the same time the necessary draft notification for publication in the Gazette.

Visits by Non-official Visitors

53.8) Every Non-official Visitor is expected to interest himself in, and visit the jail of which he is a Visitor, once in three months and oftener if possible. Intimation of the intended visit need not be given. No visit should be made after the prisoners have been locked-up for the night.

Note :—It is to be distinctly understood that permission to visit jails on Sundays is a concession which is not to be abused. Sunday visits are not to be encouraged. They should be the exception rather than the rule.

Facilities to Visitors

53.9) All visitors shall be afforded every facility for observing the state of the jail, and the management thereof, and shall be allowed access under proper regulations, to all parts of the jail and to every prisoner confined therein.

53.10) Every Visitor should have the power to call for and inspect any book or other record in the jail unless the Superintendent, for reasons to be recorded in writing, declines on the ground that its production is undesirable. Similarly, every Visitor should have the right to see any prisoner and to put any questions to him out of the hearing of any jail officer. There should be one Visitor's book for both classes of Visitors, their remarks should in both cases be forwarded to the Inspector General who should pass such orders as he thinks necessary, and a copy of the Inspector General's order should be sent to the Visitor concerned.

Board of Visitors

53.11) Once in every quarter not less than two Ex-officio and one Non-official Visitors, of which one, unless prevented by unavoidable cause, shall be the District Magistrate, shall constitute a Board and visit the jail of which they are Visitors. The District Magistrate shall be the ex-office Chairman of the Board. The Board should meet at the jail on such days as the District Magistrate may determine, and will inspect all buildings and prisoners, hear any complaints and petitions that may be preferred, inspect the prisoners food and see that it is of good quality and properly cooked, inspect the Punishment Book and satisfy themselves that it is kept up-to-date.

Duties of Visitors

53.12) All Visitors, official and Non-official, at every visit shall-

- (i) inspect the barracks, cells, wards, workshed and other buildings of the jail generally and the cooked food ;
- (ii) ascertain whether considerations of health, cleanliness, and security are attended to, whether proper management and discipline are maintained in every respect and whether any prisoner is illegally detained, or is detained for an undue length of time, while awaiting trial ;
- (iii) examine jail registers and records
- (iv) hear, attend to all representations and petitions made, by or on behalf of prisoners; and
- (v) direct, if deemed advisable, that any such representations or petitions be forwarded to Government.

Time of visit

53.13) No visit should be made after the prisoners have been locked for the night or on Gazetted holidays.

Note:- The District Magistrate shall arrange the roster for visits to a jail so as to give each Visitor, official and non-official, his due turn, and send out a notice by post-card intimating whose turn it is to visit the jail in the coming week. There should not be a fixed day for these visits.

Punishing prisoners for wrong complaints

53.14) No prisoner shall be punished for any statement made by him to a Visitor unless an enquiry made by a Magistrate results in a finding that it is false. The prisoner making false complaint shall be liable to punishment.

Respect for Visitors

53.15) Due respect shall be paid to the Official and Non-official Visitors and their request for information should be complied with readily. No Visitor should be allowed to go round a jail without an escort which is necessary for his personal safety. But on the demand of the Visitor, the guard should withdraw from earshot of the prisoner, so as to permit private communication between the Visitor and the prisoner out of the hearing of the guard. Any Visitor is at liberty to go round the jail un-attended except for a Warder escort, if he so desires. Provided that the Visitor shall in no case interview a prisoner convicted of sedition or of an offence into which the element of sedition has entered except in the presence of the Superintendent or the Deputy Superintendent. Except on the occasion of the visit of the Board of Visitors, no Visitor can claim to be accompanied on his rounds by the Superintendent, Deputy Superintendents or Assistant Superintendent.

53.16) Visitors are not permitted without the express consent of the Superintendent to interview more than one prisoner at a time. Anything in the nature of a meeting or conference whether for the discussion of political topics or the ventilation of jail grievances, is strictly prohibited.

53.17) All private interviews with prisoners will normally be subject to a time limit of ten minutes. If a Visitor wishes to exceed this limit, he should give his reasons for doing so in writing to the Superintendent.

Duties of lady Visitors

53.18) Lady Visitors, when appointed to a jail where female prisoners are confined, shall have the same powers and duties as the male Visitors, except that their functions shall extend only to the female prisoners and female wards, and that they shall have nothing to do with the male portion of the jail.;

Date of visit to be recorded. Copy of remarks to be sent to certain officers

53.19) Every Visitor shall, after he has completed his visit to the jail, record in the Visitors book, the date and hour of his visit, and may enter therein any remarks or suggestions he may wish to make. A copy of the record made by every Visitor, together with the Superintendent's reply thereto or the action taken by the Superintendent thereon, shall be forwarded to the Inspector General and, in the case of any remark made related to the long detention of any unconvicted prisoner, a copy of such remarks shall also be forwarded to the District Magistrate.

Disposal of the record made by a Visitor

53.20) Any remarks made by a Visitor should be limited to a statement and fair criticism of actual facts which may come to his knowledge and to such suggestions as he may desire the Superintendent or Inspector General to consider. Criticism should be confined to such aspects of the ordinary administration of the jail as the Visitor may consider susceptible of alteration or improvement, and should on no account directly reflect either favourably or adversely on the character or conduct of any of the jail staff. Should the Visitor wish to bring to notice what he considers to be the good or bad work of any official he should do so by letter addressed to the Inspector General of Prisons. The Inspector General may pass order on any record made by a Visitor, and shall if any question of importance is raised, which in his opinion requires the orders of the Government, forward such record to the Government. A copy of any order passed by the Inspector General or by Government, on any record made by a Visitor, shall be communicated to the visitor concerned through the Superintendent.

Admission of Police Officers and interrogation of prisoners by them

53.21) The Superintendent of Police or any Assistant / Deputy Superintended of Police, may with permission of Court or District Magistrate or Superintendent of the Jail, for any purpose connected with the discharge of his duty as such Police officer, be permitted to enter the jail at any time. Police officers of subordinate rank to those specified who may be detailed for the duty, shall be permitted to enter the jail for the purpose of recognised old offenders at the time of the Superintendent's weekly parade and for the purpose of conducting operations for the identification of prisoners during working hours on any week-day. No Police Officer shall, at any time, upon any pretext whatsoever, be allowed to enter any female ward or any cell or compartment in which any female is for the time being confined or present, without the permission in writing, of the Superintendent. No Police Officer shall be permitted to interrogate any prisoner, except in so far as may be necessary for the identification of such

prisoner, without an order, in writing, from the District Magistrate, addressed to the Superintendent. Any interview, permitted under an order from the District Magistrate, shall take place in the presence of the Deputy Superintendent or other proper officer of the jail, who shall keep at such a distance that he may not hear the conversation that takes places.

Note :—Jail officers should give every assistance by parading separately, if required any prisoners whom the Police may desire to inspect for purposes of identification.

Rank of officer deputed to interrogate a prisoner

53.22) A Police Officer deputed to interrogate a prisoner under the above mentioned provisions should ordinarily not be below the rank of Sub-Inspector.

Police officer to be in uniform

53.23) No subordinate Police Officer shall be admitted to a jail unless he is in proper uniform.

Officer of the PWD may enter the jail during business hours

53.24) The authorised officers of the Public Works Department and their employees of the concerned District shall, during business hours, have free access to the jail to such extent as may be necessary for purposes connected with the discharge of the official duties of their department, but not otherwise.

Special permission to be accorded to other persons.

53.25) Save as hereinbefore in these provisions provided, no person shall be admitted into any jail, unless he is accompanied by or has obtained the permission, in writing, of the Superintendent, the Magistrate of the District, or the Inspector General.

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CHAPTER LIV

REVIEW OF SENTENCES

54.1) Prisoners convicted of any of the offences of rape, forgery, dacoity, terrorist crimes, corruption and black marketing, which are also excluded from the scope of Probation under the Probation of Offenders Act, 1966, shall not be eligible for being reviewed by the Review Board. Accordingly, offenders sentenced under sections 376 (except first part), 396, 400, 402, 467, 471, 472, 474 (latter part) 489-A, 489-B and 489-D of the Ranbir Penal Code shall be excluded from such review.

Eligibility

54.2) The following categories of prisoners may be considered as eligible for being reviewed by the Board:-

of prisoners	Aggregate substantive sentence	When to be reviewed	Types
(i) Woman offenders	Imprisonment of any length for crimes (like infanticide etc.) committed under social pressures.	Three years or more	On admission.
(ii) Non-habitual woman than	Three years or more	inclusive of remission.	On undergoing half of their offenders, other substantive sentence mentioned in (i)
(iii) Non-habitual adolescent offenders	Three years or more	Three years or more	On undergoing half of substantive sentence inclusive of remission.
(iv) Non-habitual adult offenders.	Five years or more	Five years or more	On undergoing two-thirds of their substantive sentence inclusive of remission.
(v) Habitual offenders	Five years or more	Five years or more	On undergoing two-third of their substantive sentence inclusive of remission. (subject to provisions of Chapter XXII)
(vi) Life convicts :-			
(a) Woman	Imprisonment for life		On undergoing 10 years including remission.
(b) Non-habitual adolescents.	Imprisonment for life		On undergoing 10 years including remission.
(c) Adults	Imprisonment for life		On undergoing two-thirds (Habitual imprisonment for life and non-habitual) life sentence inclusive of remission.
(vii) Old and infirm offenders	Three years or more	Three years or more	On undergoing half of substantive sentence inclusive of remission.

Note :—The State Government may decide according to local conditions as to which cases falling under category (i) of the above table should be considered eligible for being reviewed.

54.3) The case of a recovered criminal lunatic should be dealt with by the Review Board like that of a long term prisoner provided that he is quite sane and will not be a danger either to himself or to the community, if released.

54.4) The Board shall review any other case referred by the Government / the Inspector General, for its opinion.

Review file

54.5) A Review file shall be opened for each inmate who is eligible for review. This file should consist of :-

- (i) copy of judgement or heads of charges ;
- (ii) summary sheet ;
- (iii) social history ;
- (iv) report from the Superintendent ;
- (v) reports from the Medical Officer about the physical and mental condition of the offender and his fitness for conditional release ;
- (vi) report from the Probation Officer or Aftercare Agency about the inmate's behaviour during temporary or emergency release ;
- (vii) opinion of the District Superintendent of Police and the District Magistrate ;
- (viii) report from the Aftercare Agency about the aftercare and supervision programme that should be chalked out for the offender in case he is conditionally released ;
- (ix) recommendation of the Review Board ;
- (x) Government order ;
- (xi) security bond signed by the prisoner's relatives or friends ; and
- (xii) close-up sheet.

Review Board

54.6) There shall be a Review Board consisting of :—

- (i) Chairman.—The Inspector-General of Prisons and Correctional Services
- (ii) Members.—
 - two social workers who are working in the field of correctional work.
 - a Social Scientist preferably from University Department or special institutions engaged in training and research in criminology and correctional work.
 - the District Magistrate.
 - the District Judge.
 - Two correctional administrators.
 - Superintendent concerned

Note .—Members of the Board should be sworn to secrecy. Superintendent of Prison should work as the Secretary of the Review Board. The Review Board may be constituted either for a Central Prison or for a Division or for the whole State in accordance with the number of cases to be reviewed.

54.7) The State Government shall appoint members on the Review Board. The tenure of appointment of members shall not be more than three years.

54.8) The functions of the Review Board shall be :—

- (i) to review cases of inmates ;
- (ii) to evaluate inmates' response to imprisonment, training and treatment
- (iii) to examine whether the inmate has reached peak points in terms of institutional impacts and if so, to consider alternative measures for maintaining the achieved progress ;
- (iv) to recommend to Government :
 - (a) conditional release,
 - (b) unconditional release,

- (c) release on grounds of clemency,
- (d) such help, if any, as should be extended to prisoners on their release by Government or an aftercare agency.

Procedure

54.9) In the absence of the Inspector General, the District Magistrate or District Judge shall preside over the Board meetings. In such event, the Inspector General will be represented by the Deputy Inspector General.

54.10) The Review Board shall meet at least once in six months on dates fixed by the Chairman.

54.11) A brief summary of the review file should be circulated to all members sufficiently in advance of the meeting.

54.12) While making reference to the police about the character and antecedents of the offender, copies of finger print impressions shall be furnished to the police wherever required.

54.13) In case of offenders sentenced by Court-martial, information about the antecedents and character together with the brief statement of offence shall be obtained from the Adjutant General. Even if Court-martials do not record judgements, possible relevant information about the ex-military offender shall be obtained from the authorities concerned.

54.14) In case of offenders who are residents of the State but who have been convicted by Courts of other State, all relevant information as detailed above, shall be obtained from the authorities of the district in which the offender had lived or where the offence was committed.

54.15) The Board should consider the social history of the offender, the circumstances of his criminal behaviour conduct in the prison, response to training and treatment, marked changes in habits, attitudes and character, degree of criminality, health and mental condition, and the possibility of his resettlement after conditional release. The Board may also take into consideration such circumstances as were not before the Court when the sentence was awarded. The opinion of the District Magistrate and the District Superintendent of Police should be carefully considered. On the basis of such an overall examination of the case, the Board should forward its recommendation to Government.

54.16) In the event of the Board recommending conditional release of the offender against the opinion of the District Superintendent of Police and the District Magistrate, detailed reasons in justification of such recommendation shall be included in the Board's report.

54.17) If the Board decides not to recommend a case for release, the period after which that case shall again be reviewed, shall be specified by the Board. Cases of offenders sentenced to imprisonment for life or whose aggregate sentence is more than fourteen years and who have not been recommended for release, shall be reviewed every year after the initial review by the Board. Other cases shall be reviewed on dates fixed by the Board.

54.18) As and when the case of an offender as mentioned above becomes eligible for review the Superintendent shall, where the District Magistrate and the District Superintendent of Police have previously opined against his release, obtain their fresh opinions about the desirability of the offender's conditional release.

54.19) Minutes of the Board meetings shall be recorded and a copy thereof shall be sent to Government for necessary orders. In case of ex-military prisoners relevant portions of the proceedings of the Board meetings shall be forwarded through the State Government to the Government of India for necessary orders.

Review on medical grounds

54.20) The case of prisoner suffering from serious diseases and about whom the Civil Surgeon (Chief Medical Officer) and the prison Medical Officer certify that in all probability the prisoner may die within one year from the date of the Medical Officer's report, shall be submitted to Superintendent for being reviewed for conditional or unconditional release. The Superintendent shall submit a report to the Inspector General for onward transmission to Government.

54.21) Cases of inmates suffering from diseases such as leprosy, tuberculosis, cancer, aids, etc., shall be reported to Government for being considered for conditional release. In such cases, eligibility shall be fixed on the basis of the opinion of the Civil Surgeon (Chief Medical Officer) and the Prison Medical Officer who shall opine as to whether the disease is likely to be dangerous to the offender himself and to other inmates. For such a case, a condition for the offender's release will be that he shall remain in a specialised hospital for the purpose of treatment. Such offenders shall also be eligible for being released on such other conditions as the medical report might show to be appropriate.

Review of cases of woman prisoners

54.22) Every case of convicted woman sentenced to death or imprisonment for life for infanticide (where the child is killed by the mother within six months of its birth) and other deserving cases of woman offenders sentenced to death, imprisonment for life or to any term of imprisonment shall be immediately reported by the Superintendent to the Inspector General for orders of Government with a view to the commutation or / and remission of the sentence passed upon such woman offender. The following documents shall be sent along with the report :—

- (a) a copy of the Judgement ;
- (b) a copy of the warrant ;
- (c) nominal roll ; and
- (d) social history.

54.23) It shall be stated in the report as to whether the offender has preferred an appeal. The Superintendent shall also ascertain and report whether the offender can be admitted by any of the selected Homes and whether the offender is willing to reside in the Home and abide by the conditions set out.

Note 1 :—Detailed rules regarding the procedure of review should be formulated by the State Government.

Note 2:—Till such time as the Review Board as in para 54.6 is constituted by the Government. The two division level Standing Boards constituted vide Govt Circular No. Home -IS (Jails) 67/77 dated 18th April, 1981 will continue to function.

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CHAPTER LV

PRE-RELEASE AND RELEASE

Objects

55.1) Pre-release programme is meant for :-

- (i) reorienting the inmate about his responsibilities and social obligations,
- (ii) reaffirming the need for self-respect,
- (iii) setting in an attitudinal preparation for smooth return and readjustment to the inmate's family and community life, and
- (iv) preparing the inmate for his conditional release and for his post-release adjustment.

Pre-release preparation

55.2) Each Central and District prison should have a pre-release yard. Prisoners due to be released should be brought to this yard for going through the pre-release programmes which may be organised in accordance with the available facilities at each institution.

55.3) The following features shall be kept in view while organizing a pre-release programme

- (i) The daily routine, time-table, eating times, clothing etc., should be so adjusted that the inmate may get prepared for outside life.
- (ii) Series of talks on the following subjects may be arranged :
 - (a) health and mental hygiene ;
 - (b) family planning ;
 - (c) conditions and requirements of living in the society, likely problems and realities which the inmate may have to face after release and how to face them ;
 - (d) the economic problem, job opportunities, working of the Employment Exchange ;
 - (e) proper use of leisure, utilization of facilities and resources available in the society, e.g. libraries, night school, vocational guidance centres, vocational training institutions ;

- (f) showing films depicting various aspects of rural, urban and industrial life ; dangers of drinking, gambling, bad companionship, venereal diseases etc. ; and
- (g) informal discussions aiming at group guidance ; individual counselling and guidance.
- (iii) Institutional social workers and people from various professional fields who are genuinely interested in the welfare and resettlement of released prisoner should frequently meet the inmates during the pre-release stage. Officers and voluntary workers of the Aftercare Service should also meet the inmates with a view to finalising matters relating to their aftercare.
- (iv) The officer-in-charge of the pre-release yard should see that the release plan aftercare programme as designated by the Classification Committee is understood by the inmates.

55.4) An officer not below the rank of Deputy Superintendent shall be in charge of all work pertaining to release of prisoners. The Superintendent shall regularly inspect the general working of the admission-release branch.

55.5) The Police should be given adequate prior notice of the date and time of the release of :—

- (i) Police Registered prisoners,
- (ii) prisoners who have to notify residence under section 565 of the Criminal Procedure Code,
- (iii) externees, and
- (iv) foreigners.

55.6) The nominal roll of a conditionally released prisoner should be sent to the Superintendent of Police of the district to which the released prisoner belongs. When a prisoner, coming under the Finger Print Rules is to be released conditionally, his finger prints and impressions shall first be taken by a duly qualified Finger Print Operator before the prisoner is allowed to leave the prison premises.

Release procedure

55.7) The Medical Officer should examine a prisoner's health and record his weight on the day previous to his release.

55.8) All accounts of the prisoners shall be completed in the respective branches before the prisoner is produced for release. Officer-in-charge of release work should

see that all matters relating to prisoner's cash, private property, etc., have been properly verified.

55.9) A specially earmarked area should be assigned near the main gate for release work. This area should be enclosed or partitioned.

55.10) Orders to release a prisoner issued telephonically or telegraphically or through a wireless message shall not be given effect till orders in writing and duly sealed and signed by the competent authority are received.

55.11) Prisoners should be released in the morning before 10-00 a.m. provided that such prisoners as become eligible for release during the day (that is, subsequent to the morning releases) should normally be released within four hours of receipt of the release order.

55.12) No prisoner should be released after the lock-up of the prison.

55.13) Orders received for release after 5-00 p.m., shall be executed next morning.

Note :- Timings for sub-jails may be suitably adjusted according to local conditions. The Inspector General will issue standing instructions in this respect.

55.14) A prisoner who is due for release but has another case pending against him for which he is not on bail, shall be treated as released as a convict but detained as an undertrial prisoner if a remand warrant for the second case has been received from the Court. If the prisoner is on bail for the second case, he shall be informed before release of the date on which he has to appear before the Court and a written undertaking to this effect should be taken from him.

55.15) When a prisoner is being released on leave, emergency or conditional release, the conditions of release and his obligations to abide by the conditions laid down should be fully explained to him.

55.16) Every prisoner shall before his release be:

- (i) given a full meal,
- (ii) issued one set of suitable clothing, if he has no private clothing ;
- (iii) provided with railway / motor / steamer travel warrant to enable him to reach either his home or the place where he was arrested ; and
- (iv) provided with subsistence money at rates prescribed by the State Government.

55.17) The Officer-in-charge of release shall see :

- (i) that the prisoner bears the identification marks recorded in the admission register of convicted prisoners,

- (ii) that the entries in the warrant agree with those in the register and the sentence passed on the prisoner by the Court has been duly executed,
- (iii) that the private property and the amount due to the prisoner under different accounts (private cash, motor fare and wages, etc.) are given to the prisoner in his presence after obtaining prisoner's acknowledgement of receipt in the relevant register, and
- (iv) that all documents are properly completed.

Note :- The officer shall be responsible for seeing that the prisoner actually receives his dues and properly collects. Prisoner's complaints, if any, on this score shall be attended to immediately.

55.18) The endorsements of release in the relevant registers shall be signed by the Office Superintendent in charge of release work and the officer-in-charge of releases.

55.19) Each released prisoner shall be given a certificate of release showing details such as date and time of release from the prison, etc.

55.20) After the prisoner is released, the warrant shall be promptly returned to the Court which issued it, with an endorsement certifying the manner in which the sentence has been executed.

55.21) A prisoner discharged from prison, if suffering from any contagious or dangerous disease, shall ordinarily be removed to the nearest hospital until he is in a fit state to be sent home. In case removal would endanger life, the prisoner may, but only with his own consent, be detained in the prison hospital. Such events should be recorded in the Superintendent's order book.

55.22) No prisoner who is suffering from any acute or dangerous disease shall be discharged from prison against his will on the expiry of his sentence, but shall be detained in hospital until the Medical Officer considers that he can be safely released. Such events should be recorded in the Superintendent's order book.

55.23) The release of a prisoner who is in an outside hospital shall be done by the Medical Officer in charge of the hospital. If necessary, the patient may be kept in a ward, other than the prison ward, if he is willing to continue treatment.

CHAPTER LVI
EMERGENCIES

56.1) The following situations are to be handled on emergency basis :-

- (i) escape ;
- (ii) out-break ;
- (iii) riot ;
- (iv) strike ;
- (v) hunger-strike (individual or mass) ;
- (vi) assault ;
- (vii) suicide ;
- (viii) accident ;
- (ix) fire ;
- (x) epidemic ;
- (xi) food-poisoning ;
- (xii) over-crowding ;
- (xiii) failure of water supply, electric power lighting arrangements and essential prison services like conserevancy and plumbing ; and
- (xiv) non-supply of foodstuffs or raw materials resulting in break-down of prison routine.

Measures for prevention and control of emergency situations

56.2) It is the responsibility of the Superintendent to take one or more of such measures as are indicated below for preventing and controlling emergency situations:-

- (i) demarcation of an out-of-bound area around the perimeter wall of the prison ;
- (ii) adequate guarding and security measures and periodical inspection thereof ;
- (iii) system of thorough searches ;
- (iv) proper maintenance of prison building and premises ;
- (v) proper custody of tools and equipment ;
- (vi) proper control over movement of prisoner ;

- (vii) timely segregation of prisoners who are instigators or of bad character and are potential risks to prison discipline ;
- (viii) prompt and strong but considerate handling of all discipline problems ;
- (ix) attending to care and welfare requirements of prisoners ;
- (x) system of good discipline ;
- (xi) careful handling of plant and equipment ;
- (xii) accident preventive measures ;
- (xiii) fire preventive measures ;
- (xiv) fire fighting equipment at all vulnerable points ;
- (xv) good environmental and institutional sanitation and hygiene ;
- (xvi) proper procedure of quarantining of newly admitted prisoners ;
- (xvii) segregation of prisoners suffering from contagious diseases ;
- (xviii) proper storage and inspection of articles of food-stuffs ;
- (xix) observance of the required minimum standards in kitchen and canteen operations; service of food and eatables ; and
- (xx) periodical inspection of plant equipment, emergency operations, etc.

Equipment for emergencies

56.3) Each prison shall be properly equipped with the following articles to meet various types of emergency namely:-

- (i) fire fighting equipment ;
- (ii) emergency lighting arrangements like electric torches, gas lights, kerosene lamps and oil torches ;
- (iii) search lights ;
- (iv) steel helmets ;
- (v) canes ;
- (vi) tear gas equipment ;
- (vii) water hoses ;
- (viii) telephones and intercommunication system ;
- (ix) arms and ammunition ;

- (x) ladders, axes, knives, ropes, chains, handcuffs, alarm, siren and alarm indicators ;
- (xi) first aid kit ; etc.

The Superintendent shall obtain necessary sanction of the Inspector General for the purchase of articles referred to herein above. It shall be the responsibility of the Superintendent of the prison to ensure that these articles are kept in good condition always for use in emergency.

General instructions for handling emergencies

56.4) The general instructions to be followed in handling emergencies shall be as follows:-

- (i) giving of immediate first aid to the injured;
- (ii) cordoning off of the affected area and of immediate action to prevent the spreading of trouble to other areas;
- (iii) quick intimation to all authorities concerned;
- (iv) report to authorities concerned for instructions or help, if necessary;
- (v) if the Superintendent is absent at the time of occurrence, immediately on receiving the information he shall visit the prison and take suitable measures for controlling the emergency (where ever there is an Additional Superintendent, he shall also be informed and he shall visit the prison and assist the Superintendent or take command in the absence of the Superintendent and handle the situation) ;
- (vi) use of control measures, such as, handcuffing or locking of prisoner, segregation of rowdy elements, mob dispersal and the like ;
- (vii) tightening of all security measures according to the requirements of the situation ;
- (viii) mustering all possible help for effective handling of the emergency ; and
- (ix) obtaining all necessary assistance from the District Magistrate, Police and fire brigade.

ESCAPE

Alarm to be given of escape

56.5) A siren or an alarm gong or bell capable of being heard at the quarters of the subordinate officials shall be kept at or near the main gate of every prison, and at every place

where prisoners in large numbers are employed. In the latter case, the sound of the siren or gong shall be sufficiently penetrating to be heard at the main gate.

56.6) The signal that assistance is urgently needed, owing to an escape or attempt to escape, shall be the blowing of a whistle, to be followed by the sounding of the bugle and striking of the alarm gong. If the alarm gong is not originally sounded at the main gate, it shall be repeated there.

Attempt at escape

56.7) Should any prisoner attempt to escape, the guard or Sentry shall at once raise the alarm if the help of other guards is essential to prevent the prisoner's escape. The armed guard shall be ready at a moment's notice to prevent any combined attempt to escape.

When an escape takes place from an extramural group

56.8) On the alarm being sounded owing to an occurrence outside the prison, the officer in charge of the standing guard at the main gate shall forthwith despatch as many Warders as he can spare to the assistance of the escort giving the signal. The remaining Warders on assembling shall act as the senior officer present may direct.

56.9) The Warden in charge of an outside group from which a prisoner has escaped shall, after sounding the alarm, collect the rest of the group, detach one of his escort, if available to follow the escaped prisoner and march the group back to the main gate of the prison where he shall report the escape to the senior officer on duty.

Duty of Deputy Superintendent / Sr. Asstt. Superintendent

56.10) Upon a report of any escape being received, the Dy. Superintendent or senior officers on duty shall :—

- (i) despatch a party of sufficient strength to search the locality in which the escape occurred ; and
- (ii) inform of the escape to the Superintendent and the Additional Superintendent who shall take suitable follow up action with reference to these rules.

Escape during night

56.11) If the escape takes place during night time and there is possibility of the prisoner still being inside the prison, search shall be made with torch lights inside the prison.

duty of Superintendent

56.12) The Superintendent shall give prompt notice of the escape, accompanied by a nominal roll in giving personal and descriptive marks of the escaped prisoner, to the nearest police station, to the nearest Executive Magistrate and to the District Magistrate. He shall also send immediate intimation by wireless to the police near the prisoner's home, and if the prisoner belongs to a district other than that in which he is confined, to the Magistrate of the former district.

Report to Inspector General

56.13) If a prisoner escapes, the Superintendent or in his absence Additional Superintendent shall immediately convey the message over phone to the Inspector General and in his absence to the next officer available in the headquarters followed by a detailed report within 24 hours from the time of escape. A copy of such report shall also be sent to Government. The report shall contain the information as to the time and circumstances under which the escape had occurred, whether the prisoner has been recaptured and if not, the measure taken to recapture him. As and when the escapee is recaptured, a further report shall be sent to the Inspector General of Prisons.

Publication of escape

56.14) Notice of the escape of prisoners and of the rewards offered for their recapture shall be published in the Government Gazette, and given wide publicity through electronic media, if so ordered by the Inspector General.

Power to sanction rewards

56.15) The power of the Inspector General to sanction rewards are set out in the J&K Book of Financial Powers, Volume II.

Reward to prisoner preventing an escape

56.16) All cases in which prisoners prevent an escape, either by giving warning of any plot of preparation, or by seizing a prisoner attempting to escape, or otherwise, shall be brought to the notice of the Inspector General, with a view to a reward being conferred.

Punishment of conduct facilitating an escape

56.17) *Every officer of the prison through whose assistance, connivance, or neglect, an escape takes place shall be prosecuted unless very extenuating circumstances are present, or unless the Superintendent considers the evidence insufficient to procure a conviction, when the case shall be submitted to the Inspector General.*

[See Section 222,223, or 225(A) of Ranbir Penal Code, 1932 A.D.]

Procedure on recapture

56.18) The recapture of the prisoner shall be intimated to all concerned to whom the intimation on the escape of the prisoner was originally sent.

56.19) A recaptured prisoner may be received back into prison on his original warrant.

Procedure regarding disposal of warrants of escaped prisoners

56.20) The warrant of a prisoner who escapes from prison shall be retained in the prison for a period of ten years from the date of his escape. If he is not recaptured within that period, it shall be returned to the committing Court with an endorsement that the prisoner escaped from the prison ten years ago and has not been recaptured.

OUTBREAK.**Alarm to be sounded on outbreak**

56.21) In the event of an outbreak or disturbance, the prison official present at the scene of occurrence shall raise the alarm by blowing his whistle when it shall be the duty of the Warder staff to blow their own whistles. Upon this signal being given, or when news of an outbreak or disturbance is otherwise received, the alarm shall be sounded, on the bugle or siren and the bell or gong at or near the main gate shall be rung when it shall be the duty of every prison official who is outside the prison to proceed at once to the guard room and arm himself with baton. A messenger shall be sent by the senior officer present to the Superintendent, Deputy Superintendent or Assistant Superintendent if they are absent, and to the lines if necessary to summon every available man.

Procedure when alarm is sounded

56.22) Upon the alarm being given the reserve guard shall arm themselves with rifles loaded with ammunition, fix bayonets and stand outside the prison in readiness. The main gate Sentry with other Warders shall be posted between gates and unless the prisoners are actually threatening the main gate, the rest of the force available shall enter the prison armed with batons and proceed at the double to the scene of the disturbances. If the prisoners are threatening the main gate, it must be defended until the guard is strong enough to enter and drive the prisoners back. The armed reserve guard shall not enter the prison or arrive at the scene of the disturbance until specially sent for by the officer in command.

Method of quelling disturbances

56.23) On reaching the scene of disturbance, the guard shall proceed to quell it by means of baton charge or by the use of tear gas, if available, as the officer in command may decide,

action being first directed to preventing any attempt to escape, to isolating the rioters from other convicts, and to rescuing any prison officer who may be in danger. If the disturbance is accompanied by violence to any prison official or by a combined attempt to be out of the prison, or of any yard or enclosure, the officer in command shall warn the prisoners that they will be fired upon if they do not submit. If circumstances permit of the delay, this warning shall be given three times. If the prisoners do not submit or the outbreak or disturbance cannot be quelled, the officer in command may summon the reserve guard and open fire on the refractory prisoners, but shall stop firing as soon as they cease resistance or submit. Only minimum force necessary shall be used in all circumstances.

56.24) On arrival of the Superintendent or Deputy Superintendent their orders shall prevail and all officers from the rank of Assistant Superintendent and below shall act as per their orders.

56.25) Prison officials shall not attempt to disperse a mob outside the prison, unless the prison staff is threatened.

56.26) Enquiries on incidents like assaults on prison officials shall be conducted by the Superintendent or such other officer as the Inspector General may direct.

Defence of main gate

56.27) The main gate Sentry and the Additional Warders posted between gates shall defend the main gate. If prisoners cannot be driven back by other means than by opening fire, firing shall be resorted to after due warning. The firing shall be stopped as soon as the prisoners are driven back.

Disturbance within wards

56.28) If the disturbance occurs within the wards, as at night, the available force shall enter the prison armed with batons and shall proceed at the double to the yard gate, whence a party shall be detached to enter the ward and quell the disturbance the remaining force remaining at the yard gate.

Treatment of external groups

56.29) Groups which are outside the prison when the alarm is sounded shall be at once collected and halted under the charge of their escort until the disturbance is over, the convicts being made to sit down close together. If situation permits, these groups shall be taken in and locked up in a ward with a view to releasing the Warders in charge of the group for other duty.

Rehearsal of procedure on alarm

56.30) It is of importance that, if any outbreak occurs, every man shall know precisely what he has to do and with this object an alarm parade shall be held once in two months or oftener in each prison, at which the procedure laid down in the foregoing rules shall be rehearsed as accurately and as promptly as possible. It shall be especially impressed on convicts that the alarm being given, they must run at once to the assigned place of security, failing which they shall be held to be taking part in the disturbance and shall be liable to be fired on. No arms shall be taken inside the prison during practice alarm parades. The Superintendent shall record in his journal the fact of alarm parade having been held and whether the rehearsal was satisfactory.

Intimation to inquiring Magistrate and Police officers

56.31) Intimation of all deaths, including the deaths of children who reside with female prisoners, occurring from whatever cause in the prisons shall be sent to :—

- (i) the nearest Magistrate empowered under Sub-Section (4) of Section 174 of the Code of Criminal Procedure, 1973 (Central Act, 2 of 1974) to hold inquests ; and
- (ii) the Officer in charge of the Police Station having jurisdiction who is required to make a preliminary investigation.

56.32) The body of the deceased prisoner or the deceased child of the female prisoner shall be kept for the inspection and orders of the officer holding the inquests. No prison officer shall be a member of a panchayat formed to express an opinion as to the cause of death of any prisoners or deceased child of the female prisoner.

Post-mortem examination

56.33) A post-mortem examination shall be carried out by the Medical Officer in respect of all cases of death of prisoners or their children who reside with them occurring inside the prison premises or in prison hospitals or in transit from one prison to another or from the prison to the outside hospital or in the outside hospital. A full report on the circumstances of the death shall be sent by the Superintendent without any delay to the Inspector General for submission to the Government with this report, shall be submitted the reports made by the Police and Magistrate, the nominal roll, copies of judgements, the reports required by section 15 of the J&K Prisons Act, 1920 A. D. and the deposition of witness. Documents in languages other than English shall be accompanied by an English translation. A video recording of the post mortum shall be arranged as per recommendation of the National Human Rights Commission.

Employment of convicts on dangerous works

56.34) When prisoners are employed in blasting, well sinking, excavations, etc. or other work of a dangerous character, it shall be the duty of the officers conducting the work to take every reasonable precaution to guard against accidents. In blasting operations, no convict shall be employed to fire the charge. In excavations, the side shall be sloped or cut in steps.

Custody of prisons

56.35) Poisonous drugs and drugs inducing drowsiness, surgical instruments and other similar things shall not be left within the reach of prisoners. The word "Poison" in large printed characters shall be affixed to every receptacle containing any poisonous drug. All these shall be kept under lock and key, and the key shall not be entrusted to a prisoner.

Precaution against drowning

56.36) A strong rope and grappling irons shall be kept in the guard room of every prison, to be at hand in case of accidents in wells.

FIRE

Prevention of Fire

56.37) Special care shall be taken to use kerosene and gas lights in any office room or store room. Even in the maintenance of electric lights, any leakage shall be immediately brought to the notice of Dy. Superintendent for immediate rectification.

56.38) All staff in charge of offices and stores shall go round the offices and store rooms before they are closed for the night and shall satisfy themselves that everything is safe.

56.39) Fires shall be used in the workshops in properly constructed fire places and the senior officers who locks up the prison shall satisfy himself, before leaving, these fires are extinguished. The concerned senior technical staff of the section shall also be responsible in this regard.

56.40) No burning coal or wood or other fuel used in kitchen shall be allowed to be taken out. Those in charge of kitchen shall be responsible for any violation.

56.41) There shall be fire-hydrants and fire fighting equipment (sand and water buckets, etc.) in all parts of the prison and especially at all such vulnerable points as may be decided in consultations with the District Fire Officers.

56.42) Electric installations in the prison shall be inspected at fixed intervals.

56.43) In extramural camps and open institutions, precautions shall be taken such as provision of large supply of water and fire fighting equipment ready at hand.

56.44) Fire-fighting, safety measures and evacuation drills shall be held once in a quarter and all staff members and prisoners shall participate in it.

56.45) In the event of fire breaking out in the prison by day or night, the alarm shall be given as laid down in Para 56.21.

56.46) Each Superintendent shall draw up instructions adapted to his prison, showing precisely the respective duties of all members of the prison establishment on any alarm of fire being given, and he shall at least once in six month practice the staff in the fire-drill thus laid down.

56.47) In the event of an accident resulting in an injury to a prisoner or a member of staff on duty (a) medical attention to the injured shall be given and (b) inquiry shall be immediately held and statement of the injured prisoner or member of the staff and other witness shall be recorded.

56.48) On an outbreak of fire, immediate information to the fire brigade shall be sent. Till help from the fire brigade is received, every attempt to put out the fire shall be made.

56.49) Steps shall be taken to ensure that fire does not spread to other points of the prison and the lives of prisoners and of members of the staff are not endangered.

56.50) The Superintendent shall take such action as he thinks fit to save life and property.

EPIDEMICS

Chief epidemic diseases and precautions to be taken against them

56.51) The chief epidemic diseases which are likely to occur in prisons are cholera, enteric fevers, gastroenteritis, small pox, chicken pox, measles, mumps, influenza, cerebrospinal meningitis, pneumonia, plague, beriberi, scurvy and epidemic dropsy.

56.52) When epidemic disease is present in the vicinity of a prison, communication between the staff and the infected locality shall be, as far as possible, prevented and special care shall be taken that arrangements to meet an outbreak are complete.

Removal to segregation shed

56.53) Every prison shall be provided with two permanent segregation sheds outside the prison walls. On the occurrence of a case or a suspected case of cholera, or other

infectious disease, the patient shall not be taken to hospital, but shall be immediately removed to one of these sheds while in the other shed, all orderlies and scavengers attending on the case shall be strictly isolated, and on no pretext allowed to enter the prison or communicate with other prisoners until all risk of infection is over. If possible, the prisoners shall be removed to an infectious disease hospital outside the prison.

Treatment of prisoners after contact with infection

56.54) All prisoners employed in cleaning a ward in which a case of suspected infectious disease has occurred, or who have been in contact with the patient, shall be detained under medical observation in a separate building in a manner that shall effectively prevent their mingling with other prisoners, who have not been so employed, special care being taken that they bathe and feed apart, and that their excreta are separately collected and disinfected before removal.

Disposal of prison officers clothing, if infected

56.55) If there is any reason to think that the clothing of any Warder or other prison officer is likely to have been polluted by any cholera discharge, it shall be at once withdrawn from use and disinfected.

Treatment of infected barrack

56.56) The barrack in which a case occurs shall be immediately vacated, and the inmates kept together and not distributed among the other prisoners. The vacated barrack shall be thoroughly disinfected.

Vaccination or inoculation of prisoners, prison personnel and their family members

56.57) Whenever a case of epidemic disease occurs, the Medical Officer shall at once arrange for vaccination or inoculation, as the case may be, of all prisoners, prison personnel and members of their families.

Accommodation of patient

56.58) All over-crowding must be strictly avoided both in the hospital and in every cell and ward. If the epidemic is severe, it may be desirable to give up the hospital to epidemic cases, removing all other cases to any temporary hospital that can be improvised in a ward or workshed, should there be no better place available. Slight cases of colic or ordinary diarrhoea shall also be treated separately and not admitted to hospital until the characteristic symptoms of cholera and prison diarrhoea have disappeared.

Sterilisation of drinking water

56.59) The drinking water shall, on the recommendation of the Medical Officer, be thoroughly boiled, Firewood shall be made available for the purpose to the minimum extent necessary, not exceeding 300 grams per head per diem. The issue of firewood shall not be misused for any purpose other than this. Care shall also taken that sufficient appliances are provided and there is adequate control to ensure efficient boiling.

Boiling of water

56.60) If it becomes necessary, owing to the prevalence of epidemic disease, to boil the drinking water, the Superintendent and Medical Officer shall be responsible that the boiling is thorough and that to this end sufficient fuel is issued and sufficient apparatus provided and that a responsible officer deputed to supervise the boiling.

Observation of healthy prisoners

56.61) The general condition of the prisoners shall be carefully watched in order to detect incipient cases. During the night, any man attacked by premonitory symptoms shall be immediately removed for treatment. Convict Functionaries shall be required to report at once any sign of sickness, and a prisoner visiting the latrine oftener than usual shall be placed under observation.

Sanitation of latrines

56.62) Scrupulous attention shall be paid to the state of the latrines. If the dry system involving manual conservancy has to be adopted, covered buckets shall be washed with 1 in 100 saponified cresol orizal. Latrines shall also receive residual sprays with DDT once in a month.

Treatment of hospital floor

56.63) The floor of the segregation hospitals shall be washed or sprinkled liberally with two per cent saponified cresol orizal lotion.

Disposal of dejectra

56.64) The dejectra shall be placed in a vessel with a close fitting cover containing an equal part of 4 per cent cresol orizal lotion, kept for two hours, and then buried. The dejectra can also be incinerated with saw dust or paddy husk or kerosene.

Attention to persons of prisoners

56.65) Special attention to the cleanliness of prisoners and their clothing shall be enforced. The water used for washing shall not be allowed to remain within the prison walls.

Treatment of clothing and bedding

56.66) The clothing and bedding of the inmates of an infected ward shall be either immersed for 30 minutes in boiling water, or dipped in carbolic or cresol lotion 2 per cent strength and then dried and returned to them after they have bathed. Hospital clothing and bedding used by infected patients shall be burnt.

Disposal of infected corpse

56.67) The body of a person who has died of an infectious disease shall be entirely wrapped in a sheet saturated with carbolic or cresol lotion of two per cent strength and buried with the least possible delay.

Report to Inspector General

56.68) The first occurrence of a case of cholera shall be at once reported to the Inspector General by signal and this shall be supplemented on the same day by a written report, stating the circumstances of the case and the measures taken to arrest the progress of the disease.

56.69) Every subsequent case upto the third shall likewise be reported by fax to the Inspector General and on the occurrence of the second case, the Superintendent shall submit a report stating at the same time whether he proposes large scale segregation of prisoners within prison premises, if not, for what measures to that end have been taken and, if not, for what reasons such segregation is considered unnecessary. If the Inspector General is known to be absent from headquarters, the substance of this report shall be telegraphed to him.

When disease shall be deemed epidemic

56.70) If within one week after the occurrence of the first case of cholera, three or more cases occur, it shall be concluded that the disease has assumed an epidemic form.

Procedures generally applicable to epidemic

56.71) The above procedures relate especially to the treatment of cholera but are also applicable to other outbreaks or epidemic diseases, such as small pox and plague. In these cases, the necessity for segregation is equally important. In outbreaks of typhoid fever and the changing of the water supply is of the first importance.

Daily return during epidemic

56.72) Whenever epidemic sickness prevails in a prison, a daily return shall be furnished to the Inspector General. In this return, the Medical Officer shall briefly note the progress of

the epidemic, the measures he is taking to arrest it, and any information he may consider of importance. A copy of this return shall also be sent to the Director of Health Services, the Director of Medical Education and the Director of Public Health and Preventive Medicine, if any.

HUNGER STRIKES

Procedures to be followed

56.73) Prisoners who go on hungerstrike shall be warned that no redress of any alleged grievance shall be allowed as long as the strike continues and that they are liable to any prison punishment or to prosecution under section 52 of the J&K Prisons Act 1920 A. D.

56.74) After sufficient warning and before the refusal to take food has adversely affected them, and if any other punishment appears unlikely to deter them, they may be prosecuted under section 52 of the J&K Prisons Act, 1920 A. D. The usual concessions in the matter of interviews and letters shall be withdrawn from prisoners who are on hunger strike.

56.75) In case of mass hunger strike the prisoners shall be isolated as far as possible from each other and other prisoners.

56.76) When prosecutions are instituted under section 52 of the J&K Prisons Act, 1920 A. D the proceedings shall be held within the prison and shall be begun and completed with as little delay as possible.

Forcible feeding of prisoners on hunger strike

56.77) It is the duty of the prison authorities to do what they reasonably can to keep prisoners in their charge in health, and to save them from death. Where, therefore, on account of hunger strike a prisoner is likely to cause his own death, the Medical Officer may in his discretion at such stage as he thinks fit, direct that the prisoners be forcibly fed, if in his opinion it is the only means of keeping him alive. Forcible feeding shall not be attempted with unnecessary violence. Until the stage at which the necessity of forcible feedings is reached, food approved by the Medical Officer shall be regularly placed at the side of the hunger striker for his consumption and shall be renewed periodically.

Daily report to Government

56.78) The Medical Officer shall furnish daily reports on the health condition of the prisoner who is on hunger strike to the Superintendent who shall forward to Govt., with

copies to the Inspector General, the District Magistrate and the Superintendent of Police concerned.

OVERCROWDING

Report to the Inspector General

56.79) If a prison becomes overcrowded, the Superintendent shall take such suitable action as he thinks necessary for accommodating all prisoners properly and duly report the circumstances leading to overcrowding to the Inspector General. Any other matter pertaining to overcrowding shall always be referred to the Inspector General for orders.

Measures to relieve overcrowding

56.80) As soon as any number of prisoners in excess of the available accommodation is received in any prison or hospital, the Superintendent shall submit an immediate report to the Inspector General with a statement of the measures which he proposes to adopt to relieve the overcrowding, and such temporary arrangements as he thinks best shall be at once adopted for this purpose.

Location of Prisoners in sheds or tents

56.81) Prisoners in excess of the accommodation shall not, except as a temporary measure, be placed in worksheds or verandahs, but shall be located in sheds or tents inside or outside the prison. The Superintendent shall always obtain prior sanction whenever necessary for incurring expenditure in this regard and shall ensure economy in every aspect.

OTHER EMERGENCIES

56.82) Suitable action shall be taken according to the requirements and in case of other emergencies, the Superintendent shall report the circumstance to the Inspector General wherever necessary.

CHAPTER LVII

DEATH

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

- (i) the day on which the deceased first complained of illness or was observed to be ill,*
- (ii) the labour, if any, on which he was engaged on that day,*
- (iii) the scale of his diet on that day,*
- (iv) the day on which he was admitted to hospital,*
- (v) the day on which the Medical Officer was first informed of the illness,*
- (vi) the nature of the disease,*
- (vii) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,*
- (viii) when the prisoner died, and*
- (ix) in cases where a post-mortem examination is made, an account of the appearances after death, together with any special remarks that appear to the Medical Officer to be required.”*

[Section 15 of J&K Prisons Act, 1920 A. D.]

Unnatural death

57.2) If a prisoner dies within 24 hours of his admission to the prison, post-mortem examination shall be held.

57.3) Whenever a sudden or violent death or death from suicide or accident takes place in a prison, immediate notice shall be sent to the Superintendent and the Medical Officer and the body shall, if life be extinct, be left in the position in which it was found, pending inspection by the officers concerned.

57.4) In case a prisoner dies in prison due to causes other than natural causes or if the cause of death is not known or if the death has occurred due to suicide or violence or accident or whenever there is any doubt or complaint or question concerning the cause of death of any prisoner, the Superintendent shall inform the

officer in charge of the Police Station, having jurisdiction. The Superintendent shall immediately give intimation to the nearest Magistrate empowered to hold inquests. The Magistrate shall proceed to the place where the body of such deceased person is, and there, in the presence of two or more respectable persons, shall make an investigation and draw up a report regarding the apparent cause of death, describing such wounds, fractures, bruises and other marks of injury as may be found on the body, and stating in what manner or by what weapon or instrument (if any) such marks appear to have been inflicted.

57.5) A Magistrate who is also the Superintendent of the prison or is acting for the Superintendent shall not hold an inquest into the cause of death of any prisoner dying in the prison of which he has charge at the time, unless there be one other duly authorised Magistrate available for the duty.

57.6) No prison officer shall be called to express an opinion as to the cause of death of any prisoner.

57.7) A detailed report shall be prepared and signed by the Executive Magistrate and shall be forth-with forwarded to the District Magistrate or the Sub-divisional Magistrate and the Inspector General of Prisons. When there is any doubt regarding the cause of death or where for any other reasons, the Magistrate considers it expedient to do so post-mortem examination shall be ordered by the Magistrate. The video recording of the postmortem shall be done.

57.8) In case of death due to suicide, accident, violence, and sudden death, etc. both inquest and post-mortem shall be held. This does not apply to execution according to a judicial sentence.

57.9) Where the death has occurred due to violence or unnatural causes, the Superintendent shall at once send a brief report to the Inspector General.

57.10) The Superintendent shall then make a detailed investigation of all the circumstances connected with the case and forward the same without delay along with the inquest report to the Inspector General. This report shall contain a distinct and formal finding in addition to the depositions of the witnesses examined. The report shall be submitted along with the report made by the Magistrate, the nominal roll and the reports required under section 15 of the Act.

Natural deaths

57.11) The Medical Officer shall report to the Superintendent about the happening of the natural death of a prisoner and see that the body is decently removed to the mortuary.

57.12) In every case of illness which ends fatally the Medical Officer shall see the body of the prisoner and shall record full particulars of the cause of death in relevant registers.

57.13) In the case of natural death, the post-mortem examination may not be held by the Medical Officer where the Civil Surgeon (Chief Medical Officer) or his nominee concurs.

57.14) In case of death from an epidemic diseases, if the Medical Officer certifies that the body should not be kept in the prison for inquest but should be disposed of, the fact of death shall be reported to the District Magistrate. In the event of deaths occurring from any prevailing disease post-mortem examination shall be made only in one or a few selected cases.

57.15) Where the death is due to natural causes, the Medical Officer shall sign the casualty report. This will be forwarded to the Inspector General, along with the other documents.

57.16) The Inspector General need not submit such reports to Government unless they are of special importance or indicate some defect in the existing system or Prison Administration to which the attention of Government should specially be invited.

Action when a prisoner is found in a suspended position

57.17) If the prisoner is found in a suspended position and if there is reason to believe that life is not extinct or the point is doubtful, the body shall be at once raised to relieve pressure and all measures should be taken to restore consciousness without waiting for assistance which however should be called without delay. The body of the deceased prisoner shall be kept for the inspection and orders of the officer holding the inquest.

57.18) If the death is uncertain all measures shall at once be taken to restore animation and for this purposes the body may be removed immediately on its discovery from the position in which it was found.

Confession-consolation

57.19) Where a prisoner is about to die, if he so wishes, he may be allowed the facility of confession (if he is a Christian) or for consolation if he belongs to any other faith.

Disposal of dead body

57.20) If a prisoner dies in a civil hospital, his body shall be brought back to the prison in a municipal hearse or ambulance and shall be disposed of in accordance with prison rules.

57.21) The dead body of a prisoner shall be handled with all solemnity and it shall be disposed of in accordance with religious requirements.

57.22) If there be no relations or a friend with the last rites for prisoners who have been executed or have died in prison, their bodies shall be burnt or buried according to the faith of the prisoner at the prison crematory / cemetery.

57.23) The Superintendent may incur reasonable expenditure for performing the last rites of prisoners who die in prisons or are executed.

57.24) If there is a reasonable chance of a prisoner's relatives or family members staying elsewhere reaching the prison within 24 hours of the prisoner's death and if suitable arrangements for the preservation and safe keeping of the dead body can be made, the body may be kept at the most for 24 hours, so that the family members or relatives may be present at the time of disposal of body. If there is no chance of relatives reaching within 24 hours, the prison authorities shall dispose of in accordance with prison rules. In case the relatives or family members are staying in the locality, the dead body shall be disposed of, if not claimed, within six hours.

57.25) The body of any prisoner dying in prison or in civil hospital or executed in prison may be handed over to the relations of the deceased, if claimed by them, unless there are special reasons to the contrary, for example, where the prisoner dies of any infectious disease or where the prisoner is executed, there is danger to peace and tranquillity. The body when handed over to outsiders shall be disposed of in strict accordance with the requirements of the religion of the deceased.

57.26) Nobody can claim a dead body by right as it is not property. But prison authorities are responsible for the disposal of the body within 24 hours and according to the religion of the prisoner.

57.27) If there is a likelihood of public demonstration or agitation over a death in the prison or over the disposal of a dead body, the Superintendent shall obtain the instructions of the District Magistrate and act accordingly.

Intimation

57.28) Where the address of the prisoner's family members or relatives or friends is not known, the intimation about death shall be sent through the District Magistrate or District Superintendent of Police in whose jurisdiction the prisoner's home is situated or through the Police Station.

57.29) A notice of the death shall be sent to the Municipal Health Officer if the prison is situated within the limits of a municipality and in other cases to the District Magistrate of the District.

57.30) If a deceased convict belonged to or was convicted in a district other than that in which the prison is situated, his nominal roll shall be sent to the appropriate District Superintendent of Police.

57.31) Deaths of all prisoners whose finger prints have been taken shall be intimated immediately to the crime branch of the district in which the prison is situated.

57.32) When a military prisoner dies in the prison, immediate report thereof shall be given to the Commanding Officer who sent him to the prison.

57.33) When a foreign prisoner dies in the prison, immediate report shall be sent to the District Magistrate and the Inspector General of Prisons for further communication to Government. The State Government will inform the Embassy or the appropriate authority about the death of the foreign prisoner.

57.34) When a woman prisoner dies in prison and leaves a child behind, notice shall at once be sent to the Magistrate of the District who shall make arrangements for the care of such child. Should no relation or friend be found willing to take care of the child, the Magistrate shall either place it in some approved institution or shall entrust it to some respectable person.

Compensation

57.35) No compensation can be claimed as a legal right by the family members of a prisoner who meets with an accidental death ; however, on compassionate grounds, the Inspector General may move the Government to pay suitable ex-gratia relief to the dependants of the deceased prisoner. Such cases should be decided on the merit of each case.

Record

57.36) If any prisoner transferred for the benefit of his health dies within three months after his arrival of the disease on account of which he was transferred, his death shall be borne on the returns of the transferring prison. But if during this period he dies of a different disease or subsequently of the disease on account of which he was transferred, his death shall be included in the returns of prison wherein he dies. In the former case his admission shall not be included in the statistics of the despatching prison.

57.37) Where a prisoner dies in prison, his warrant shall be returned to the Court from which it was issued with an endorsement certifying the cause and date of death.

Where an undertrial prisoner dies in the prison, the Court or Courts in which the case or cases are pending against the deceased shall immediately be informed of the facts of death.

57.38) Entries should be made about the death of a prisoner in the relevant register and in the History Ticket of the prisoner in detail. The prisoner's History Ticket and other record such as temperature chart, etc. shall be preserved for two years.

Crematory - burial ground

57.39) There may, if possible, be a crematory and a burial ground attached to every prison, distinctly marked off or enclosed and used only for cremation or burial of prisoners.

57.40) In the selection of a crematory or burial ground, care should be taken that the plot selected is not too large near the prison or any city, town or village, that it is not too near a well, or other source of drinking water, used either by the prison or the source of drinking water, used either by the prison or the surrounding population, that the prevailing wind does not blow from it towards the prison and that sufficient ground is secured to meet all the requirements of the prison for at least fifteen years.

57.41) Crematories or burial grounds must always be enclosed by a fence and the graves dug in regular line. Each grave should be marked with a piece of wood, metal or stone on which the prisoner's number and name are recorded.

57.42) No grave shall be less than six feet deep. One or more graves should be kept ready for use.

57.43) In filling a grave, care shall be taken to press down the earth well so as to protect the body from the depredations of wild animals. The earth should be heaped up one foot above the surrounding surface of the ground and heavy stones or thorns, if procurable, should be placed on the top. The Superintendent and the Medical Officer shall periodically visit the burial ground and see that it is properly kept.

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CHAPTER LVIII

REGISTERS AND RECORDS

58.1) *The Superintendent shall keep, or cause to be kept, the following records:-*

- (i) *a register of prisoners admitted ;*
- (ii) *a book showing when each prisoner is to be released ;*
- (iii) *a Visitor's book for the entry of any observations made by the Visitors touching any matters connected with the administration of the prison ;*
- (iv) *a punishment book for the entry of the punishments inflicted on prisoners for prison offences ; and*
- (v) *a record of the money and other articles taken from prisoners and all such other records as may be prescribed by rules under section 59 of the J&K Prisons Act, 1920 A.D.*

[See Section 12 of the J&K Prisons Act, 1920 A. D.]

List of registers

58.2) The following registers and books shall be maintained in all prisons in so far as they may be applicable

- (I) Report and order books :—
 - (i) Visitor's Book
 - (ii) Superintendent's Journal
 - (iii) Medical Officer's Journal
 - (iv) Assistant Surgeon's Report Book
 - (v) Dy. Superintendent's Report Book
 - (vi) Female HeadWarder's Report Book
 - (vii) Superintendent's Order Book
- (II) General registers :—
 - (viii) Convict Register
 - (ix) Register of Undertrial Prisoners
 - (x) Register of Civil Prisoners

- (xi) Register of Detenus
- (xii) Register of Prisoners to be Released
- (xiii) Register of Juvenile Delinquents
- (xiv) Register of Habituals
- (xv) Register of Classification of Prisoners
- (xvi) Diary of Convicts Released and the amount paid to them
- (xvii) General Abstract of all classes of prisoners
- (xviii) Lock-up Register of all classes of prisoners
- (xix) Barrack-wise Prisoner's Register
- (xx) Panchayat Register
- (xxi) Temporary Release/ Parole/ Furlough Register
- (xxii) Interview Register
- (xxiii) Prisoner's Punishment Book
- (xxiv) Register of prisoners on whom fetters were imposed for security.
- (xxv) Clothing and Bedding Register.
- (xxvi) Prisoner's Escape Register
- (xxvii) Remission Sheets (in book form)
- (xxviii) Alphabetical Register for Convicts/ Undertrials/ Detenues
- (xxix) Alphabetical Register for Foreign National Prisoners
- (xxx) Register of Articles of Uniform received and issued to Warders.
- (xxxii) Defaulter Book
- (xxxiii) Ammunition Register
- (xxxiv) Ball Practice Register.
- (xxxv) Attendance Roll
- (xxxvi) Duty Register of Warders
- (xxxvii) Fine Statement Book
- (xxxviii) Register of current receipts
- (xxxix) Issue Register
- (xxxix) Stock Books and Ledger of Stationary and Forms.

(xl) Main Gate Register

(xlv) Stock Book of Civil Stores

(xlvii) File Register of Record Room

(xlviii) Delivery Books

(xlix) Old Record Register

(l) Destruction of Record Register

(li) Call Book

(lii) Casual Register of Staff

(liii) Miscellaneous Articles Stock Book

(liv) Library Books Register

(lv) Games Article Register

(lvi) Register of Subordinates due for Retirement within one year

(lvii) Punishment Roll

(lviii) Probation and Confirmation Register (cadre-wise)

(III) Ration registers

(lix) Stock Book of Ration

(lx) Diet Roll

(lxi) Garden Register

(lxii) Receipt Book for Articles Received

(lxiii) Weightment Register

(IV) Financial register

(lxiv) General Cash Book

(lxv) Register of Contingent Charges

(lxvi) Acquittance Roll

(lxvii) Register of Increments due to Staff.

(lxviii) Undisbursed Pay Register

(lxix) Budget Allotment Register

(lxx) Auction Book

- (lxxi) Treasury Bill Book
 - (lxxii) Treasury Intimation Book
 - (lxxiii) Register of Advance to Staff (Advance-wise)
 - (lxxiv) Earnest Money Deposit Register
 - (lxxv) Prisoner's Property Register
 - (lxxvi) Prisoner's Cash Property Register
 - (lxxvii) Register of Valuable Property of Prisoners
 - (lxxviii) Register of Prisoner's Welfare Fund Advance
- (V) Manufactory register
 - (lxxix) Stock Book of Raw Materials
 - (lxxx) Stock Book of Manufactured Articles
 - (lxxxii) Individual Ledger of Credit Sales
 - (lxxxiii) Day Book of Realizations
 - (lxxxiv) Store Keeper's Cash book
 - (lxxxv) Register of Inter and Intra-departmental Supplies
 - (lxxxvi) Stock Book of Manufactory Plant and Tools
 - (lxxxvii) Transit Register
 - (lxxxviii) List of Unsatisfied Manufactory Indents
 - (lxxxix) Register of Orders for Execution in the Manufactory Department
 - (xc) Weighment Register
 - (xci) Forwarding Memo Book of articles supplied
 - (xcii) Wage Earning Scheme Register
- (VI) Medical register
 - (xciii) Register of In-patients
 - (xciv) Register of Out-patients
 - (xcv) Invalid Group Register
 - (xcvi) Vaccination Register

(xcvii) Hospital Roll

(xcviii) Prescription Book

(xcix) Case Book

(c) Accident Register

(ci) Historical Register

(cii) Register of Surgical Instruments and Medicines

(ciii) Register of Hospital Clothing

(civ) Expence Book of Drugs

Categorisation of records

58.3) All prison registers, returns, letters and records of every description shall, for purposes of preservation or destruction of records, may be classified into the following seven heads, namely:-

(A) those to be preserved permanently,

(B) those to be kept for 35 years,

(C) those to be kept for 12 years,

(D) those to be kept for 10 years,

(E) those to be kept for 5 years,

(F) those to be kept for 3 years,

(G) those to be kept for 2 years,

Arrangement of records

58.4) Each of the seven classes of records shall be so arranged as to make it easy to select those records which have to be destroyed at the proper date, and, if possible, each class of records shall be kept separate from the other. Government orders, the J&K Government Gazette, and circulars of the Inspector General shall be bound annually. The records shall be tied up in cloth or wooden planks and kept in bundles of not more than 100 files each.

Register of records

58.5) The record keeper shall maintain three registers for records, one for records of categories A & B, one for categories C, D & E and the third for categories F & G.

58.6) On receipt of a file in the record section, the Record Keeper shall sign against the relevant entry relating to the file in the register of the concerned section. He shall then make necessary entries serially in the relevant register for records and mark the serial number of the file.

58.7) A placard shall be prominently displayed in the middle of each vertical line of shelves showing the year in which the files were recorded. A smaller placard shall be placed on each shelf showing the year of record, the nature of disposal, year of weeding and the first and last serial number, according to the register for records, of the files in bundles e.g., (1952-1953) Nos. 101 to 200.

58.8) In calculating the period of retention, the ensuring calendar year shall be taken as the first year.

Disposal of correspondance

58.9) The Superintendent shall exercise his discretion as to the classification of letters and correspondance, except in regard to documents bearing on the following subjects, which shall be permanently preserved, viz standing orders relating to important public works and manufactures, the acquisition and renting of land, pensions and any permanent charge upon Government, and escapes when the prisoner is not recaptured. The bundles to be permanently preserved should be marked with a coloured slip of paper and placed in the receptacle for permanent records. For further instructions, see J&K Financial Code Volume I.

Permanent records

58.10) The following are the records falling in category A, which shall be permanently preserved :-

(I) Financial

- (i) General Cash Book.
- (ii) Records connected with expenditure which is within the stature of limitation.
- (iii) Records connected with expenditure on projects, scheme or work not completed, although beyond the period of limitation.
- (iv) Records connected with claims to service and personal matters affecting Government servant who are in service.
- (v) Orders and sanctions of a permanent character, until revised.

(vi) Pension cases (including the service books and leave accounts attached thereto).

(vii) Diary of convicts released and the amounts paid to them.

(viii) Office copies of pay bills.

(II) Manufactory Department

(ix) Day Book of Credit Sales.

(x) Day Book of Realizations.

(xi) Store Keeper's Cash book.

(xii) Stock Book of Manufactory Plant.

(III) Medical

(xiii) Case History.

(xiv) General Stock Register.

(xv) Receipt/ Issue Register of Medicines.

(xvi) Laboratory Register.

(IV) General

(xvii) The printed Annual Administration Report of the Prison Department and Government Order thereon.

(xviii) Circulars of the Inspector General.

(xix) Proceeding of Government.

(xx) The J&K Gazette.

(xxi) Superintendent's Order book.

(xxii) Convicts Register.

(xxiii) Register of Currents received in Prison Manufactory.

(xxiv) Stock Book of Civil Stores.

(xxv) Prisoner's Escape Register.

(xxvi) File Register of Record Room.

Record to be kept for thirty five years

58.11) The following are the records falling in category B which shall be preserved for 35 years and then destroyed:-

(I) Financial

- (i) Annual Establishment Returns.
- (ii) Books of Establishment.
- (iii) Pay Bills and Acquittance Rolls where these are maintained separately of Government servants for whom no establishment returns are submitted or no service books are maintained.

Records to be kept for twelve years

58.12) The following are the records falling in category C, which shall be preserved for twelve years and then destroyed :-

(I) General

- (i) Visitor's Book.
- (ii) Superintendent's Journal.
- (iii) Medical Officer's Journal.
- (iv) Deputy Superintendent's Report Book.
- (v) Report Book of the female Head Warder.
- (vi) Register of Under-trial Prisoners.
- (vii) Register of Civil Prisoners.
- (viii) Register of Prisoners to be Released.
- (ix) Home Leave Register.
- (x) Parole/Furlough Register.
- (xi) Miscellaneous Article Stock Book.
- (xii) Library Books Register.
- (xiii) Games Article Register.
- (xiv) Punishment Roll.
- (xv) Probation and Confirmation Register (cadre-wise).

(xvi) Register of Advance to Staff (Advance-wise).

(xvii) Prisoner's Punishment Book.

(xviii) Defaulter Book.

(xix) Fine Statement Book.

(xx) Prisoners Property Register.

(xxi) Register of Valuable Property of prisoners.

(II) Rations

(i) Stock Book of Rations.

(ii) Diet Roll.

(iii) Garden Register.

(iv) Receipt Book for Articles Received.

(v) Weighment Register.

(vi) Delivery Book.

(vii) Bill Book of Payment for the Purchase of Rations.

(III) Manufactory Department

(i) Stock Book of Raw Materials.

(ii) Stock Book of Manufactured Articles.

(iii) Individual Ledger of Credit Sales.

(iv) Wages Register.

(v) Transit Register.

(vi) Data Book.

(vii) Weighment Register.

(IV) Medical

(i) Hospital Register of In-patients.

(ii) Hospital Register of Out-patients.

(iii) Invalid Group Register.

(iv) Vaccination Register.

(v) Hospital Roll.

(vi) Prescription Book.

(vii) Physician Specialist's Report Book.

(viii) Asstt. Surgeon's Report Book.

(ix) Bed Head Ticket.

(x) Register of Surgical Instruments and Medicines.

(xi) Register of Hospital Clothing.

(xii) Expence Book of Drugs.

(xiii) Accident Register.

Records to be kept for ten years

58.13) The following are the records falling in category E, which shall be preserved for five years and then destroyed :-

(i) General Abstract of all classes of prisoners.

(ii) Lock-up Register for all classes of prisoners.

(iii) Labour Register.

(iv) Register of Prisoners on whom Fetters were imposed for Security.

(v) Clothing and Bedding Registers.

(vi) Stock Books and Ledger of Stationary and Forms.

(vii) Ammunition Register.

(viii) Register of Articles of Uniform recieved and issued to Warders.

(ix) Ball Practice Register.

(x) Main Gate Register.

(xi) Register of Orders for Execution in the Manufactory Department.

(xii) List of Unsatisfied Manufactory Indents.

- (xiii) Office copies of all monthly, quarterly, halfyearly and annual returns and statements.
- (xiv) Counter-foils of Indents.
 - (xv) Register of Contingents Expenditure.
 - (xvi) Detailed Budget Estimates.
 - (xvii) Mortality Return of Prisoners.
 - (xviii) Counter-foils of used Cheque Books.
 - (xix) Duty Roster of Warders.
 - (xx) Attendance Roll.
 - (xxi) Register of Inter and Intra-Departmental Supplies.
 - (xxii) Call Book.
 - (xxiii) Panchayat Register.
 - (xxiv) Barrack wise Prisoners Register.
 - (xxv) Budget allotment Register.
 - (xxvi) Undisbursed Pay Register.
 - (xxvii) Auction Book.
 - (xxviii) Treasury Bill Book.
 - (xxix) Treasury Intimation Book.
 - (xxx) Earnest Money Deposit Register.
 - (xxxi) Forwarding Memo Book of Articles Supplied.
 - (xxxii) Service Books and other pension cases.

Records to be kept for three years

58.14) The following are the records falling in category F, which shall be preserved for three years and then destroyed :-

Financial

- (i) Sub-vouchers for sum of Rs. 50/- or above pertaining to contingencies.
- (ii) Travelling Allowance Bills.
- (iii) Leave Accounts of Non Gazetted Govt., Servants.

Record to be kept for two years

58.15) The following are the records falling in Class G, which shall be preserved for two years and then destroyed:-

- (i) Certificate of Admission of Prisoners into prison.
- (ii) Casual Leave Register of staff.
- (iii) Interview Register.
- (iv) Nominal Rolls of Convicts.
- (v) History Tickets of Convicts Unconditionally Released or Dead.
- (vi) Indents for prison and Hospital Clothing.
- (vii) Medical Officer's Certificate of fitness to undergo solitary confinement.
- (viii) Vouchers for cash payments below Rs. 25/-.
- (ix) Reports of delivery of charge of office of Superintendent.
- (x) Statement of monthly progressive expenditure and correspondance relating to discrepancy in figures.
- (xi) Register of subordinates due for retirement within one year.
- (xii) Other papers not mentioned in these rules.

58.16) The records due for destruction under these rules shall be destroyed by the Record Keeper at the end of each year under the supervision of the Office Superintendent, or the Dy. Superintendent as the case may be, nominated by the Superintendent for this purpose. The Record Keeper and the Office Superintendent, or the Dy. Superintendent as the case may be, shall be held responsible for any mistake or delay in the work of destruction.

58.17) Before a record is actually destroyed:-

- (i) a note indicating its destruction shall be made under the signature of the Office Superintendent, or the Dy. Superintendent, as the case may be, in the register of destruction of records ;
- (ii) the date of destruction shall be entered in the remarks column of the relevant register of records and the serial number shall be rounded off in red ink ; and
- (iii) in case there are any records which do not appear in the register of records , such records shall be entered in a separate register and a note indicating their destruction shall be made accordingly.

58.18) If the Office Superintendent, or the Dy. Superintendent, as the case may be, is of the opinion that a record which may be destroyed under the rules should be preserved permanently or for a period longer than that provided for under these rules, he shall submit such record to the Superintendent with his opinion and instructions.

58.19) The records shall be destroyed by treating up all papers provided that stamped papers, used stamps, papers bearing the signature of the Chief Minister or the Minister and confidential papers shall be burnt in the presence of the Office Superintendent, or the Dy. Superintendent as the case may be.

58.20) The torn up records shall be disposed of in accordance with the standing orders of Govt., issued from time to time in this regard.

58.21) Where a minimum period after which any record may be destroyed has been prescribed, Heads of Departments may order in writing the destruction of such records in their own and subordinate offices on the expiry of that period counting from last day of the latest official year covered by the record.

58.22) Heads of Departments are competent to sanction the destruction of such other records in their own and subordinate offices as may be considered useless, but a list of such records as properly appended to the accounts audited by the Indian Audit and Accounts Deptt., should be forwarded to the Accountant General for his concurrence in their destruction before the destruction is ordered by the Head of the Department.

58.23) Full details should be maintained permanently in each office of all records destroyed from time to time.

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CHAPTER LIX
STATE ADVISORY BOARD

Composition

59.1) State Advisory Board will have the following composition :-

- (i) Chairman. - Inspector General of prisons and Correctional Services,
- (ii) Members. -
 - two social workers from the field of correctional work ;
 - one representative of the Administration of Justice ;
 - one representative of Police Department ;
 - two representatives of Correctional Services ;
 - representatives of Director of Education, Director of Social Welfare, Director of Industries and Commerce, and Director of Agriculture, and University Department engaged in training and research in criminology and correctional work.

Function

59.2) State Advisory Board will have the following functions :-

- (i) to advise regarding prevention, control and treatment of delinquency and crime ;
- (ii) to suggest ways and means for improving levels of co-ordination between Administration of Justice, Police Administration and Correctional Administration ; and
- (iii) to suggest measures for creating social consciousness for the rehabilitation of offenders.

The detailed rules regarding the working of the Board shall be separately framed by the Government.

Frequency and quorum of meetings

59.3) The State Advisory Board shall meet at least once a year and at such other times as the Chairman may decide. As and when necessary, the Board may send for the views of experts from fields related to correctional work. The quorum for a meeting of the Board shall be seven including the chairman.

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4 6 3
**THE JAMMU AND KASHMIR
GOOD CONDUCT PRISONERS
(TEMPORARY RELEASE) ACT, 1978.
(ACT NO. VII OF 1978)**

[9TH MAY, 1978.]

An Act to provide for the temporary release of prisoners for good conduct on certain conditions.

Be it enacted by the Jammu and Kashmir State Legislature in the Twenty-ninth year of the Republic of India as follows :-

1. **Short title, extent and commencement** .—(1) This Act may be called the Jammu and Kashmir Good Conduct Prisoners (Temporary Release) Act, 1978.

(2) It extends to the whole of the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

2. **Definitions**.—In this Act, unless the context otherwise requires :—

(a) “ District Magistrate ” means the District Magistrate of the District within whose jurisdiction the prisoner after his temporarily release under this Act, is likely to reside during the period of his release :

(b) “ Member of prisoner’s family ” means the husband, wife, son, daughter, father, mother, brother or sister of the prisoner :

(c) “ Prescribed ” means prescribed by the rules made under this Act :

(d) “ Prisoner ” means a person confined in prison under a sentence of imprisonment :

(e) “ Superintendent of Jail ” means the Superintendent of jail in which the Prisoner is undergoing his sentence of imprisonment.

3. **Temporary release of prisoners on certain grounds**.—(1) The Government may, in consultation with the District Magistrate and subject to such condition and in such manner as may be prescribed, release temporarily for a

period specified in Sub-section. (2) any Prisoner if the Government is satisfied that :—

- (a) a member of the prisoner's family has died or is seriously ill ; or
- (b) the marriage of the prisoner's son or daughter is to be celebrated ; or
- (c) the temporary release of the prisoner is necessary for ploughing, sowing or harvesting or carrying on any other agriculture operation on his land and no friend of the prisoner or a member of the prisoner's family is available for under taking such operations in his absence : or
- (d) it is desirable so to do for any other sufficient cause.

(2) The period for which prisoner may be released shall be determined by the Government so as not to exceed :—

- (a) Where the prisoner is to be released on the ground specified in clause (a) of sub-section (1), four weeks.
- (b) Where the prisoner is to be released on the ground specified in clause (b) or clause (d) of sub-section (1), four weeks ; and
- (c) Where the Prisoner is to be released on the ground specified in clause (c) of Sub-Section (1), Six weeks.

(3) The period of release under this section shall not count towards the total period of the sentence undergone by the prisoner.

(4) The Government may by notification authorise any officer to exercise its powers under this section in respect of all or any of the grounds specified therein.

4. Temporary release of prisoners on furlough.—(1) The Government or any other officer authorised by it in this behalf may in consultation with the District Magistrate and subject to such conditions and in such manner as may be prescribed release temporary on furlough, any prisoner who has been sentenced to a term of imprisonment of not less than five years, and who :—

- (a) has, immediately before the date of his temporary release, under-gone imprisonment for a period of three years excluding remission ; and

(b) has not during such period committed any Jail offence and has earned at least three annual good conduct remissions :

Provided that nothing therein shall apply to a prisoners who :—

- (i) is habitual offender as defined in sub-section (2) of section 2 of the Jammu and Kashmir habitual offenders (Control and Reforms) Act, 1956 : or
- (ii) has been convicted of robbery or dacoity or such other offences as the Government may, by notification, specify.

(2) The period of furlough for which a prisoner is eligible under sub-section (1) shall be three weeks during the first year of his release and two weeks during each successive year, thereafter.

(3) Subject to the provisions of clause (d) of sub-section (3) of section 8, the period of release referred to in sub-section (1) Shall count towards the total period of the sentence of a prisoner.

5. Exclusion of certain days in computing period under sections 3 and 4.—For the purpose of calculating the period of temporary release of a prisoner under section 3 and 4, the days of departure from any arrival at the prison shall be excluded.

6. Prisoners not entitled to be released in certain cases.—Notwithstanding anything containing in section 3 and 4 number prisoner shall be entitled to be released under this Act if, on the report of the District Magistrate, the Government or an officer authorised by it in this behalf is satisfied that his release is likely to endanger the security of the state or the maintenance of public order.

7. Journey expenses of poor prisoners to be borne by Government, if on the report of the District Magistrate, the Government is satisfied that a prisoners family cannot bear expenses of his journey from and to the prison after his temporary release under this Act, the expenses may be borne by the Government such extent and in such manner as may be prescribed.

8. Liability of prisoner to surrender on expiry of release period and consequence of overstaying.—(1) On the expiry of the period for which prisoner is released under this Act, he shall surrender himself to the Superintendent of the Jail from which he was released.

(2) If a prisoner does not surrender himself as required by sub-section (1) Within a period of ten days from the date on which he should have so surrendered, he may be arrested by any police officer without a warrant and shall be remained to undergo the un-expired portion of his sentence.

(3) If a prisoner surrenders himself to the superintendent of the Jail from which he was released within a period of ten days of the date on which he should have so surrendered, but fails to satisfy the superintendent of the Jail that he was prevented by any sufficient cause from surrendering himself immediately on the expiry of the period for which he was released, all or any of the following penalties shall, after affording the prisoner a reasonable opportunity of being heard, be awarded to him by the Superintendent of the Jail, namely :—

- (a) a maximum cut of five days remission for each day of overstay :
- (b) stoppage of canteen concession for a maximum period of one month :
- (c) withholding concession of either Interviews or letters or both for a maximum period of three months ;
- (d) the period of temporary release on furlough of the prisoner under section 4, shall not be counted towards, his sentence :
- (e) warning :
- (f) reduction from the status and grades of “Convict Watch man” or “Convict Overseer”.

9. Penalty for failure to surrender.—Any prisoner who is liable to be arrested under – section (2) of section 8, shall be punishable with imprisonment of either description which may extend to two years or with fine or with both on a complaint filed by the superintendent of jail before Judicial Magistrate of Ist. class having territorial jurisdiction in the matter.

Explanation :— The punishment in this section is in addition to the punishment awarded to the prisoner for the offence for which he was convicted.

10. Power to make rules.—(1) The Government may, by notification in the Government Gazette, make rules for carrying out the purposes of this Act.

2) In particular and without prejudice to the generality of the forgoing powers, such rules may provide for :—

- (a) the execution by the prisoner (including his sureties) of bound for his good behavior during the release period and for the surrender on the expiry of such period ;
- (b) the amount for which and the form and manner in which such bonds shall be furnished ;
- (c) the forfeiture of the amount of bonds in case of breach of its terms ;
- (d) the conditions on which and the manner in which prisoner may be released temporarily under this Act ;
- (e) the manner in which the District Magistrate shall be consulted before a prisoner is released.
- (f) The extent to which and the manner in which Journey expenses of poor prisoners shall be borne by the Government.
- (g) Any other matter which is to be or may be prescribed.

(Sd.) G. A. KHAN

Deputy Secretary to Government

**GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECTT. HOME DEPARTMENT**

**NOTIFICATION
J A M M U, THE 2nd April 1979**

SRO-212.—In exercise of the powers conferred by sub-Section (4) of Section 3 of the Jammu and Kashmir Good Conduct Prisoners (Temporary Release) Act, 1978, the Government hereby authorise the Controller of Prisons to exercise its powers under the said section in respect of 11 the grounds specified wherein.

By order of the Government of Jammu and Kashmir.

(Sd.) I . D . SHARMA ,

Secretary to Government,
Home Department.

No: Home- IS- 63-J/78

Dated: 2-4-1979

Copy forwarded for information and favour of necessary action to the :—

1. Secretary to Government, Law Department (w.3.s.c.)
2. Divisional Commissioner, Jammu/ Kashmir.
3. All District Magistrates.
4. Controller of Prisons, Jammu and Kashmir, Jammu.
5. Inspector General of Police, J&K, Jammu.
6. All District Superintendent of Police's.
7. Superintendent Central Jail, Srinagar/ Jammu.
8. Superintendent Sub-Jail_____
9. Director of Information.
10. Manager Government Press, Jammu for publication in the Government Gazetted.

(Sd.) K.S. SALATHIA,

Deputy Secretary to Government,
Home Department.

THE JAMMU AND KASHMIR HABITUAL OFFENDERS
(CONTROL AND REFORM) ACT, 1956

Act No. XI of 1956.

[Received the assent of the Sadar –I- Riyasat on 17th May , 1956 and published in Government Gazette (Extra). Dated 31st May, 1956.]

An Act to provide for the registration of habitual offenders in the State of Jammu and Kashmir and for imposing certain restrictions on them.

Be it enacted by the Jammu and Kashmir State Legislature in the Seventh Year of the Republic of India as follows:—

1. **Short title, extent and commencement.**—(1) This act may be called the Jammu and Kashmir habitual Offenders (Control and Reform) Act, 1956.
(2) It shall extend to the whole of the Jammu and Kashmir State.
(3) It shall come into force on 1st April, 1956.

2. **Definition.**—(1) “Code” means the Code of Criminal Procedure (Act XXIII of 1989) ;

(2) Habitual Offender means a person.

(a) who, during any continuous period of five years, whether before or after the commencement of this Act, has been convicted and sentenced to imprisonment more than twice on account of any one or more of the offences mentioned in the Schedule to this Act committed on different occasions and not constituting parts of same transaction; and

(b) who has, as a result of such convictions, suffered imprisonment at least for a total period of twelve months.

Explanation.—1. A conviction which has been set aside in appeal or revision and any imprisonment suffered in connection therewith shall not be taken into account for the above purpose.

Explanation.—2. In computing the period of five years, any periods sent in jail either under a sentence of imprisonment or under detention shall not be taken into account ;

(3) “registered person” means a person registered under this Act, as a habitual offender ;

(4) “prescribed” means prescribed by rules made under this Act.

(5) Words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

3. Registration of habitual offenders.—The Government may direct the District magistrate to make or cause to be made a register of habitual offenders within his district.

4. Restriction on registration.—No person shall be registered under this Act if more than six months have elapsed since the expiration of the sentence of imprisonment relating to his last conviction.

5. Procedure in making register.—Upon receiving a direction under section 3, the District Magistrate shall publish a notice in the prescribed manner calling upon habitual offenders—

(i) to appear at a time and place specified therein before the person appointed by him in this behalf,

(ii) to give that person such information as may be necessary to enable him to complete the register, and cause a register of habitual offenders to be prepared;

Provided that before entering the name of any person in such register the District magistrate or magistrate not below the rank of second class appointed by him in this behalf shall give him a reasonable opportunity to show cause why such entry should not be made.

6. Charge of register.—The register, when made, shall be placed in the keeping of the Superintendent of Police of the District, who may, from time to time, report to the District Magistrate such alterations as ought in his opinion to be made therein by way of addition or erasure.

7. Alterations in register.—(1) After the register has been placed in the keeping of the Superintendent of Police and subject to the provisions of section 8, no person's name shall be added to the register, and no registration shall be cancelled except by, or under an order in writing of, the District Magistrate.

(2) Before the name of any person is added to the register under this section, the District magistrate shall give notice in the prescribed manner to the person concerned—

(a) to appear before him or any authority appointed by him in this behalf at a time and place therein specified;

(b) to give to him or such authority such information as may be necessary to enable the entry to be made;

Provided that before adding the name of any person to such register, the District Magistrate or a person not below the rank of second class Magistrate appointed by him in this behalf shall give him a reasonable opportunity to show cause why such addition should not be made.

8. Complaints of entry in register.—Any person aggrieved by any entry made, or proposed to be made, in such register, either when the register is first made or subsequently, may represent to the [Commissioner of the Province against such an entry, who shall retain such person's name on the register or enter it therein or erase it there from, as he may think fit:

Provided that the Government shall be competent, either on its own motion, or, on an application made in this behalf by the aggrieved person to confirm, alter or rescind any order passed by the Commissioner].

9. Power to take finger impressions, photographs and foot-prints at any time.—The District Magistrate or any officer appointed by him in this behalf may at any time order the finger impressions, photographs and foot-prints of any registered person to be taken.

10. Registered persons to report themselves or notify their place of residence.—(1) The District Magistrate may, in respect of any

registered person, give either one, or both, of the following directions, namely that every such person shall in the prescribed manner—

- (a) report himself at fixed intervals, and
- (b) notify his place of residence and any change or intended change of residence, and any absence or intended absence from his residence:

Provided that no such order shall be made for a term exceeding three years, nor shall it be made unless the necessity for making it has been established to the satisfaction of the District Magistrate, after an enquiry held by such authority and in such manner as may be prescribed.

(2) Where a registered person in respect of whom the District Magistrate has issued a direction under sub-section (1) changes his place of residence to a district other than the in which he has been registered, the provisions of this Act shall apply to him as if he had been registered in that district in pursuance of a direction made under section 3.

(3) Where any such registered person changes his place of the residence to a district other than that in which he has been registered, the relevant entry in the register shall be transferred to the Superintendent of police of that District.

11. Power to restrict movements of or settle registered persons.— (1) If the Government considers that it is expedient that any registered person should be—

- (a) restricted to any specified area, or
- (b) settled in any place of residence.

The Government may, by notification in the Government Gazette, declare that such person shall be restricted to the area specified in the notification or shall be settled in the place of residence so specified, as the case may be:

Provided that no such declaration shall have effect for a period in excess of three years.

(2) Before making any such declaration, the Government shall consider the following matters in an inquiry held by such authority and in such manner as may be prescribed—

(i) the nature and the circumstances of the offences in which the registered person is believed to have been concerned ;

(ii) whether the registered person follows any lawful occupation, and whether such occupation is a real occupation or merely a pretence for the purpose of facilitating the commission of crimes ;

(iii) the suitability of the restriction area, or of the place of residence, as the case may be, which it is proposed to specify in the notification ;

(iv) the manner in which it is proposed that the person to be restricted or settled shall earn his livelihood within the restriction area or in the place of residence, and the adequacy of the arrangements which are proposed therefor.

12. Power to vary specified area or place of residence.—The Government may, by a like notification, vary the terms of notification issued by it under section 11 for the purposes of specifying another restriction area or another place of residence, as the case may be, and any officer empowered in this behalf by Government may, by order in writing, vary any notification made under section 11 or under this section for the purposes of specifying another restriction area, or, as the case may be, another place of residence in the same district.

13. Verification of presence of registered person within prescribed areas or place of residence:- Every registered person whose movements have been restricted or who has been settled in a place of residence under the provisions of this Act shall attend at such place and as such time and before such person as may be directed in this behalf.

SETTLEMENTS AND SCHOOLS

14. Power to place registered persons in settlements.—(1) The Government may establish industrial, agricultural or reformatory settlements

and schools and may order to be placed in such settlement or school any registered person:

Provided that no such order shall be made unless the necessity for making it has been established to the satisfaction of the Government after an enquiry held by such authority and in such manner as may be prescribed.

(2) No order under sub-section (1) shall be for a term exceeding five years.

15. Powers to discharge or transfer persons from settlements or schools.— The Government or any officer authorized by it in this behalf may, at any time, by general or special order, direct any person who may be in any industrial, agricultural, or reformatory settlement or school in the State—

(a) to be discharged, or

(b) to be transferred to some other settlement or school in the State.

RULES

16. Power to make rules.—(1) The Government may make rules to carry out the purposes and objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for or regulate—

(a) the form and contents of the register referred to in section 3;

(b) the manner in which the notice referred to in section 5 shall be published and the means by which the persons whom it concerns, and the village headman, village watchman and landowners and occupiers of the village in which such persons reside, and the agents of such landowners or occupiers, shall be informed of its publication;

(c) the addition of names to the register and the erasure of names therein, and the mode in which the notice referred to in sub-section (2) of section 7 shall be given;

- (d) the manner in which persons mentioned in section 10 shall report themselves, or notify their residence or any change or intended change of residence, or any absence or intended absence;
- (e) the nature of the restrictions to be observed by persons whose movements have been restricted by notifications under section 11 or section 12;
- (f) the circumstances in which registered persons shall be required to possess and produce, for inspection, certificates of identity and the manner in which such certificates shall be granted ;
- (g) the conditions as to passes under which persons may be permitted to leave the place in which they are settled or restricted;
- (h) the conditions to be inserted in any such pass in regard to-
 - (i) the places where the holders of the pass may go or reside;
 - (ii) the persons before whom, from time to time , he shall be bound to report himself; and
 - (iii) the time during which he may absent himself;
- (i) the place and the time at which, and the person before whom, registered persons shall report in accordance with the provisions of section 13;
- (j) the authority by whom and the manner in which the inquiry referred to in section 14 shall be held;
- (k) the inspection of the residences and villages of any registered person;
- (l) the terms upon which registered persons may be discharged from the operation of this Act;
- (m) the management, control and supervision of industrial, agriculture or reformatory settlements and schools;
- (n) the works, on which, and the hours during which, persons placed in an industrial, agricultural or reformatory settlement shall be employed, the rate at which they shall be paid, and the disposal, for the benefit of such persons, of the surplus proceeds of their labor; and

- (o) the discipline to which persons endeavoring to escape from any industrial, agricultural, reformatory settlement or school, or otherwise offending against the rules for the time being in force shall be subject, the periodical visiting of such settlement or school and the removal from it of such persons as are considered expedient to be removed.

PENALTIES AND PROCEDURE

17. Penalties for failure to comply with terms of notice under section 5 or section 7.—Whoever without lawful excuse, the burden of proving which shall lie upon him,—

- (a) fails to appear in compliance with a notice issued under section 5 or section 7, or
- (b) intentionally omits to furnish any information required under either of those sections, or
- (c) when required to furnish information under either of those sections, furnishes as true any information under either of those sections, furnishes as true any information which he knows or has reason to believe to be false, or
- (d) refuses to allow his finger impressions, photographs and footprints to be taken by any person acting under an order passed under section 9, may be arrested without warrant, and shall, on conviction, be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both.

18. Penalties for breach of rules.—(1) Any registered person who contravenes any rule notice, direction or order made under this Act, the breach of which is not otherwise provided for, shall be punishable with imprisonment for a term which may extend,—

- (a) on a first conviction, with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred rupees, or with both; and
 - (b) on any subsequent conviction, with imprisonment for a term which may extend to one year, or with fine which may extend to five hundred rupees, or with both.
- (2) Any person who commits an offence made punishable by section which is not a cognizable offences as defined in the Code may be arrested

without a warrant by any officer-in-charge of a police station or by any police officer not below the rank of a Sub-Inspector.

19. Arrest of registered persons beyond prescribed limits.—(1) If a registered person is found outside the area or place of residence to which his movements have been restricted or in which he has been settled, in contravention of the conditions, under which he is permitted to leave such area, or who escapes from an industrial, agricultural or reformatory settlement or school in which he has been placed may be arrested without warrant by any police officer, village headman or village watchman, and shall be taken before a Magistrate, within 24 hours of such arrest, and the Magistrate, on proof of the facts, shall order him to be removed to such area or place or to such settlement or school, as the case may be there to be dealt with in accordance with this Act or any rules made thereunder.

(2) The rules for the time being in force for the removal of prisoners shall apply to all persons removed under this section or under any other provision of this Act :

Provided that an order from the Government or from the Inspector General of Prisons shall not be necessary for the removal of such persons.

20. Duties to report arrival and departure.—Any person, authorised or appointed in this behalf, shall forthwith report to the officer-in-charge of the nearest police station the arrival or departure of—

- (a) a person who has failed to give information in answer to a notice under section 5 of this Act,
- (b) a registered person under this Act.

21. Penalty for breach of such duties.— Any person who fails to comply with the requirements of a section 20 shall be deemed to have committed an offence punishable under the first part of section 176 of the Ranbir Penal Code (Act XII of 1989).

22. Repeal and saving.—(1) The Jammu and Kashmir Criminal Tribes Act, 1976 (II of 1976) is hereby repealed.

(2) Notwithstanding such repeal, every person who stood registered under that Act at the commencement of this Act and who is a habitual offender as defined in sub-section (2) of section 2 of this Act shall be deemed to be a registered person under this Act; provided that more than six months have not elapsed since the expiration of the sentence of imprisonment relating to his last conviction at the time of the commencement of this Act.

(3) With respect to such persons as are referred to in the next preceding sub-section, all orders passed under sections 10,12 and 16 of the Criminal Tribes Act (Act II of 1976) shall be deemed to have been passed under sections 10, 11 and 14 of this Act, respectively

23. Bar of Jurisdiction of Courts in questions relating to certain notifications.—No Courts shall question the competence of any authority making or issuing any notification, order or direction, under this Act,

24. Saving of certain orders.—(1) Nothing in this Act shall empower any authority to pass an order under section 10 or section 11 of this Act in respect of a person against whom an order under section 565 of the Code is in force.

(2) No court shall be competent to pass an order under section 565 of the Code in regard to a person against whom any order under this Act is in force.

25. Saving of existing rules.—The rules framed under the criminal Tribes Act, 1976 (II of 1976), shall continue in force in so far as they are not inconsistent with the provisions of this Act, and shall so remain in force until they are replaced by rules framed under this Act.

SCHEDULE

- (1) All offences mentioned in Chapter XII of the Ranbir Penal Code (Act XII of 1989) .
- (2) All offences punishable under the following sections of the Ranbir Penal Code (Act XII of 1989) :—
302, 303, 304, 307, 326, 327, 328, 329, 363, 364, 365, 366, 366-A, 366-B, 367,368, 369, 376, 377, 379, 380, 381, 382, 384, 385, 386, 387, 392, 393, 394, 395, 396, 397, 398, 399, 400, 402, 409, 411, 412, 412, 414, 420, 449, 450, 454, 455, 456, 457, 458, 459 and 460.
- (3) An offence under section 3 of the Public Gambling Act, 1977 (XVIII of 1977).
- (4) Any offence under Essential Supplies (Temporary Powers) (Ordinance No.1 of 2003) and orders issued there under.

THE LIMITATION ACT, 1995 (1938 A.D.)
Act No. IX of 1995

[Received assent of His Highness the Maharaja Bahadur on 27th June,
1938/14th Har, 1995 and published in the Government Gazette
dated 7th Assuj, 1995]

An Act to Consolidated and amend the Law for the Limitation of Suits, and for the other purposes.

Whereas it is expedient to consolidate amend the law relating to the limitation of suits, appeals and certain applications to Courts ; and

Where as it is also expedient to provide rules for acquiring by possession the ownership of property ; It is hereby enacted as follows :—

Part-I

Preliminary

1. *Short title, extent and commencement.*—(1) This Act may be called the Limitation Act No. IX of 1995.

(2) It extends to the whole of Jammu and Kashmir State including the Illaqa of Poonch and Chenani.

(3) It shall come into force one year after the date when after receiving the assent of His Highness the Maharaja Bahadur it is published in the Government Gazette.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

- (1) “applicant” includes any person from or through whom an applicant derives his right to apply ;
- (2) “bills of exchange” includes a hundi, brat and a cheque ;
- (3) “bond” includes any instrument whereby a person obliges himself to pay money to another, on condition that the obligation shall be void if a specified act is performed, or is not performed, as the case may be ;
- (4) “defendant” includes any person from or through whom a defendant derives his liability to be sued :
- (5) Omitted ;

- (6) “foreign country” means any country other than India ;
- (7) “good faith” nothing shall be deemed to be done in good faith which is not done with due care and attention ;
- (8) “plaintiff” includes any person from or through whom a plaintiff derives his right to sue ;
- (9) “promissory note” means any instrument where by the maker engages absolutely to pay a specified sum of money to another at a time therein limited, or on demand, or at sight ;
- (10) “suit” does not include an appeal or an application ; and
- (11) “trustee” does not include a benamindar, a mortgagee remaining in possession after the mortgagee has been satisfied, or a wrong-doer in possession without title.

Part-II

Limitation of Suits, Appeals and Applications

3. *Dismissal of suits, etc., instituted, etc. after period limitation.*—Subject to the provisions contained in sections 4 to 25 (inclusive), every suit instituted, appeal preferred, and application made, after the period of limitation prescribed therefor by the first Schedule shall be dismissed, although limitation has not been set up as a defence.

Explanation.—A suit is instituted, in ordinary cases, when the plaint is presented to the proper officer ; in the case of pauper, when his application for leave to sue as a pauper is made ; and, in the case of a claim against a company which is being wound up by the Court, When the claimant first sends in his claim to the official liquidator.

4. *Where Court is closed when period expires*—Where the period of limitation prescribed for any suit, appeal or application expires on a day when the Court is closed, the suit appeal or application may be instituted, preferred or made on the day that the Court re-opens.

5. *Extension of period in certain cases.*—An appeal or an application for a review of a judgement or for leave to appeal or an application to set aside an order of dismissal of a suit for plaintiff’s default or an application to set aside a decree passed ex-parte in an original suit or appeal or an application to bring the heirs of a deceased party on the record or an application to set aside an order of abatement of suit or appeal or any other application to which this section may be made applicable by or under an enactment for the time being in force may be admitted after the period

of limitation prescribed therefor, when the appellant or applicant satisfy the Court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact the appellant or applicant was misled by any order, practice or judgement of the High Court in ascertaining or computing the prescribed period of limitation may be sufficient cause within the meaning of this section.

6. *Legal disability.*—(1) Where a person entitled to institute a suit or make an application for the execution of a decree is, at the time from which the period of limitation is to be reckoned, a minor, or insane, or an idiot, he may institute the suit or make the application within the same period after the disability has ceased, as would otherwise have been allowed from the time prescribed therefor in the third column of the first Schedule.

(2) Where such person is, at the time from which the period of limitation is to be reckoned, affected by two disabilities, or where before his disability has ceased, he is affected by another disability, he may institute the suit or make the application within the same period, after both disabilities have ceased, as would otherwise have been allowed from the time so prescribed.

(3) Where such disability continues up to the death of such person, his legal representative may institute the suit or make the application within the same period after the death as would otherwise have been allowed from the time so prescribed.

(4) Where such representative is at the date of the death affected by any such disability, the rules contained in sub sections (1) and (2) shall apply.

Illustrations

- (a) The right to sue for the hire of a boat accrues to A during his majority. He attains majority four years after such accruer. He may institute his suit at any time within three years from the date of his attaining majority.
- (b) A right to sue accrues to X during his minority. After the accruer but while X is still a minor, he becomes insane. Time runs against X from the date when his insanity and minority cease.
- (c) A right to sue accrues to X during his minority X dies before attaining majority, and is succeeded by Y, his minor son, Time runs against Y from the date of his attaining majority.

7. *Disability of one of several plaintiffs or applicant.*— Where one of several persons jointly entitled to institute a suit or make an application for execution of a decree is under any such disability, and a discharge can be given without the concurrence of such person, time will run against them all ; but where no such discharge can be given, time will not run as against any of them until one of them becomes capable of giving such discharge without the concurrence of the others or until the disability has ceased.

Illustrations

- (a) A incurs a debt to a firm of which B, C and D are partners B is insane, and C is minor, D can give a discharge of the debt without the concurrence of B and C. Time runs against B, C and D.
- (b) A incurs a debt to a firm of which E, F and G are partners, E and F are insane and G is a minor. Time will not run against any of them until either E or F becomes sane, or G attains majority.

8. *Special exceptions.*—Nothing in section 6 or in section 7 applies to suits to enforce rights of prior purchase, or shall be deemed to extend, for more than three years from the cessation of the disability or the death of the person affected thereby, the period within which any suit must be instituted or application made.

Illustrations

- (a) A to whom a right to sue for legacy has accrued during his minority, attains majority eleven years after such accruer. A has under the ordinary law, only one year remaining within which to sue. But under section 6 and this section an extension of two years will be allowed to him, making in all a period of three years from the date of his attaining majority, within which he may bring his suit.
- (b) A right to sue for an hereditary office accrues to A who at the time is insane. Six years after the accruer A recovers his reason. A has six years, under the ordinary law, from the date when his insanity ceased within which to institute a suit. No extension of time will be given him under section 6 read with this section.
- (c) A right to sue as landlord to recover possession from a tenant accrues to A, who is an idiot. A dies three years after the accruer, his idiocy continuing up to the date of his death. A's representative-in-interest has, under ordinary law, nine years from the date of A's death within which to bring a suit. Section 6 read with this section

does not extend that time, except where the representative is himself under disability when the representation develops upon him.

9. *Continuous running of time.*—Where once time has begun to run, no subsequent disability or inability to sue stops it :

Provided that, where letters of administration to the estate of a creditor have been granted to his debtor, the running of the time prescribed for the suit to recover the debt shall be suspended while the administration continues.

10. *Suits against express trustees and their representatives.*— Notwithstanding anything hereinbefore contained, no suit against a person in whom property has become vested in trust for any specific purpose, or against his legal representatives or assigns (not being assigns for valuable consideration), for the purpose of following in his or their hands such property, or the proceeds thereof or for an account of such property or proceeds thereof or for an account of such property or proceeds, shall be barred by any length of time.

For the purposes of this section any property comprised in a Hindu, Mohammedan, Buddhist religious or charitable endowment shall be deemed to be property vested in trust for a specific purpose, and the manager of any such property shall be deemed to be the trustee thereof.

11. *Suits on foreign contracts.*—Suits instituted in the State on contracts entered into in a foreign country are subject to the rules of limitation contained in this Act.

(2) No foreign rule of limitation shall be a defence to a suit instituted in the State on a contract entered into in a foreign country, unless the rule has extinguished the contract and the parties were domiciled in such country during the period prescribed by such rule.

PART III

Computation of Period of Limitation

12. *Exclusion of time in legal proceedings.*—(1) In computing the period of limitation prescribed for any suit, appeal or application, the day from which such period is to be reckoned shall be excluded.

(2) In computing the period of limitation prescribed for an appeal, an application for leave to appeal and an application for a review of judgement, the day on which the judgment complained of was pronounced, and the

time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be reviewed, shall be excluded. In an appeal from an appellate decree or order so much of the time requisite for obtaining a copy of the judgement of the Court of first instance for the purpose of being filed with the memorandum of appeal shall also be excluded as may be in excess of the time spent in obtaining a copy of the decree or order appealed against and that of the judgement on which the said decree is founded, but no part of the time common to the copies shall be counted twice over.

Illustrations

An application for copy of the decree appealed against and the judgement on which the said decree is founded is made on the 10th of June. An application for copy of the first Court's judgement is made on the 25th June. The period requisite for the supply of copies under the first application runs up to the 5th July and under the second to the 10th July. The time common to the copies from the 25th of June to the 5th of July shall be counted only once.

(3) Where a decree is appealed from or sought to be reviewed, the time requisite for obtaining a copy of the judgement on which it is founded shall also be excluded. Where in filing a second appeal it is incumbent on the appellant to file a copy of the judgement of the first Court, the time requisite for obtaining such copy shall be excluded.

(4) In computing the period of limitation prescribed for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.

Explanation.—The time requisite for obtaining a copy will be the time between the date when the estimated cost of a copy is paid in by the applicant in accordance with the order passed in this respect and the date when the copy is ready and a notice is put up notifying the fact. The day of paying the cost of the copy and the day on which the copy is delivered will both be excluded.

13. *Exclusion of time of defendants absence from the State.*—In computing the period of limitation prescribed for any suit, the time during which the defendant has been absent from the State shall be excluded.

14. *Exclusion of time of proceeding bona fide in Court without jurisdiction.*— (1) In computing the period of limitation prescribed for any suit, the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in Court of appeal, against the defendant, shall be excluded, where the proceeding is founded upon the same cause of action and is prosecuted in good faith in a Court which, from defect of jurisdiction, or other cause of a like nature, is unable to entertain it.

(2) In computing the period of limitation prescribed for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a Court of first instance or in a Court of appeal, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a Court which from defect of jurisdiction or other cause of a like nature, is unable to entertain it.

Explanation I— In excluding the time during which a former suit or application was pending, the day on which that suit or application was instituted or made, and the day on which the proceedings therein ended, shall both be counted.

Explanation II— For the purposes of this section, a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding.

Explanation III— For the purpose of this section misjoinder of parties or of cause of action shall be deemed to be a cause of like nature with defect of jurisdiction.

Explanation IV— In suitable cases proceedings in the Revenue Department may come within the expression civil proceedings as used in the section.

15. *Exclusion of time during which proceedings are suspended.*— (1) In computing the period of limitation prescribed for any suit or application for the execution of a decree, the institution or execution of which has been stayed by injunction or other, the time of the continuance of the injunction or order, the day on which it was issued or made, and the day on which it was withdrawn, shall be excluded.

(2) In computing the period of limitation prescribed for any suit of which notice has been given in accordance with the requirements of any enactment for the time being in force, the period of such notice shall be excluded.

16. *Exclusion of time during which proceedings to set aside execution sale are pending.*— In computing the period of limitation prescribed for a suit for possession by a purchaser at a sale in execution of a decree, the time during which a proceeding to set aside the sale has been prosecuted shall be excluded.

17. *Effect of death before right to sue accrues.*—(1) Where a person, who would, if he were living, have to right to institute a suit or make an application, dies before the right accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased capable of instituting or making such suit or application.

(2) Where a person against whom, if he were living a right to institute a suit or make an application would have accrued dies before the accrues, the period of limitation shall be computed from the time when there is a legal representative of the deceased against whom the plaintiff may institute or make such suit or application.

(3) Nothing in sub-sections (1) and (2) applies to suits to enforce rights of prior purchase or to suits for the possession of immovable property or of an hereditary office.

18. *Effect of fraud.*—Where any person having a right to institute a suit or make an application has, by means of fraud, been kept from the knowledge of such right or of the title on which it is founded,

or where any document necessary to establish such right has been fraudulently concealed from him, the time limited for instituting a suit or making an application—

(a) against the person guilty of the fraud or accessory thereto, or

(b) against any person claiming through him otherwise than in good faith for a valuable consideration, shall be computed from the time when the fraud first became known to the person injuriously affected thereby or, in the case of the concealed document, when he first had the means of producing it or compelling its production.

19. *Effect of acknowledgement in writing.*—(1) Where before, the expiration of the period prescribed for a suit or application in respect of any property or right, an acknowledgement of liability in respect of such property or right has been made in writing signed by the party against whom such property or right is claimed, or by some person through whom he derives title or liability, a fresh period of limitation shall be computed from the time when the acknowledgement was so signed.

(2) Where the writing containing the acknowledgement is undated, oral evidence may be given of the time when it was signed ; but subject to the provisions of the Evidence Act (XIII of 1977), oral evidence of its contents shall not be received.

Explanation I.— For the purposes of this section an acknowledgement may be sufficient though it omits to specify the exact nature of the property or right, or avers that the time for payment, delivery, performance or enjoyment has not yet come, or is accompanied by a refusal to pay, deliver, perform or permit to enjoy, or is coupled with a claim to a set-off, or is addressed to a person other than the person entitled to the property or right.

Explanation II.— For the purposes of this section, “signed” means signed either personally or by an agent duly authorised in this behalf.

Explanation III.— For the purpose of this section an application for the execution of a decree or order is an application in respect of a right.

20. *Effect of payment of interest as such or of part payment of principal.*—(1) Where interest on a debt or legacy is, before the expiration of the prescribed period, paid as such by person by the liable to pay the debt or legacy, or by his agent duly authorised in this behalf, or where part of the principal of a debt is, before the expiration of the prescribed period paid by the debtor or by his agent duly authorised in this behalf,

a fresh period of limitation shall be computed from the time when the payment was made :

Provided that, an acknowledgment of the payment appears in the handwriting of, or in a writing signed by the person making the payment.

(2) *Effect of receipt of produce of mortgaged land.*—Where mortgaged land is in the possession of mortgagee, the receipt of the rent or produce of such land shall be deemed to be a payment for the purpose of sub-section (1).

Explanation.— Debt includes money payable under a decree or order of Court.

21. *Agent of person under disability.*—(1) The expression “agent duly authorised in this behalf” in sections 19 and 20 shall, in the case of a person under disability, include his lawful guardian, committee or manager, or an agent duly authorised by such guardian, committee or manager to sign the acknowledgment or make the payment.

(2) *Acknowledgment or payment by one of several joint contractors etc.*—Nothing in the said sections renders one of several joint contractors, partners, executors or mortgages chargeable by reason only of a written acknowledgment signed or of payment made by, or by the agent of, any other or others of them.

(3) For the purposes of the said sections.

(a) an acknowledgment signed, or payment made, in respect of any liability, by, or by the duly authorised agent of, any widow or other limited owner of property who is governed by the Hindu law, shall be a valid acknowledgment or payment, as the case may be, as against reversioner succeeding to such liability; and

(b) where a liability has been incurred by, on behalf of, a Hindu undivided family as such, an acknowledgment or payment made by, or by the duly authorised agent of, the manager of the family for the time being shall be deemed to have made on behalf of the whole family.

22. *Effect of substituting or adding new plaintiff or defendant.*—(1) Where, after the institution of a suit, a new plaintiff or defendant is substituted or added, the shall as regards him be deemed to have been instituted when he was so made a party.

(2) Nothing in sub-section (1) shall apply to a case where a party is added or substituted owing to an assignment or devolution of any interest during the pendency of a suit or where a plaintiff is made a defendant or a defendant is made a plaintiff.

23. *Continuing breaches and wrongs.*—In the case of a continuing breaches of contract and in the case of a continuing wrong independent of contract,

a fresh period of limitation begins to run at every moment of the time during which the breach or the wrong, as the case may be continues.

24. *Suit for compensation for act not actionable without special damages.*—In the case of a suit for compensation for an act which does not give rise to a cause of action unless some specific injury actually results therefrom, the period of limitation shall be computed from the time when the injury results.

Illustration

A owns the surface of a field B owns the sub-soil. B digs coal thereout without causing any immediate apparent injury to the surface ; but at last the surface subsides. The period of limitation in the case of a suit by A against B runs from the time of the subsidence.

25. *Computation of time mentioned in instruments.*—All instruments shall for the purpose of this Act be deemed to be made with reference to the [Gregorian] calendar.

Illustration

(a) A Hindu makes a promissory note bearing a native date only, and payable four months after date, the period of limitation applicable to a suit on the note runs from the expiration of four months after date computed according to the [Gregorian] calendar.

(b) A Hindu makes a bond, bearing a native date only, for the repayment of money within one year. The period of limitation applicable to a suit on the bond runs from the expiration of one year after date computed according to the [Gregorian] calendar.

PART IV

Acquisition of Ownership by Possession

26. Omitted.

27. Omitted.

28. *Extinguishment of right to property.*—At the determination of the period hereby limited to any person for instituting a suit for possession of any property, his right to such property shall be extinguished.

PART V**Savings and Repeals.**

29. *Savings.*—(1) Nothing in this Act shall affect section 25 of the Contract Act (IX of 1977).

(2) Where any special or local law prescribes for any suit, appeal or application or a period of limitation different from the period prescribed therefor by the first Schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that Schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law—

(a) the provisions contained in section 4, section 9 to 18 and section 22 shall apply only in so far as, and to extent to which, they are not expressly excluded by such special or local law ; and

(b) the remaining provisions of this Act shall not apply.

30. *Provision for suits for which the period prescribed is shorter than that prescribed by the Limitation Regulation of 1977.*—Notwithstanding anything herein contained, any suit for which the period of limitation prescribed by this Act is shorter than the period of limitation prescribed by the Limitation Regulation, 1977, may be instituted within the period of 1 & half years this comes into force or within the period prescribed for such suit by the Limitation regulation of 1977, whichever period expires first.

31. *Saving of limitation as regards pending suits.*—No suit, appeal or other proceeding pending in any Court at the date of the commencement of this Act shall be dismissed on the ground that it is barred by limitation, provided it was not so barred at the date of its institution under the Limitation Regulation of 1977.

32. *Repeal.*— The Limitation Regulation XXIV of 1977 is hereby repealed.

The First Schedule

FIRST DIVISION SUITS

Description of Suit
limitation

Period of
begins to run

Time from which period

ART I -Thirty days

Description of Suit	Period of limitation	Time from which period begins to run
<p>1. To contest an award under the waste land Rules.</p> <p>2. For compensation for doing or for omitting to do an act alleged to be in pursuance of any enactment in force for the time being in the State.</p> <p>3. Under the Specific Relief Act, section 9, to recover possession of immovable property.</p> <p>4. Omitted.</p> <p>5. Omitted.</p> <p>6. Upon any law or bye-law, for penalty or forfeiture,</p>	<p>PART I -Thirty days</p> <p>Thirty Days</p> <p>PART II- Ninety days</p> <p>Ninety days</p> <p>PART III- Six months</p> <p>Six months</p> <p>PART IV- One year</p> <p>One year.</p>	<p>When notice of the award is delivered to the plaintiff.</p> <p>When the act or omission takes place.</p> <p>When the dispossession occurs.</p> <p>When the penalty or forfeiture is incurred.</p>

Description of Suit	Period of limitation	Time from which period begins to run
.7. For the wages of a household servant, artisan or labourer,	One year.	When the wages accrue due.
8. For the price of food or drink sold by the keeper of a hotel, tavern or lodging house.	One year.	When the food or drink is delivered.
9. For the price of lodging.	One year.	When the price becomes payable,
10. To enforce/a right of prior purchase whether based on law, usage or on special contract.	One year	When the purchaser takes, under the sale sought to be impeached, physical possession of the whole of the property sold, or, where the subject of the sale does not admit of physical possession, when the registration of the instrument of sale is completed.
11. By a person, against whom the following order has been made to establish the right which he claims to the property comprised in the order :- Order under the Code of Civil Procedure, on a Claim, preferred to, or an objection made to the attachment of property attached in execution of a decree.	One year	From the date of the order.

Description of Suit	Period of limitation	Time from which period begins to run
<p>11-A. By a person against whom an order has been made under the Code of Civil Procedure upon an application by the holder of a decree for the possession of immovable property or the purchaser of such Property sold in execution of a decree, complaining of resistance or obstruction to the delivery or possession thereof or upon an application by any person dispossessed of such property in the delivery of possession thereof to the decree-holder or purchaser, to establish the right which he claims to the present possession of the property comprised in the order.</p>	<p>One year</p>	
<p>12. To set aside any of the following sales :—</p> <p>(a) Sale in execution of decree of a Civil Court,</p>	<p>One year</p>	<p>When the sale is confirmed, or would otherwise have become final and conclusive had no such suit been brought.</p>

Description of Suit	Period of limitation	Time from which period begins to run
(b) Sale in pursuance of a decree or order of a Collector or other officer of Revenue		
(c) Sale for arrears of Government revenue or for any demand recoverable as such arrears.		
13. To alter or set aside a decision or order of a Civil Court in any proceeding other than a suit.	One year	
14. To set aside any act or order of an officer of Government in his official capacity, not herein otherwise expressly provided for.	One year	
15. Against Government to set aside any attachment, lease or transfer of immovable property by the revenue authorities for arrears of Government revenue.	One year	
16. Against Government to recover money paid under protest in satisfaction of a claim made by the revenue authorities on account of demands recoverable as such arrears.	One year	

Description of Suit	Period of limitation	Time from which period begins to run
17. Against Government for compensation for land acquired for public purposes.	One year	The date of determining the amount of compensation.
18. Like suit for compensation when the acquisition is not completed.	One year	The date of the refusal to complete.
19. For compensation for false imprisonment.	One year	When the imprisonment ends.
20. By executors, administrators or representatives under the Legal, representatives Suits Act.	One year	The date of the death of the person wronged.
21. By executors, administrators or representatives under the Fatal Accidents Act.	One year	The date of the death of the person killed.
22. For compensation for any other injury to the person.	One year	When the injury is committed.
23. For compensation for a malicious prosecution.	One year	When the plaintiff is acquitted, or the prosecution is otherwise terminated.
24. For compensation for libel.	One year	When the libel is published.
25. For compensation for slander.	One year	When the words are spoken, or, if the words are not actionable in themselves, when the special damage complained of results.

Description of Suit	Period of limitation	Time from which period begins to run
26. For compensation for loss of service occasioned by the seduction of the plaintiff's servant or daughter.	One year	When the loss occurs.
27. For compensation for inducing a person to break a contract with the plaintiff.	One year	The date of the breach.
28. For compensation for an illegal, irregular or excessive distress.	One year	The date of the distress.
29. For compensation for wrongful seizure of movable property under legal process.	One year	The date of seizure.
30-31.	Deleted.	
	PART V- Two years	
32. Against one who having a right to use Property for specific purposes, perverts it to other purposes.	Two years.	When the perversion first becomes known to the person injured thereby.
33. Under the Legal Representatives, Suits Act, Against an executor.	Two years.	When the wrong complained of is done.
34. Under the same Act against an administrator.	Two years.	Ditto.

Description of Suit	Period of limitation	Time from which period begins to run
35. Under the same Act against any other representative.	Two years.	Ditto.
36. For compensation for any malfeasance, misfeasance or nonfeasance independent of contract and not herein specially provided for.	Two years.	When the malfeasance, misfeasance or nonfeasance takes place.
PART VI-Three years		
37. For compensation for obstructing a way or watercourse	Three years	The date of the obstruction.
38. For compensation for diverting a watercourse.	Three years	The date of the diversion.
39. For compensation for trespass upon immovable property.	Three years	The date of the trespass.
40. For compensation for infringing copy right or any other exclusive privilege.	Three years	The date of the infringement.
41. To restrain waste.	Three years	When the waste begins.
42. For compensation for injury caused by an injunction wrongfully obtained.	Three years	When the injunction ceases.

Description of Suit	Period of limitation	Time from which period begins to run
43. To compel a refund by a person to whom an executor or administrator has paid a legacy or distributed assets.	Three years	The date of the payment or distribution.
44. By a ward who has attained majority, to set aside a transfer of property by his guardian.	Three years	When the ward attains majority.
45-46. Omitted.		
47. By any person bound by an order respecting the possession of immovable property made under the code of criminal Procedure, or by any one claiming under such person, to recover the property comprised in such order.	Three years	The date of the final order in the case.
48. For specific movable property lost or acquired by theft or dishonest misappropriation or conversion, or for compensation for wrongfully taking or detaining the same.	Three years	When the person having the right to the possession of the property first learns in whose possession it is.
48-A. To recover movable property conveyed or bequeathed in trust, deposited or pawned' and af-	Three years	When the sale becomes known to the plaintiff,

Description of Suit	Period of limitation	Time from which period begins to run
<p>terwards bought from the trustee, depository or pawnee for a valuable consideration.</p> <p>48-B. To setaside sale of movable property comprised in a Hindu, Mohammedan or Buddhist, religious or charitable endowment, made by a manager there of for a valuable consideration.</p> <p>49. For other specific movable property, or for compensation for wrongfully detaining the same.</p> <p>50. For the hire of animals, vehicles, boats, or house hold furniture.</p> <p>51. For the balance of money advanced in payment of goods to be delivered.</p> <p>52. For the price of goods sold and delivered where no fixed period of credit is agreed upon.</p> <p>53. For the price of goods sold and delivered to be paid for after the expiry of fixed period of credit.</p>	<p>Three years</p> <p>Three years</p> <p>Three years</p> <p>Three years</p> <p>Three years</p> <p>Three years</p>	<p>When the sale becomes known to the plaintiff.</p> <p>When the property is wrongfully taken or injured, or when the detainer's possession becomes unlawful. When the hire becomes payable.</p> <p>When the goods ought to be delivered.</p> <p>The date of the delivery of the goods.</p> <p>When the period of credit expires.</p>

Description of Suit	Period of limitation	Time from which period begins to run
54. For the price of goods sold and delivered to be paid for by a bill of exchange, no such bill being given.	Three years	When the period of the proposed bill elapses.
55. For the price of trees or growing crops sold by the plaintiff to the defendant where no fixed period of credit is agreed upon.	Three years	The date of the sale.
56. For the price of work done by the plaintiff for the defendant at his request, where no time has been fixed for payment.	Three years	When the work is done.
57. On a policy of insurance, when the sum assured is payable immediately after proof of the death or loss has been given to or received by the insurers.	Three years	When proof of the death or loss is given to or received by the insurer, whether by or from the plaintiff, or any other person.
58. By the assured to recover Premium paid under a policy voidable at the election of the insurers.	Three years	When the insurers elect to avoid the policy
59. Against a factor for an account	Three years	When the account is during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.

Description of Suit	Period of limitation	Time from which period begins to run
60. By a principal against his agent for movable property received by the latter and not accounted for.	Three years	When the account is during the continuance of the agency, demanded and refused or, where no such demand is made, when the agency terminates.
61. Other suits by principals against agents for neglect or misconduct.	Three years	When the neglect or misconduct becomes known to the plaintiff.
62. To cancel or set aside an instrument not otherwise provided for.	Three years	When the facts entitling the plaintiff to have the instrument cancelled or set aside become known to him.
63. To declare the forgery of an instrument issued of registered.	Three years	When the issue or registration becomes, known to the plaintiff.
64. To declare the forgery of an instrument attempted to be enforced against the plaintiff.	Three years	The date of the attempt.
65. For property which the plaintiff has conveyed while insane.	Three years	When the plaintiff is restored to sanity, and has knowledge of the conveyance.
66. To set aside a decree obtained by fraud, or for other relief on the ground of fraud.	Three years	When the fraud becomes known to the party wronged.
67. For relief on the ground of mistake.	Three years	When the mistakes becomes known to the plaintiff.

Description of Suit	Period of limitation	Time from which period begins to run
68. For money paid upon an existing consideration which afterwards fails.	Three years	The date of the failure.
69. To make good out of the general estate of a deceased trustee the loss occasioned by a breach of trust.	Three years	The date of the trustee's death, or if the loss has not then resulted, the date of the loss.
70. For contribution by a party who has paid the whole or more than his share of the amount due under a joint decree, or by a sharer in a joint estate who has paid the whole or more than his share of the amount of revenue or rent due from himself and his co sharers.	Three years	The date of the payment in excess of the plaintiff's own share.
71. By a co trustee to enforce against the estate against the estate of deceased trustee a claim for contribution.	Three years	When the right to contribution accrues.
72. For a boatman's wages.	Three years	The end of the trip during which the wages are earned.
73. For wages not otherwise expressly provided for by this Schedule.	Three years	When the wages accrue due.
74. By a Mohammedan for exigible dower (mu,ajjal).	Three years	When the dower is demanded and refused or when mar

Description of Suit	Period of limitation	Time from which period begins to run
75. By a Mohammedan for deferred dower (mu,jjal).	Three years	riage is dissolved by death or divorce. When the marriage is dissolved by death or divorce. In the case of divorce pronounced in wifes absence, when she becomes aware of the fact.
76. By a mortgagor after the mortgage has been satisfied, to recover surplus collection received by the mortgagee.	Three years.	When the mortgagor reenters on the mortgaged on the mortgaged property.
77. For an account and a share of the profits of a dissolved partnership.	Three years.	The date of the dissolution.
78. By the manager of a joint estate of an undivided family for contribution in respect of a payment made by him on account of the estate.	Three years.	The date of the payment.
79. By a lessor for the value of trees cut down by his lessee contrary to the terms of the lease.	Three years.	When the trees are cut down.
80. For the profits of immovable property belonging to the plaintiff which have been wrongfully received by the defendant.	Three years.	When the profits are received.

Description of Suit	Period of limitation	Time from which period begins to run
81. For arrears of rent, whether accrued by a registered deed or not.	Three years.	When the arrears become due.
82. By a vendor of immovable property for personal payment of unpaid purchase money.	Three years.	The time fixed for completing the sale, or (where the title is accepted after the time fixed for completion) the date of the acceptance.
83. For a call by a company registered under law.	Three years.	When the call is payable.
84. For specific performance of a contract.	Three years.	The date fixed for the performance, or if no such date is fixed, when the laintiff has, notice that performance is refused.
85. For the rescission of a contract.	Three years	When the facts entitling the laintiff to have the contract first become known to him.
86. For compensation for the breach of any contract, express of implied, not in writing registered and not herein specially provided for.	Three years.	When the contract is broken, or (where there are successive breaches) when the breach in respect of which the suit is instituted occurs, or (where the breach is continuing) when it ceases.
86-A. Against a carrier for compensation for losing or injury goods.	Three years.	When the loss or injury occurs.
86-B. Against a carrier for compensation for non-	Three years.	When the goods ought to be delivered.

Description of Suit	Period of limitation	Time from which period begins to run
delivery of, or delay in delivering goods.	Three years.	
	PART VII Six years.	
87. For money payable for money lent.	Six years.	When the loan is made.
88. Like suit when the lender has given a cheque for the money.	Six years.	When the cheque is paid.
89. For money lent under an agreement that it shall be payable on demand.	Six years.	When the loan is made.
90. For money deposited under an agreement that it shall be payable on demand, including money of a customer in the hands of his banker so payable.	Six years.	When the demand is made
91. For money payable by the plaintiff for money paid for defendant.	Six years.	When the money is paid.
92. For money payable by the defendant to the plaintiff for money received by the defendant for the plaintiff's use.	Six years.	When the money is received.
93. For money payable for interest upon money due from the defendant to the plaintiff.	Six years.	When the interest becomes due.

Description of Suit	Period of limitation	Time from which period begins to run
94. For money payable to the plaintiff for money found to be due from the defendant to the plaintiff on accounts stated between them.	Six years.	When the accounts are stated in writing signed by the defendant or his agent duly authorised in this behalf, unless when the debt is, by a simultaneous agreement in writing signed as aforesaid, made payable at a future time, and then when that time arrives.
95. For compensation for breach of a promise to do anything at a specified time, or upon the happening of a specified contingency.	Six years.	When the time specified arrives or the contingency happens,
96. On a single bond where a day is specified for payment.	Six years.	The day so specified.
97. On a single bond, where no such day is specified.	Six years.	The date of executing the bond.
98. On a bond subject to a condition.	Six years.	When the condition is broken.
99. On a bill of exchange or promissory note payable at a fixed time after date.	Six years.	When the bill or note falls due.
100. On a bill of exchange payable at Sight, or after sight but not at a fixed time.	Six years.	When the bill is presented.

Description of Suit	Period of limitation	Time from which period begins to run
101. On a bill of exchange accepted payable at a particular place.	Six years.	When the bill is presented at that place.
102. On a bill of exchange or promissory note payable at a fixed time at a fixed time after sight or after demand.	Six years.	When the fixed time expires.
103. On a bill of exchange or promissory note payable on demand and not accompanied by any writing restraining or postponing the right to sue.	Six years.	The date of the bill or note.
104. On a promissory note or bond payable by instalments.	Six years.	The expiration of the first term of payment as to the part then payable ; and for the other parts the expiration of the respective terms of payment.
105. On a promissory note or bond payable by instalments, which provides that if default be made in payment of one or more instalment, the whole shall be due.	Six years.	At the option of the plaintiff, on the default of any instalment or when the whole amount falls due.
106. On a promissory note given by the maker to a third person to be delivered to the payee	Six years.	The date of the delivery to the payee.

Description of Suit	Period of limitation	Time from which period begins to run
after a certain event should happen.		
107. On a dishonoured foreign bill where protest has been made and notice given.	Six years.	When the notice is given.
108. By the payee against the drawer of a bill of exchange which has been dishonored by non-acceptance.	Six years.	The date of the refusal to accept.
109. By the acceptor of an accommodation bill against the drawer.	Six years.	When the acceptor pays the amount.
110. Suit on a bill of exchange, promissory note or bond not herein expressly provided for.	Six years.	When the bill note or bond becomes payable.
111. By a surety against the principal debtor.	Six years.	When the surety pays the creditor.
112. By a surety against a co-surety.	Six years.	When the surety pays anything in excess of his own share.
113. Upon any other contract to indemnify.	Six years.	When the plaintiff is actually damnified.
114. By an attorney or wakil for his costs of a suit or a particular business, there no express agree	Six years.	The date of the termination of the suit or business, or (where the attorney or wakil property discontinues the suit

Description of Suit	Period of limitation	Time from which period begins to run
ment as to the time when such costs are to be paid.		or business) the date of such discontinuance.
115. For the balance due on a mutual, open and current account, where there have been reciprocal demands between the parties.	Six years.	The close of the year in which the last item admitted or proved is entered in the account; such year to be computed as in the account.
116. Upon a foreign judgement as defined in the Code of Civil Procedure.	Six years.	The date of judgement.
117. To obtain a declaration that an alleged adoption is in valid or never in fact took place.	Six years.	When the alleged adoption becomes known to the plaintiff.
118. To obtain a declaration that an adoption is valid.	Six years.	When the rights of the adopted son as such are interfered with.
119. Suit for which no period of limitation on is provided elsewhere in this Schedule.	Six years.	When the right to sue accrues.
	PART VIII Twelve years	
120. For compensation for the breach of a contract in writing registered.	Twelve years	When the period of limitation would begin to run against a suit brought on a similar contract not registered.

Description of Suit	Period of limitation	Time from which period begins to run
121. To avoid encumbrances or under-tenures in an entire, estate sold for arrears of Government revenue, or in other saleable tenure sold for arrears of rent.	Twelve years	When the sale becomes final and conclusive.
122. Upon a judgement obtained in the State or a recognizance.	Twelve years	The date of the judgement or recognizance.
123. For a legacy or for share of a residue bequeathed by a testator or for a distributive share of the property of an intestate.	Twelve years	When the legacy or share becomes payable or deliverable.
124. For possession of an hereditary office.	Twelve years	<p>When the defendant takes possession of the office adversely to the plaintiff.</p> <p>Explanation.— An hereditary office is possessed when the profits thereof are usually received or (if there are no profits) when the duties thereof are usually performed.</p>
125. Suit during the life of a Hindu or Mohammedan female by a Hindu or Mohammedan who, if the female died at the date of instituting the suit would be entitled to the possession of land to	Twelve years	The date of the alienation.

Description of Suit	Period of limitation	Time from which period begins to run
<p>have an alienation of such land made by the female declared to be void except for her life or until her remarriage.</p>		
<p>126. By a Hindu governed by the law of the Mitakeshare to set aside his father's alienation of ancestral property.</p>	<p>Twelve years</p>	<p>When the alliance takes possession of the property.</p>
<p>127. By a person excluded from joint family property to enforce a right to share therein.</p>	<p>Twelve years</p>	<p>When the exclusion becomes known to the plaintiff.</p>
<p>128. By a Hindu for arrears of maintenance.</p>	<p>Twelve years</p>	<p>When the arrears are payable.</p>
<p>129. By a Hindu for a declaration of his right to maintenance.</p>	<p>Twelve years</p>	<p>When the right is denied.</p>
<p>130. For the resumption or assessment of rent free land.</p>	<p>Twelve years</p>	<p>When the right to resume or assess the land first accrues.</p>
<p>131. To establish periodically recurring right.</p>	<p>Twelve years</p>	<p>When the plaintiff is first refused the enjoyment of the right.</p>
<p>132. To enforce payment of money charged upon immovable property including a suit for en</p>	<p>Twelve years</p>	<p>When the money sued for becomes due. Explanation.—When the money sued for becomes due</p>

Description of Suit	Period of limitation	Time from which period begins to run
<p>forcement of a simple mortgage.</p> <p>Explanation.—For the purposes of this article-</p> <p>(a) the allowance and fees respectively called malkana and haqs and</p> <p>(b) the value of any agricultural or other produce the right to receive which is secured by a charge upon immovable property.</p> <p>(c) the value of any agricultural or other produce the right to receive which is secured by a charge upon immovable property shall be deemed to be money charged upon immovable property.</p> <p>133. Omitted.</p> <p>134. To recover possession of immovable property conveyed or be- queathed in trust or mortgaged and afterwards transferred by the trustee or motigagee for a valuable consideration.</p>	<p>Twelve years</p>	<p>on the breach of any of the terms of the contract or when the stipulated period expires, the limitation will begin to run at the option of the plaintiff from either of the dates.</p> <p>When the transfer becomes known to the plaintiff.</p>

Description of Suit	Period of limitation	Time from which period begins to run
134-A. To set aside a transfer of immovable property comprised in a Hindu, Mohammedan or Buddhist religious or charitable endowment made by a manager thereof for valuable consideration.	Twelve years	When the transfer becomes known to the plaintiff.
134-B. By a manager of Hindu, Mohammedan or Buddhist religious or charitable endowment to recover possession, of immovable property comprised in the endowment which has been transferred by a previous manager for a valuable consideration.	Twelve years	The death, resignation or removal of the transferor.
134-C. By the manager of Hindu, Mohammedan or Buddhist religious or charitable endowment to recover possession of movable property comprised in the endowment which has been sold by a previous manager for a valuable consideration.	Twelve years	The death, resignation or removal of the seller.

Description of Suit	Period of limitation	Time from which period begins to run
135. Suit instituted by a mortgagee for possession for possession of immovable property mortgaged.	Twelve years	When the mortgagor's right to possession determines.
136. By a purchaser at a private sale for possession of immovable property sold when the vendor was out of possession at the date of the sale.	Twelve years	When the vendor is first entitled to possession.
137. Like suit by a purchaser at the sale in execution of a decree, when the judgment debtor was out of possession at the date of the sale.	Twelve years	When the judgment debtor is first entitled to possession.
138. Like suit by a purchaser at a sale in execution of a decree, when the judgment debtor was in possession at the date of the sale.	Twelve years	The date when the sale becomes absolute.
139. By a landlord to recover possession from a tenant.	Twelve years	When the tenancy is determined.
140. By a remainder man, a reversioner (other than a landlord) or a devisee, for possession of immovable property.	Twelve years	When his estate falls into possession.

Description of Suit	Period of limitation	Time from which period begins to run
141. Like suit by a Hindu or Mohammedan entitle to the possession of immovable property on the death of a Hindu or Muhammadan female.	Twelve years	When the female dies.
142. For possession of immovable property when the plaintiff, while in possession of the property of the property, has been dispossessed or has discontinued the possession.	Twelve years	The date of the dispossession or discontinuance.
143. Like suit, when the plaintiff has become entitled by reason of any forfeiture or breach of condition.	Twelve years	When the forfeiture is incurred or the condition is broken
144. For possession of immovable property or any interest therein not hereby otherwise specially provided for.	Twelve years	When the possession of the defendant be comes adverse to the plaintiff.
145. Against a depository or Pawnee to recover movable property deposited or pawned.	<p style="text-align: center;">PART IX</p> Thirty years. Thirty years.	The date of the deposit or pawn.
146. Omitted.		

Description of Suit	Period of limitation	Time from which period begins to run
146-A. By or on behalf of any local authority for possession of any public street or road or any part thereof from which it has been dispossessed or of which it has discontinued the possession.	Thirty years.	The date of the dispossession or discontinuance.
147. BY a mortgagee for foreclosure.	Thirty years.	When the money accrued by the mortgagee becomes due.
PART X	Sixty years.	
148. Against A mortgagee to redeem or to recover possession of immovable property mortgaged.	Sixty years.	When the right to redeem or recover possession accrues.
149. Any suit by or on behalf of the State.	Sixty years.	When the period of limitation would begin to run under this Act against a like suit by a private person.
149-A. Any suit by or on behalf of the Government of India, the Government of any other State in India or the Government of any Union territory.	Sixty years.	When the period of limitation would begin to run under this Act against a like suit by a private person.
SECOND DIVISION	APPEALS.	
150. Under the Code of Criminal procedure from	Fourteen days.	The date of the sentence.

Description of Suit	Period of limitation	Time from which period begins to run
<p>a sentence of death or of life imprisonment passed by a Court of Sessions.</p> <p>150-A. Omitted</p> <p>151. Omitted</p> <p>151-A. Under the code of Civil Procedure, to a Subordinate judge.</p> <p>151-B. Under the Code of Criminal Procedure, to any Court other than the High Court and the Sessions Court.</p> <p>152. Under the Code of Civil Procedure, to the Court of District Judge.</p> <p>153. Omitted.</p> <p>154. Under Code of Criminal Procedure to any Court other than the High Court.</p> <p>155. Under the Code of Criminal Procedure to High Court except in the case provided for by Article 150 and Article 157.</p>	<p>Sixty days.</p> <p>Sixty days.</p> <p>Ninety days.</p> <p>Ninety days.</p> <p>Ninety days.</p>	<p>The date of the decree or the order appealed from.</p> <p>The date of the sentence or of order appealed from.</p> <p>The date of the decree or order appealed from.</p> <p>The date of the sentence or of order appealed from.</p> <p>The date of the sentence or of order appealed from.</p>

Description of Suit	Period of limitation	Time from which period begins to run
<p>156. Under the Code of Civil Procedure to the High Court.</p> <p>156-A. From a decree or order of the High Court of Judicature in the exercise of its original jurisdiction.</p> <p>157. Under the Code of Criminal Procedure from an order of acquittal,</p> <p>157-A. An appeal from a sentence, decree order of any Court or Revenue office situate within the District of Ladakh or Gilgit to a Court situate beyond the said Districts.</p>	<p>Ninety days.</p> <p>Ninety days.</p> <p>Three months</p> <p>One hundred and eighty days.</p>	<p>The date of the decree or order appealed from.</p> <p>The date of the decree or order appealed from.</p> <p>Explanation - When the High Court is sitting in one Province on the last day of the period of limitation for an appeal from a decision of a Court in another province or from a decision delivered by the High Court while sitting in another province, the period of limitation for an appeal shall be double the period mentioned in the 2nd column of this Schedule opposite Articles 156, 156-A.</p> <p>The date of the order appealed from.</p> <p>The date of the sentence decree or order appealed from.</p>

Description of Suit	Period of limitation	Time from which period begins to run	
<p>158. Under the Jammu and Kashmir Arbitration Act, to set aside an award or to get an award remitted for reconsideration.</p> <p>159. For leave to appear and defend a suit under Order XXXVII of the Code of Criminal Procedure.</p> <p>160. For an order under the same Code, to restore to the file an application for review rejected in consequence of the failure of the applicant to appear when the application was called on for hearing.</p> <p>161. For a review of judgement by a Court of small Causes or by a Court invested with the jurisdiction of a Court of Small Causes when exercising that jurisdiction.</p> <p>162. For a review of judgement by the High Court</p>	THIRD DIVISION APPLICATIONS		
	Thirty days.		The date of service of the notice of filling of the award.
	Thirty days.		When the summons is served.
	Thirty days.		When the application for review is rejected.
	Thirty days.		The date of the decree or order.
Thirty days.	The date of the decree or order.		

Description of Suit	Period of limitation	Time from which period begins to run
<p>of Judicature in the exercise of its original jurisdiction.</p> <p>163. By a plaintiff for an order to set aside a dismissal for default of appearance or for failure to pay costs of service of process or to furnish security for costs.</p> <p>164. By a defendant, for an order to set aside a decree passed ex-parte.</p> <p>165. Under the Code of Civil Procedure, by a person dispossessed of immovable property and disputing the right of the decree-holder or purchaser at a sale in execution of a decree to be put into possession.</p> <p>166. Under the same Code to set aside a sale in execution of a decree including any such applicant by a judgment-debtor.</p> <p>167. Complaining of resistance or obstruction to</p>	<p>Thirty days.</p> <p>Thirty days.</p> <p>Thirty days.</p> <p>Thirty days.</p> <p>Thirty days.</p>	<p>The date of the dismissal.</p> <p>The date of decree or, where the summons was not duly served, when applicant has knowledge of the decree. The date of the dispossession.</p> <p>The date of the sale.</p> <p>The date of the resistance or obstruction.</p>

Description of Suit	Period of limitation	Time from which period begins to run
<p>delivery of possession of immovable property decreed or sold in execution of decree.</p> <p>168. For the readmission of an appeal dismissed for want of prosecution.</p> <p>169. The re-hearing of an appeal heard ex-parte.</p> <p>170. For leave to appeal as a pauper.</p> <p>171. Under the Code of Civil procedure, for an order to set aside an abatement.</p> <p>172. Under the same Code by the assignee or the receiver of an insolvent plaintiff or appellant for an order to set aside the dismissal of a suit or an appeal.</p> <p>173. For a review of Judgment except in the cases provided for by [Articles 161 and 162]</p>	<p>Thirty days.</p> <p>Thirty days.</p> <p>Sixty days.</p> <p>Sixty days.</p> <p>Sixty days.</p> <p>Ninety days.</p>	<p>The date of dismissal,</p> <p>The date of the decree in appeal, or, where notice of the appeal was not duly served, when applicant has knowledge of the decree.</p> <p>The date of the decree appealed from.</p> <p>The date of the abatement.</p> <p>The date of the decree of dismissal.</p> <p>The date of the decree or order.</p>

Description of Suit	Period of limitation	Time from which period begins to run
174. For the issue of a notice under the same Code, to show cause why any payment made out of Court of any money payable under a decree or any adjustment of the decree should not be recorded as certified.	Ninety days.	When the payment or adjustment is made.
175. For payment of the amount of a decree installments.	Six months.	The date of the decree.
176. Under the same Code to have the legal representative of a deceased plaintiff or of a deceased appellant made a party.	Six months.	The date of the death of the deceased plaintiff or appellant.
177. Under the same Code to have the legal representative of a deceased defendant or of a deceased respondent made a party.	Six months.	The date of the death of the deceased defendant or respondent.
178. Under the Jammu and Kashmir Arbitration Act, for the filing in Court of an award.	Ninety days.	The date of service of the making of an award.
179. By a person desiring to appeal under the Code of Civil procedure 1977,	Ninety days.	The date of the decree appealed from.

Description of Suit	Period of limitation	Time from which period begins to run
<p>to the Supreme Court for leave to appeal.</p> <p>180. By a purchaser of immovable property at a sale in execution of a decree for delivery of possession.</p> <p>181. Applications for which no period of limitation is provided elsewhere in this Schedule or by section 48 of the Code of Civil Procedure.</p> <p>181-A. An application of the nature mentioned in Articles 158, 160, 168, 169, 170, 171, 172, 173, 176. and 177 in appeals arising out of suits decided by any Court situate with in the District of Ladakh or Gilgit, when made to a Court of appeal situate outside those Districts.</p> <p>182. For the execution of a decree or order of any Civil Court not provided for [by Article 183] by section 48 of the Code of Criminal Procedure,</p>	<p>Three years.</p> <p>Three years.</p> <p>Double the period of limitation prescribed under this Division</p> <p>Three years or, where a certified copy of the decree, or order has been registered, six years.</p>	<p>When the sale becomes absolute.</p> <p>When the right to apply accrues,</p> <p>As prescribed in 3rd column opposite the Articles referred to.</p> <p>1. The date of the decree or order, or, 2. (where there has been an appeal) the date of the final decree or order of the Appellate Court, or</p>

Description of Suit	Period of limitation	Time from which period begins to run
		<p>the withdrawal of the appeal,</p> <p>3. (Where there has been a review of judgement) the date of the decision passed on the review, or</p> <p>4. (where the decree has been amended the date of amendment, or</p> <p>5. (where the application next hereinafter mentioned has been made the date of the final order passed on application made in accordance with law to the proper Court for execution or to take some step in aid of the execution of the decree or order, or</p> <p>6. (in respect of any amount, recovered by execution of the decree or order, which the decree-holder has been directed to refund by a decree passed in a suit for such refund) the date of such last mentioned decree or, in the case of an appeal therefrom, the date of the final decree of the Appellate Court or of the withdrawal of the appeal, or</p>

Description of Suit	Period of limitation	Time from which period begins to run
		<p>7.(where the application is to enforce any payment which the decree or order directs to be made at a certain date) such date.</p> <p>Explanation.— Where the decree or order has been passed severally in favour of more persons than one, distinguishing portions of the subject matter as payable or deliverable to each, the application mentioned in clause 5 of this Article shall take effect in favour only of such of the said persons or their representatives as it may be made by. But where the decree or order has been passed jointly in favour of more persons than one, such application, if made by any one or more of them, or by his or their representatives, shall take effect in favour of them all.</p> <p>Where the decree or order has been passed severally against more persons than one, distinguishing portions of the subject matter as payable or deliverable by each, the</p>

Description of Suit	Period of limitation	Time from which period begins to run
		<p>application shall take effect against only such of the said persons or their representatives as it may be made against. But, where the decree or order has been passed jointly against more persons than one, the application, if made against any one or more of them or against his or their representatives, shall take effect against them all.</p> <p>Explanation II.—“Prope Court” means the Court whose duty it is to execute the decree or order.</p> <p>[Exception.—In applications for execution of a decree against an evacuee, whether passed singly against him or jointly with a person other than an evacuee, the period from 6th Poh, 2005 to 21st Bhadun 2006 and the time during which the Jammu and Kashmir Evacuee’s (Administration of Property) Act, Svt. 2006 remains in force shall be excluded from the period of twelve years prescribed in this section.”]</p>

Description of Suit	Period of limitation	Time from which period begins to run
[183. to enforce a judgment, decree or order of the Supreme Court	Twelve years.	<p>When a present right to enforce the judgment decree or order accrues to some person capable of releasing the right.</p> <p>Provided that, when the judgment, decree or order has been revived, or some part of the principal money secured thereby, or some interest on such or some acknowledgment of the right thereto has been given in writing signed by the person liable to pay such principal or interest or his agent, to the person entitled thereto or his agent, the twelve years shall be computed from the date of such revivor, payment or acknowledgment or the latest of such revivors payments or acknowledgments, as the case may be.</p>

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THE LUNACY ACT, 1977 (1920 A.D.)
ACT NO. XXV OF 1977

[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No. 8372 dated 11th September, 1920 read with State Council Resolution No. 1, dated 8th April, 1925, (Notification 14-L/81)]

An Act to consolidated and amend the law relating to Lunacy.

Whereas it is expedient to consolidate and amend the law relating to lunacy ; It is hereby enacted as follows :—

PART I

Preliminary

Chapter I

1. (1) This Act may be called the Lunacy Act, 1977.

(2) It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakhi, 1978.

2. **Savings**—Nothing contained in Part II shall be deemed to affect the powers of the High Court over any person found to be lunatic, lunatic by inquisition or over the property of such lunatic, or the rights of any person appointed by such Court as guardian of the person or manager of the estate of such lunatic.

3. **Definitions**—In this Act there is anything repugnant in the subject or context,—

- (1) “asylum” means as asylum for lunatics established or licensed by Government ;
- (2) “cost of maintenance” in an asylum includes the cost of lodging, maintenance, clothing medicine and care of a lunatic and any expenditure incurred in removing such lunatic to and from an asylum ;
- (3) “District Court” means the principal Civil Court of original jurisdiction in any area ;
- (4) “Criminal lunatic” means any person for whose [detention] in, or removal to an asylum, jail or other place of safe custody, an order has been made in accordance with the provisions of section 466 or section 471 of the Code of Criminal Procedure of section 30 of the Prisoners Act ;
- (5) “lunatic” means an idiot or person of unsound mind ;
- (6) “Magistrate” means a District Magistrate, Sub-Divisional Magistrate or a Magistrate of the first class specially empowered by the [the Government] to perform the functions of a Magistrate under this Act ;

- (7) “medical officer” means a gazetted medical officer of Government, and includes a medical practitioner declared by general or special order of [the Government] to be a medical officer for the purposes of this Act ;
- (8) “medical practitioner” means a holder of a qualification to practise medicines and surgery which can be registered in the United Kingdom in accordance with the law for the time being in force for the registration of medical practitioner, and includes any person declared by general or special order of [the Government] to be a medical practitioner for the purposes of this Act ;
- (9) “prescribed” means prescribed by this Act or by rule made thereunder ;
- (10) “reception order” means an order made under the provisions of this Act for the reception into an asylum lunatic other than a lunatics so found by inquisition ;
- (11) “relative” includes any person related by blood, marriage or adoption ; and
- (12) “rule” means a rule made under this Act.

PART II

Reception, Care and Treatment of Lunatics

Chapter II

Reception of Lunatics

4. Reception of persons in asylum :- (1) No person other than a criminal lunatic or a lunatic so found by inquisition shall be received or detained in an asylum without a reception order save as provided by section 8 and 16 :

Provided that any person in charge of an asylum may, with the consent of two of the visitors of such asylum, which consent shall not be given except upon a written application from the intending boarder, received and lodge as a boarder in such asylum any person who is desirous of submitting himself to treatment.

(2) A boarder received in an asylum under the proviso to sub-section (1) shall not be detained in the asylum for more than twenty-four hours after he has given to the person in charge of the asylum notice in writing of his desire to leave such asylum.

Reception orders on petition.

5. Application for reception order.—(1) An application for a reception order shall be made by petition accompanied by a statement of particulars to the magistrate within the local limits of whose jurisdiction the alleged lunatic ordinarily resides, shall be in the form prescribed and shall be supported by two medical certificates on separate sheets of paper, one of the which certificates shall be from a medical officer.

(2) If either of the medical certificates is signed by any relative, partner or assistant of the lunatic or of the petitioner, the petition shall state the fact, and, where the person signing is a relative, the exact manner in which he is related to the lunatic or petitioner.

(3) The petition shall also state whether any previous application has been presented for an inquiry into the mental capacity of the alleged lunatic in any Court ; and if such application has been made, a certified copy of the order made thereon shall be attached to the petition.

(4) No application for a reception order shall be entertained in any area unless [the Government] has by notification in the Government gazetted, declared such area as an area in which reception orders may be made.

6. Application by whom to be presented.—(1) [Subject to the provisions of sub-section (3), the petition shall be presented by the husband or wife of the alleged lunatic, or if there is no husband or wife or the husband or wife is prevented by reason of insanity, absence from the State or otherwise from making the presentation, by the nearest relative of the alleged lunatic, who is not so prevented.]

(2) [If the petition is not presented by the husband or wife or where there is no husband or wife, by the nearest relative, of the alleged lunatic, the petition] shall contain a statement of the reasons why it is not so presented, and of the connection of the petitioner with the alleged lunatic, and the circumstances under which he presents the petition.

(3) No person shall present a petition unless he has attained the age of majority as determined by the law to which he is subject, and has within fourteen days before the presentation of the petition, personally seen the said lunatic.

(4) The petition shall be signed and verified by the petitioner, and the statement of prescribed particulars by the person making such statement.

7. Procedure upon petition for reception order.—(1) Upon the presentation of the petition the Magistrate shall consider the allegations in the petition and the evidence of lunacy appearing by the medical certificates.

(2) If he considers that there are grounds for proceeding further, he shall personally examine the alleged lunatic unless for reasons to be recorded in writing he thinks it unnecessary or inexpedient so to do.

(3) If he is satisfied that a reception order may properly be made forthwith, he may make the same accordingly.

(4) If he is not so satisfied, he shall fix the date (notice whereof shall be given to the petitioner and to any other person to whom in the opinion of the Magistrate notice should be given) for the consideration of the petition, and he may make such further or other inquiries of or concerning the alleged lunatic as he thinks fit.

8. Detention of alleged lunatic pending inquiry.—Upon the presentation of the petition, the Magistrate may make such order as he thinks fit for the suitable custody of the alleged lunatic pending the conclusion of the inquiry.

9. Consideration of petition.—The petition shall be considered in private in the presence of the petitioner, the alleged lunatic (unless the Magistrate in his discretion otherwise directs,) any person appointed by the alleged lunatic to represent him and such other persons as the Magistrate thinks fit.

10. Order .—(1) At the time appointed for the consideration of the petition, the Magistrate may either make a reception order or dismiss the petition, or may adjourn the same for further evidence or inquiry, and may make such order as to the payment of the costs of the inquiry by the person upon whose application it was made or out of the estate of the alleged lunatic if found to be of unsound mind, or otherwise as he thinks fit.

(2) If the petition is dismissed, the Magistrate shall record in writing his reasons for dismissing the same, and shall deliver or cause to be delivered to the petitioner a copy of such order.

11. Further provisions as to reception orders on petition.—No reception order shall be made under section 7 or section 10, save in the case of a lunatic who is dangerous and unfit to be at large, unless—

(a) the Magistrate is satisfied that the person in charge of an asylum is willing to receive the lunatic, and

(b) the petitioner or some other person engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic.

[11-A. Power to appoint substitute for the person upon whose application a reception order has been made.]—(1) The Magistrate may, subject to the provisions of this section, by order in writing (hereinafter referred to as an order of substitution), transfer the duties and responsibility under this Act of the person on whose petition a reception order has been made to any other person, who is willing to undertake the same, and such other person shall thereupon be deemed, for the purposes of this Act, to be the person on whose petition the reception order was made, and all references in this Act to such last mentioned person shall be construed accordingly :

Provided that no such order of substitution shall release the person, upon whose petition the reception order was made or, if he is dead, his legal representative, from any liability incurred before the order of substitution was made.

(2) Before making any order of substitution, the Magistrate shall send a notice to the person upon whose petition the reception order was made, if he is alive and to any relative of the lunatic to whom in the opinion of the Magistrate notice should be given, the notice shall specify the name of the person in whose favour it is proposed to make such order and the date, which shall be not less than twenty days from the sending of the notice, upon which any objection to the making of the order will be considered.

(3) On such date or any subsequent date to which the proceedings may be adjourned, the Magistrate shall consider any objection made by any person to whom notice has been sent, or by any other relative of the lunatic, and shall receive all such evidence as may be produced by or on behalf of any of such persons and such further evidence, if any, as the Magistrate thinks necessary, and may thereafter make or refrain from making an order of substitution:

Provided that, if the person on whose petition the reception order was made is dead and any other person is willing and, in the opinion of the Magistrate fitted to undertake the duties and responsibilities under this Act of such first mentioned person, the Magistrate shall make such an order.

(4) If in proceedings under this section any question arises as to the person to whom the duties and responsibilities under this Act of a person upon whose petition a reception order has been made shall be entrusted, the Magistrate shall give preference to the person who is the nearest relative of the lunatic, unless, for reasons to be recorded

in writing the Magistrate considers that such preference would not be in the interests of the lunatic.

(5) The Magistrate may make such order for the payment of the costs of an inquiry under this section by any person who is a party thereto or out of the estate of the lunatic, as he thinks fit.

(6) Any notice under sub-section (2) may be sent by post to the last known address of the person for whom it is intended.]

Reception orders otherwise than on petition.

12. Omitted.

13. Powers and duties of Police in respect of wandering or dangerous lunatics and lunatics cruelly treated or not under proper care and control.—(1)

Every officer in charge of a police-station may arrest or cause to be arrested all persons found wandering at large within the limits of his station whom he has reason to believe to be lunatics, and shall arrest or cause to be arrested all persons within the limits of his station whom he has reason to believe to be dangerous by reason of lunacy. Any person so arrested shall be taken forthwith before the Magistrate.

(2) Every officer in charge of a police-station who has reason to believe that any person within the limits of his station is deemed to be a lunatic and is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, shall immediately report the fact to the Magistrate.

14. Reception order in case of wandering and dangerous lunatics.—Whenever any person is brought before a Magistrate under the provisions of sub-section (1) of section 13, the Magistrate shall examine such person, and if he thinks that there are grounds for proceeding further, shall cause him to be examined by

a medical officer, and may make such other inquiries as he thinks fit; and if the Magistrate is satisfied that such person is a lunatic and a proper person to be detained, he may, if the medical officer who has examined such person gives a medical certificate with regard to such person, make a reception order for the admission of such lunatic into an asylum :

Provided that, if any friend or relative desires that the lunatic be sent to a licensed asylum and engages in writing to the satisfaction of the Magistrate to pay the cost of maintenance of the lunatic in such asylum, the Magistrate shall, if the person in charge of such asylum consents, make a reception order for the admission of the lunatic into the licensed asylum mentioned in the engagement:

Provided further that if any friend or relative of the lunatic enters into a bond with or without sureties for such sum of money as the Magistrate thinks fit, conditioned that such lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or to others, the Magistrate, instead of making a reception order, may, if he thinks fit, make him over to the care of such friend or relative.

15. Order in case of lunatic cruelly treated or not under proper care and control.—(1) If it appears to the Magistrate, on the report of a police-officer or the information of any person, that any person within the limits of his jurisdiction deemed to be a lunatic is not under proper care and control or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may cause the alleged lunatic to be produced before him, and summon such relative or other person as has or ought to have the charge of him.

(2) If such relative or other person is legally bound to maintain the alleged lunatic, the Magistrate may make an order for such alleged lunatic being properly cared for and treated, and, if such relative or other person wilfully neglects to comply with the said order, the Magistrate may sentence him to imprisonment for a term which may extend to one month.

(3) If there is no person legally bound to maintain the alleged lunatic, or if the Magistrate thinks fit so to do, he may proceed as prescribed in section 14, and upon being satisfied in manner aforesaid that the person deemed to be a lunatic is a lunatic and a proper person to be detained under care and treatment may, if a medical officer gives a medical certificate with regard to such lunatic, make a reception order for the admission of such lunatic into an asylum.

16. Detention of alleged lunatic pending report by medical officer--(1) When any person alleged to be a lunatic is brought before a Magistrate under the provisions of section 13 or section 15, the Magistrate may, by an order in writing, authorise the detention of the alleged lunatic in suitable custody for such time not exceeding ten days as may be, in his opinion, necessary to enable the medical officer to determine whether such alleged lunatic is a person in respect of whom a medical certificate may be properly given.

(2) The Magistrate may, from time to time, for the same purpose by order in writing, authorise such further detention of the alleged lunatic for periods not exceeding ten days at a time as he thinks necessary :

Provided that no person shall be detained in accordance with the provisions of this section for a total period exceeding thirty days from the date on which he was first brought before the Magistrate.

17. Omitted.

Further provisions as to reception orders and medical certificates.

18. Medical certificates.—(1) Every medical certificate under this Act shall be made and signed by a qualified medical practitioner or a medical officer, as the case may be, and shall be in the form prescribed.

(2) Every medical certificate shall state the facts upon which the person certifying has formed his opinion that the alleged lunatic is a lunatic, distinguishing facts observed by himself from facts communicated by others; and no reception order on petition shall be made upon a certificate found only upon facts communicated by others.

(3) Every medical certificate made under this Act shall be evidence of the facts therein appearing and of the judgement therein stated to have been formed by the person certifying on such facts, as if the matters therein appearing had been verified on oath.

19. Time and manner of medical examination of lunatics--(1) A reception order required to be founded on a medical certificate shall not be made unless the person who signs the medical certificate, or where two certificates are required each person who signs a certificate has personally examined, the alleged

lunatic, in the case of an order upon petition, not more than seven clear days before the date of the presentation of the petition , and , in all other cases not more than seven clear days before the date of the order.

(2) Where two medical certificates are required, a reception order shall not be made unless each person signing a certificate has examined the alleged lunatic separately from the other.

20. Authority for reception.—A reception order, if the same appears to be in conformity with this Act, shall be sufficient authority for the petitioner or any person authorised by him, or in the case of an order not made upon petition, for the person authorised so to do by the person making the order , to take the lunatic and convey him to the place mentioned in such order and for his reception and detention therein, or in any asylum to which he may be removed in accordance with the provisions of this Act, and the order may be acted on without further evidence of the signature or of the jurisdiction of the person making the order :

[Provided that no reception order shall continue to have effect—

(a) after the expiry of thirty days from the date on which it was made, unless the lunatic has been admitted to the place mentioned therein within that period, or

(b) after the discharge, under the provisions of this Act, of the lunatic from such place or from any asylum to which he may have been removed]

21. Copy of reception order to be sent to person in charge of asylum.—Any authority making a reception order under this Part shall forthwith send a certified copy of the order to the person in charge of the asylum into which such lunatic is to be admitted.

22. Omitted.

Detention of lunatics pending removal to asylum.

23. Detention of lunatics pending removal to asylum.—When any reception order has been made under sections 7,10,14 or 15, the Magistrate may, for reasons to be recorded in writing, direct that the lunatic, pending his removal to an asylum, be detained in suitable custody in such place as the Magistrate thinks fit.

Reception and detention of criminal lunatics.

24. Reception and detention of criminal lunatics.—An order under section 466 or section 471 of the Code of Criminal Procedure, or under section 30 of the Prisoners Act, 1977 directing the reception of a criminal lunatic into any asylum which is prescribed for the reception of Criminal lunatics shall be sufficient authority for the reception and detention of any person named therein in such asylum or in any other asylum to which he may be lawfully transferred.

Reception after inquisition.

25. Reception after inquisition.—A lunatic so found by inquisition may be admitted into an asylum—

- (1) in the case of an inquisition under Chapter IV, on an order made by, or under the authority of, the High Court ;
- (2) in the case of an inquisition under Chapter V on an order made by the District Court.

26. Order for payment of cost of maintenance of lunatic.—(1) When any lunatic has been admitted into an asylum in accordance with the provisions of section, 25 the High Court or the District Courts, as the case may be, shall, on the application of the person in charge of the asylum, make an order for the payment of the cost of maintenance of the lunatic in the asylum, and may from time to time maintenance of the lunatic in the asylum, and may from time to time direct that any sum of money payable under such order shall be recovered from the estate of the lunatic or of any person legally bound to maintain him :

Provided that if at any time it shall appear to the satisfaction of the Court that the lunatic has not sufficient property, and that no person legally bound to maintain such lunatic has sufficient means for the payment of such cost, the Court shall certify the same instead of making such order for the payment of the cost as aforesaid.

(2) An order under sub-section (1) shall be enforced in the same manner and shall be of the same force and effect and subject to the same appeal as a decree made by the Court in a suit in respect of the property or person therein mentioned.

Amendment of order or certificate

27. Amendment of order or certificate.—If, after the reception of any lunatic into any asylum on a reception order, it appears that the order upon which he was received or the medical certificate or certificates upon which such order was made is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said asylum, one of whom shall be a medical officer.

CHAPTER III

Care and Treatment

Visitors.

28. Appointment of visitors.— (1) [The Government] shall appoint for every asylum not less than three visitors, one of whom at least shall be a medical officer.

(2) Minister-in-charge of Prisons shall be visitor ex-officio of all the asylums within the State.

29. Monthly inspection by visitor.— Two or more of the visitors, one whom shall be medical officer, shall, once at least in every month, together inspect every part of the asylum of which they are visitors, and see and examine, as far as circumstances will permit, every lunatic and border therein, and the order and certificate for the admission of every lunatic admitted since the last visitation of the visitors, and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the asylum and the inmates thereof.

30. Inspection of Criminal lunatic by Minister or visitors.— (1) When any person is [detained] under the provisions of section 466 or section 471, of the Code of Criminal Procedure, the Minister-in-charge of prisons, if such person is [detained] in a jail or the visitors of the asylum or any two of them, if he is [detained] in any asylum may visit him in order to ascertain his state of mind ; and he shall be visited once atleast in every six months by such Minister or by two of such visitors as aforesaid ; and such Minister or visitors shall make a special report as to the state of mind of such person to the authority under whose order he is [detained].

(2) [The Government] may empower the officer-in-charge of the Jail in which such person may be [detained] to discharge all or any of the functions of the Minister under sub-section (1).

Discharge of Lunatics

31. Order of discharge from asylum by visitors.—(1) Three of the visitors of any asylum, of whom one shall be a medical officer, may, by order in writing, direct the discharge of any person detained in such asylum, and such person shall thereupon be discharged :

Provided that no order under this sub-section shall be made in the case of a criminal lunatic, otherwise than as provided by section 30 of the Prisoners Act, 1977.

(2) When such order is made, if the person is detained under the order of any public authority, notice of the order of discharge shall be immediately communicated to such authority.

32. Discharge of lunatics in other cases.—A lunatic detained in an asylum under a reception order, made on petition, shall be discharged if the person on whose petition the reception order was made so applies in writing to the person in charge of the asylum :

Provided that no lunatic shall be discharged if the officer-in-charge of the asylum certifies in writing that the lunatic is dangerous and unfit to be at large.

33. Order of discharge on undertaking of relative for due care of the lunatic.—When any relative or friend of a lunatic detained in any asylum under the provisions of section 14 or 15 desires that such lunatic shall be delivered over to his care and custody, he may make application to the authority under whose order the lunatic is detained, and such authority, if it thinks fit, in consultation with the person in charge of the asylum and with the visitors or with one of them being a medical officer, and upon such relative or friend entering into a bond with or without sureties for such sum of money as the said authority thinks fit conditioned that such lunatic shall be properly taken care of and shall be prevented from doing injury to himself or to others, may make an order for the discharge of such lunatic, and such lunatic shall thereupon be discharged.

34. Discharge of person subsequently found on inquisition not to be of unsound mind.—If any lunatic detained in any asylum on a reception order made under sections 7, 10, 14, or 15 is subsequently found on an inquisition under

Chapter V not to be of unsound mind and incapable of managing himself and his affairs, the person in charge of the asylum shall forthwith, on the production of a certified copy of such finding, discharge the alleged lunatic from the asylum.

Removal of lunatics

35. Removal of lunatics and criminal lunatics.— (1) Any lunatic may be removed from any asylum established by Government, to any other asylum within the state in accordance with any general or special order of [the Government] :

Provided that no lunatic admitted into asylum on a reception order made on petition shall be removed in accordance with the provisions of this sub-section until notice of such intended removal has been given to the petitioner.

(2) [The Government] may make such general or special order as it thinks fit directing the removal of any person for whose [detention] an order has been made under section 466 or section 471 of the Code of Criminal Procedure, 1989, from the place where he is for the time being [detained] to any asylum, jail or place of safe custody in the State.

Escape and re-capture.

36. Order to justify detention and re-capture after escape -Every person received into an asylum under any such order as is required by this Act, may be detained therein until he is removed or discharged as authorized by law, and in case of escape may, by virtue of such order, be retaken by any police officer or by the person incharge of such asylum, or any officer or servant belonging thereto, or any other person authorized in that behalf by the said person incharge, and conveyed to and received and detained in such asylum :

Provided that in the case of a lunatic not being a criminal lunatic the power to re-take such escaped lunatic under this section shall be exercisable only for a period of one month from the date of his escape.

PART III

Judicial Inquisition as to Lunacy.

CHAPTER IV

37. to 61. Omitted

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CHAPTER V

Proceeding in Lunacy

Inquisition.

62. Power of District Court to institute inquisition as to persons alleged to be lunatic.—Whenever any person is possessed of property and is alleged to be a lunatic, the District Court within whose jurisdiction such person is residing may upon application, by order direct an inquisition for the purpose of ascertaining whether such person is of unsound mind and incapable of managing himself and his affairs.

63. Application by whom to be made.—(1) Application for such inquisition may be made by any relative of the alleged lunatic or by any public Curator appointed under the Succession (Property Protection) Act, 1977 (hereinafter referred to as the Curator,) or by the Government Pleader, as defined in the Code of Civil Procedure, or if the property of the alleged lunatic consists in whole or in part of land or any interest in land, by the Collector of the district in which it is situate.

(2) If the property or any part thereof is of such a description that if would by the law in force in the State subject the proprietor if disqualified, to the jurisdiction of the Court of Wards , the application may be made by the Collector on behalf of the Court of Wards.

64. Regulation of proceeding of District Courts.— (1) Notice shall be given to the alleged lunatic of the time and place at which it is proposed to hold the inquisition.

If it appears that personal service on the alleged lunatic would be ineffectual, the Court may direct such substituted service of the notice as it thinks fit.

The Court may also direct a copy of such notice to be served upon any relative of the alleged lunatic and upon any other person to whom in the opinion of the Court notice of the application should be given.

(2) The Court may require the alleged lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court, or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged lunatic.

The Court may likewise, make an order authorizing any person or persons therein named to have access to the lunatic for the purpose of a personal examination.

(3) The attendance and examination of the alleged lunatic under the provisions of sub-section (2) shall, if the alleged lunatic be a woman who, according to the manners and customs of the country ought not to be compelled to appear in the public, be regulated by the law and practice for the examination of such persons in other Civil cases.

65. Inquisition by District Courts and finding.— (1) The District Court, if it thinks fit, may appoint two or more persons to act as assessors to the Court in the said inquisition.

(2) Upon the completion of the inquisition, the Court shall determine whether the alleged lunatic is of unsound mind and incapable of managing himself and his affairs or may come to a special finding that such alleged lunatic is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others.

66. Inquisition by subordinate Court on commission issued by District Court and proceeding thereon.— (1) If the alleged lunatic resides at a distance of more than fifty miles from the place where the District Court is held to which the application is made, the said Court may issue a commission to any subordinate Court to make the inquisition, and such subordinate Court shall thereupon conduct the inquisition the manner hereinbefore provided in this Chapter.

(2) On the completion of the inquisition the subordinate Court shall transmit the record of its proceedings with the opinions of the assessors, if assessors have been appointed, and its own opinion on the case; and the District Court shall thereupon proceed to dispose of the application in the manner provided in section 65 sub-section (2):

Provided that the District Court may direct the subordinate Courts to make such further or other inquiries as it thinks fit before disposing of the application.

Judicial powers over person and estate of lunatic.

67. Custody of lunatics and management of their estates. - (1) The Court may make orders for the custody of lunatics so found by inquisition and the management of their estates.

(2) When upon the inquisition it is specially found that the person to whom the inquisition relates is of unsound mind so as to be incapable of managing his affairs, but that he is capable of managing himself and is not dangerous to himself or to others, the Court may make such orders as it thinks fit for the management of the estate of the lunatic including proper provisions for the maintenance of the lunatic and such members of his family as are dependant on him for maintenance, but it shall not be necessary to make any order as to the custody of the person of the lunatic.

68. Court of Wards to be authorized in certain cases to take charge of estate of lunatic.—If the estate of lunatic so found or any part thereof consists of property which, by the law for the time being in force, subjects the proprietor, if disqualified, to the jurisdiction of the Court of wards, the Court of wards shall be authorised to take charge of the same.

69. Power to direct Collector to take charge of person and estate of lunatic in certain cases.—(1) If the estate of a lunatic so found consists in whole or in part of land or any interest in land, but is not of such a nature that it would subject the proprietor, if disqualified, to the jurisdiction of the Court of Wards, the District Court may direct the Collector to take charge of the person and estate of the lunatic :

Provided that no such order shall be made without the consent of the Collector previously obtained.

(2) The Collector shall thereupon appoint a manager of the estate, and may appoint a guardian of the person of the lunatic.

70. Control over proceedings of Collector.—All proceedings of the Collector in regard to the person or estate of a lunatic under this chapter shall be subject to the control of the [Government] or such authority as it may appoint in this behalf.

71. Power of District Court to appoint guardian and manager and take security from manager.—(1) In all other cases the District Court shall appoint a manager of the estate of lunatic and may appoint a guardian of his person :

Provided that— (i) If it appears to the Court, having regard to the situation and condition in life of the lunatic and his family and the other circumstances of the case to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner it may, instead of appointing a manager of the estate, order that the property if money or if of any other description the produce thereof when realised, be paid to such person as the Court may think fit, to be applied for the purpose aforesaid.

The receipt of the person so appointed shall be a valid discharge to any person who pays any money or delivers any property of the lunatic to such person.

(ii) If it appears to the Court that the unsoundness of mind of a lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of such members of his family as are dependant on him for their maintenance, the Court may, in like manner as under above proviso, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

(2) Any person who has been appointed by the District Court or Collector to manage the estate of a lunatic shall, if so required, enter into a bond in such form and with such sureties as to the Court or the Collector, as the case may be, may seem fit engaging duly to account for what he may receive in respect of the property of the lunatic.

72. Restriction on appointment of legal heir of lunatic to be guardian of his person.—The legal heir of a lunatic shall not be appointed to be the guardian of the person of such lunatic unless the Court or the Collector, as the case may be, for reasons to be recorded in writing, considers that such an appointment is for the benefit of the lunatic.

73. Remuneration of managers and guardians.— A guardian of the person of lunatic or a manager of his estate appoint under this Chapter shall be paid such allowance, if any as the Court or the Collector, as the case may be, thinks fit for his care and pains in the execution of his duties.

74. Duties of guardian.—(1) The person appointed to be guardian of a lunatic's person shall have the care of his person and maintenance.

(2) When a distinct guardian is appointed, the manager shall pay to the guardian such allowance as may be fixed by the District Court or the Collector, as the case may be, for the maintenance of the lunatic and such members of his family as are dependent on him for their maintenance.

75. Powers of manager.—(1) Every manager of the estate of a lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a lunatic, and may collect and pay all just claims, debts and liabilities due to or by the estate of the lunatic :

Provided that no manager so appointed shall without the permission of the Court—

(a) mortgage, charge or transfer by sale, gift, exchange or otherwise any immovable property of the lunatic,

(b) lease any such property for a term exceeding five years.

Such permission may be granted subject to any condition or restriction which the Court thinks fit to impose.

(2) Before granting any such permission, the Court may cause notice of the application for such permission to be served on any relative or friend of the lunatic, and may make or cause to be made such inquiries as to the Court may seem necessary in the interests of lunatic.

76. Manager to furnish inventory and annual accounts.—(1) Every person appointed by the District Court or by the Collector to be manager of the estate of a lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the immovable property belonging to the lunatic and of all such money, or other movable property, as he may receive on account of the estate, together with a statement of all debts due by or to the same.

(2) Every such manager shall also furnish to the Court or to the Collector annually, with three months of the close of the year of the era current in the district, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands.

77. Proceeding if accuracy of inventory or accounts is impugned.—If any relative of the lunatic, or the Collector by petition to the Court, impugns the accuracy of the said inventory and statement, or of any annual account, the Court may summon the manger and inquire summarily into the matter and make such order thereon as it thinks fit ; or the Court, at its discretion, may refer any such petition to any subordinate Court or to the Collector if the manager was appointed by the Collector.

78. Payment into public treasury and investment of proceeds of estate.—All sums received by a manager on account of any estate in excess of what may be required for the current expenses of the lunatic or of the estate shall be paid into the public treasury on account of the estate shall be invested from time to time in any of the securities specified in section 20 of the Trusts Act, 1977, unless the Court or the Collector, as the case may be for reasons to be recorded in writing, directs that such sums be in the interest of the lunatic otherwise invested or applied.

79. Relative may sue for an account.—Any relative of a lunatic may, with the leave of the District, Court sue for an account from any manager appointed under this Chapter or from any such person after his removal from office or trust, or from his legal representative in case of his death, in respect of any estate then or formerly under his care or management or of any sums of money or other property received by him on account of such estate.

80. Removal of managers and guardians.—(1) The District Court, for any sufficient cause, may remove any manager appointed by it not being the Curator, and may appoint such Curator or any other fit person in his place, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all money received or disbursed by him.

(2) The Court may also, for any sufficient cause, remove any guardian of the person of the lunatic appointed by it, and may appoint any other fit person in his place.

(3) The Collector, for any sufficient cause, may remove any manager of the estate of a lunatic or guardian of the person of a lunatic appointed by him, and may appoint any other fit person in place of such manger or guardian ; and the District Court on the application of the Collector, may compel any manger removed under this section to make over the property and all accounts in his hands to his successor and to account to such successor for all money received or disbursed by him.

81. Penalty on manager for refusing to deliver accounts or property.—The District Court may impose a fine not exceeding five hundred rupees on any manager of the estate of a lunatic who wilfully neglects or refuses to deliver his accounts or any property in his hands within the time fixed by the Court, and may realise such fine as if it were a sum due under a decree of the Court, and may also commit the recusant to the civil Jail until the delivers such accounts or property.

82. Proceedings in lunacy to cases or to be set aside if Court finds that the unsoundness of mind has ceased.—(1) When any person has been found under this Chapter to be of unsound mind, and it is subsequently shown to the District Court that there is reason to believe that such unsoundness of mind has ceased, such Court may make an order for inquiring whether such person is still of unsound mind and incapable of managing himself and his affairs.

(2) The inquiry shall, as far as may be, be conducted in the same manner as is prescribed in this Chapter for an inquisition into the unsoundness of mind of an alleged lunatic, and if it is found that the unsoundness of mind has ceased, the Court shall order all proceedings in the lunacy to cease or to be set aside on such terms and conditions as the Court may seem fit.

83. Appeals.—An appeal shall lie to the High Court from any order made by a District Court, under this Chapter.

PART IV

Miscellaneous

CHAPTER VI

Establishment of Asylums.

84. Government may establishment or license the establishment of asylums.—[The Government] may establish or license the establishment of asylums at such places as it thinks fit.

85. Omitted.

CHAPTER VII

Expenses of Lunatics.

86. Payment of cost of maintenance in licensed asylums in certain cases by Government.—When any lunatic is admitted to a licensed asylum under a reception order or an order under section 25, and no engagement has been taken from the friends or relatives of the lunatic or order made by the Court for the payment of expenses under the provisions of this Act, the cost of maintenance of such lunatic shall, subject to the provision of any law for the time being in force, be paid by the Government to the person in charge of such asylum.

87. Application of property in the possession of a lunatic found wandering.—Any money in the possession of a lunatic found wandering at large may be applied by the Magistrate towards the payment of the cost of maintenance of the lunatic or of any other expenses incurred on his behalf, and any movable property found on the person of the lunatic may be sold by the Magistrate, and the proceeds thereof similarly applied.

88. Application to Civil Court for order for the payment of cost of maintenance out of the lunatic's estate, or by person bound to maintain him.—If a lunatic detained in an asylum on a reception order made under section 14 or section 15 has an estate applicable to his maintenance or if any person legally bound to maintain such lunatic has the means to maintain him, the authority which made the reception order or any local authority liable for the cost of maintenance of such lunatic under any law for the time being in force may apply to the High Court or District Court within the local limits of the original jurisdiction of which the estate of the lunatic is situate or the person legally bound to maintain him resides, for an order for the payment of the cost of maintenance of the lunatic.

89. Order of Court and enforcement thereof.—(1) The Court shall inquire into the matter in a summary way, and on being satisfied that such lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such lunatic, may make an order for the recovery of the cost of maintenance of such lunatic, together with the costs of the application out of such estate or from such person.

- (2) Such order shall be enforced in the same manner, and shall be of the same force and effect and subject to the same appeal as a decree made by the said Court in a suit in respect of property or person therein mentioned.

90. Saving of liability of relative to maintain lunatic.—The liability of any relative or person to maintain any lunatic shall not be taken away or affected by any provision contained in this Act.

CHAPTER VIII

Rules.

91. Power of the Government to make rules.—(1) [Government] may make rules for all or any of the following purposes namely :—

- (a) to prescribe forms for any proceeding under this Act ;
- (b) to prescribed places of detention and regulate the care and treatment of persons detained under section 8 or section 16 ;
- (c) to regulate the [detained], care, treatment and discharge of criminal lunatics ;
- (d) to regulate the management of asylums and the care and custody of the inmates thereof and their transfer from one asylum to another ;
- (e) to regulate the transfer of criminal lunatics to asylums ;
- (f) to prescribed the procedure to be followed by District Courts and Magistrates before a lunatic is sent to any asylum established by Government ;
- (g) to prescribed the asylums established by Government with in the province to which lunatics from any area or any class of lunatics shall be sent ;
- (h) to prescribe conditions subject to which asylums my be licensed ;
- (i) save as otherwise provided in this Act, generally to carry into effect the provisions of the Act.

(2) In making any rule under this section [the Government] may direct that a breach of it shall be punishable with fine which may extend to fifty rupees.

92. Publication of rules.—All rules made under section 91 shall be published in the Jammu and Kashmir Government Gazetted, and shall thereupon have effect as if enacted in this Act.

CHAPTER IX
Supplemental Provisions

93. Any person who—

Penalty for improper reception or detention of lunatic.—(a) otherwise than in accordance with the provisions of this Act receives or detains a lunatic or alleged lunatic in an asylum, or

(b) for gain detains two or more lunatics in any place not being an asylum, shall be punishable with imprisonment which may extend to two years or with fine or with both.

94. Provisions as to bounds.—The provisions of Chapter XLII of the Code of Criminal procedure, shall so far as may be, apply to bonds taken under this Act.

95. Pension of lunatic payable by Government.—(1) When any sum is payable in respect of pay, pension, gratuity or other similar allowance to any person by Government and the person to whom the sum is payable is certified by a Magistrate to be a lunatic, the Government officer under whose authority such sum would be payable if the payee were not a lunatic may pay so much of the said sum as he thinks fit to the person having charge of the lunatic, and may pay the surplus, if any, or such part thereof, as he thinks fit for maintenance of such members of the lunatic's family as are dependent on him for maintenance.

(2) [The Government] shall be discharge of all liability in respect of any amounts paid in accordance with this section.

96. Use of forms in Schedule.—Subject to any rules, the form set forth in the Schedule, with such variation as the circumstances of each case may require, shall be used for the respective purpose therein mentioned, and if used shall be sufficient.

97. Protection to persons acting under Act.—No suit, prosecution or other legal proceedings shall lie against any person for any thing which is in good faith done or intended to be done under this Act.

98. to 101. Omitted.

**SCHEDULE
FORMS**

(See section 96)

FORM 1

Application for Reception Order.

(See section 5, 6)

In the matter of A. B. (i), residing at, by occupation, son of.....a person alleged to be a lunatic.

To

District Magistrate of
Sub-divisional Magistrate of,
or Magistrate specially empowered under the Lunacy Act, 1977.

The petition of C. D. (i), residing at, by occupation....., son of, in the town of..... (or sub-division of in the district of).

1. I am (ii) years of age.
2. I desire to obtain an order the reception of A. B. as a lunatic in the asylum of situate at (iii).
3. I last saw the said A. B. aton the (iv) day of
4. I am the(v) of the said A. B.

(or if the petitioner is not a relative of the patient state as follows)

I am not a relative of the said A. B. The reasons why this petition is not presented by a relative are as follows : (State them).

The Circumstances under which this petition is presented by me are as follows : (State them).

- (i) Full name, caste and titles.
 - (ii) Enter the number of completed years. The petitioner must be at least eighteen or twenty-one whichever is the age of majority under the law to which the petitioner is subject.
 - (iii) Insert full description of the name and locality of the asylum or the name, address and description of the person in charge of the asylum.
 - (iv) A day within 14 days before the date of presentation of the petition is requisite.
 - (v) Here state the relationship with the patient.
5. The persons signing the medical certificates which accompany the petition are (i).
6. A statement of particulars relating to the said A. B. accompanies this petition.
7. **(If that is the fact)** An application for an inquiry into the mental capacity of the said A. B. was made to the

on the

and a certified copy of the order made on the said petition is annexed thereto. **(Or if that is the fact).**

No application for an inquiry into the mental capacity of the said A. B. has been made previous to this application.

The petitioner therefore prays that a reception order may be made in accordance with the foregoing statement.

(Sd.) C. D.

The statements contained or referred to in paragraphs are true to my knowledge; the other statements are true to my information and belief.

(Sd) C. D.

Statement of particulars,

(If any of the particulars in this statement is not known, the fact to be so state).

The following is a statement of particulars relating to the said A. B.

Name of patient at length.

Sex and age.

Married, single or widow.

Previous occupation.

Caste and religious belief, as far as known.

Residence at or immediately previous to the date hereof.

Name of any near relatives to the patient who are alive.

Whether this is first attack of lunacy.

Age (if known) on first attack.

When and where previously under care and treatment as a lunatic Duration of existing attack

Supposed cause.

Whether the patient is subject to epilepsy.

Whether suicidal.

Whether the patient is known to be suffering from phthisis or any form of tubercular disease.

Whether any near relative (standing the relationship) has been afflicted with insanity.

Whether the patient is addicted to alcohol, or the use of opium, ganja, charas, bhang, cocaine or other intoxicant.

The statements contained or referred to in paras are true to my knowledge. The other statements are true to my information and belief.

Signature by person making the statement.

(i) Here state whether either of the persons signing the medical certificates is a relative, partner or assistant of the lunatic or of the petitioner and, if a relative of their, the exact relationship.

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FORM 2

Reception Order on Petition.

(See sections 7, 10)

I, the undersigned E. F., being the District Magistrate of or the sub-divisional Magistrate of or a Magistrate of the first class specially empowered by Government to perform the functions of a Magistrate under the Lunacy Act upon the petition of C. D. of (a) in the matter of A. B. (a) a lunatic, accompanied by the medical certificate of G. H., a medical officer, and of J. K., a medical practitioner (or medical officer), under the said Act, hereto annexed, hereby authorise you to receive the said A. B. into your asylum. And I declare that I have (or have not) personally seen the said A. B. before making this order.

(Sd.) E. F.

(Designation as above)

FORM 3

Medical Certificate

(See Section 18, 19)

In the matter of A. B. of (i) in the town of (or the sub-division of in the district of) an alleged lunatic.

I, the undersigned C. D. do hereby certify as follows :—

a gazetted medical officer (or a medical practitioner declared by Government.

1. I am a holder of (ii) or declared by I (the Government) to be a medical to be medical officer under the lunacy Act..... and I am in the practitioner under the Lunacy Act) actual practice of the medical profession.

2. On the day of -19 at (iii) in the town of (or the village Sub-division of in the district of(separately from any other practitioner) (iv), I personally examined the said A. B. and came to the conclusion that the said A. B. is a lunatic and a proper person to be taken charge of and detained under care and treatment.

3. I formed this conclusion on the following grounds, viz—

(a) Facts indicating insanity observed by myself, viz—

(b) Other facts (if any) indicating insanity communicated to me by others, viz—

Here state the information and from whom.

(Sd) C. D.
(Designation as above).

(a) Address and description.

(b) To be addressed to the officer or person in charge of the asylum.

(i) Insert residence of patient.

(ii) Insert qualification to practise medicines and surgery registerable in the United Kingdom (now India).

(iii) Insert place of examination.

(iv) Omit this where only one certificate is required.

Substituted by Act X of 2010 for “His Highness”.

FORM 4

Omitted

FORM 5

Reception Order in case of wandering or dangerous lunatics or lunatics not under proper control or cruelly treated (sent to as asylum established by Government)

(See section 14, 15)

I, C. D., the District Magistrate of or the sub-divisional Magistrate of or a Magistrate specially empowered by Government under the Lunacy Act having caused A. B. to be examined by F. F., a Medical Officer under the Lunacy Act, and being satisfied that A. B. (describing him) is a lunatic who was wandering at large (or is a person dangerous by reason of lunacy) (or is a lunatic not under proper care and control or is cruelly treated or neglected

I hereby bind myself that on the said A. B. being made over to my care and custody, I will have him properly taken care of and prevented from doing injury to himself or to others ; and in case of my making default therein I hereby bind myself to forfeit to the Government the sum of rupees.

Dated this day of 19

(Sd.) E. F.

(Where a bond with sureties is to be executed add)- We do hereby declare ourselves sureties for the above named E. F. that he will, on the aforesaid A. B. being delivered to this care and custody, have the said A. B., properly taken care of and prevented from doing injury to himself or to others ; and in case of the said E. F. making default therein, we bind ourselves, jointly and severally, to forfeit to the Government, the sum of rupees.

Dated this day of 19

(Signature)

**THE JAMMU AND KASHMIR
PROBATION OF OFFENDERS ACT, 1966.**

(Act No. XXXVII of 1966.)

[Received the assent of the Governor on 28th October, 1966 and published
in Government Gazette, dated 28th October, 1966 (Extra.)]

An Act to provide for release of offenders on probation or after due admonitions and for matters connected therewith.

Be it enacted by the Jammu and Kashmir State Legislature in the Seventeenth Year of the Republic of India as follows:-

1. Short title, extent and commencement.—(1) This Act may be called the Jammu and Kashmir probation of Offenders Act, 1966.

(2) **It extends to the whole of the State.**

(3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint, and different dates may be appointed for different parts of the State.

2. Definitions:—In this Act, unless the context otherwise requires,—

- (a) “Code” means the Code of Criminal Procedure, Svt.1989 ;
- (b) “Probation Officer” means an officer appointed to be a Probation Officer or recognised as such under section 13 ;
- (c) “Prescribed” means prescribed by rules made under this Act ;
- (d) words and expressions used but not defined in this Act and defined the code of Criminal Procedure, Svt. 1989, shall have the meanings respectively assigned to them in that Code.

3. Power of Court to release certain offenders after admonition.—When any person is found guilty of having committed an offence punishable under section 379 or section 380 or section 381 or section 404 of section 420 of the Jammu and Kashmir State Ranbir Penal Code Svt.1989 or any offence punishable with imprisonment for not more than two years, or with fine or with both, under the Jammu and Kashmir State Ranbir Penal Code, Svt. 1989 or any other law, and no previous conviction is proved against him, and the

Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender it is expedient so to do, then notwithstanding anything contained in any other law for the time being in force, the Court may, instead of sentencing him to any punishment or releasing him on probation of good conduct under section 4, release him after due admonition.

Explanation.— For the purposes of this section, previous conviction against a person shall include any previous order made against him under this section or section 4.

4. Power of court to release certain offenders on probation of good conduct.—(1) When any person is found guilty of having committed an offence and not punishable with death or imprisonment for life and the Court by which the person is found guilty is of opinion that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it is expedient to release him on probation of good conduct then, notwithstanding anything contained in any other law for the time being in force, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period, not exceeding three years, as the Court may direct, and the meantime to keep the peace and be of good behavior :

Provided that the Court shall not direct such release of an offender unless it is satisfied that the offender or his surety, if any, has a fixed place of abode or regular occupation in the place over which the court exercises jurisdiction or in which the offender is likely to live during the period for which he enters into the bond.

(2) Before making any order under sub-section (1) the Court shall take into consideration the report, if any, of the probation officer concerned in relation to the case.

(3) When an order under sub-section (1), is made, the Court may, if it is of opinion that in the interest of the offender and the public it is expedient so to do, in addition pass a supervision order directing that the offenders shall remain under the supervision of a probation officer named in the order during such period, not being less than one year, as, may be specified therein, and may in such supervision order impose such conditions as it deems necessary for the due supervision of the offender.

(4) the court making a supervision order under sub-section (3) shall require the offender, before he is released, to enter into a bond, with or without sureties, to observe the conditions, specified in such order and such additional conditions with respect to residence abstention from intoxicants or any other matter as the Court may, having regard to the particular circumstances, consider fit to impose for preventing a repetitions of the same offence or a commission of other offences by the offender.

(5) The Court making a supervision order under sub-section (3) shall explain to the offender the terms and conditions of the order and shall forthwith furnish one copy of the supervision order to each of the offenders, the sureties, if any, and the probation officer concerned.

5. Power of Court to require released offenders to pay compensation and costs.—(1) The Court directing the release of an offender under section 3 or section 4 may, if it thinks fit, make at the same time a further order directing him to pay—

- (a) such compensation as the Court thinks reasonable for loss or injury caused to any person by the commission of the offence ; and
- (b) such cost of the proceedings as the Court thinks reasonable.

(2) The amount ordered to be paid under sub-section (1) may be recovered as a fine in accordance with the provisions of sections 386 and 387 of the Code.

(3) A Civil Court trying any suit, arising out of the same matter for which the offender is prosecuted, shall take into account any amount paid or recovered as compensation under sub-section (1) in awarding damages.

6. Restriction on imprisonment of offenders under twenty-one years of age.—(1) When any person under twenty-one years of age is found guilty of having committed an offence punishable with imprisonment (but not with imprisonment for life), the Court by which the person is found guilty shall not sentence him to imprisonment unless it is satisfied that, having regard to the circumstances of the case including the nature of the offence and the character of the offender, it would not be desirable to deal with him under section 3 or section 4 and if the Court passes any sentence of imprisonment on the offender it shall record its reasons for doing so.

(2) For the purpose of satisfying itself whether it would not be desirable to deal under section 3 or section 4 with an offender referred to in sub-section (1) the Court shall call for a report from the probation officer and consider the report, if any, and any other information available to it relating to the character and physical and mental condition of the offender.

7. Report of Probation Officer to be confidential.—The report of a probation officer referred to in sub-section (2) of section 4 or sub-section (2) of section 6 shall be treated as confidential :

Provided that the Court may, if it is so thinks fit communicate the substance thereof to the offender and may give him an opportunity of producing such evidence as may be relevant to the matter stated in the report.

8. Variation of conditions of probation.—(1) If, on the application of a Probation Officer, any Court which passes an order under section 4 in respect of an offender is of opinion that the interest of the offender and the public it is expedient or necessary to vary the conditions of any bond entered into by the offender it may, at any time during the period when the bond is effective, vary the bond by extending or diminishing the duration thereof so, however, that it shall not exceed three years from the date of the original order or by altering the conditions thereof or by inserting additional conditions therein :

Provided that no such variation shall be made without giving the offender and the surety or sureties mentioned in the bond an opportunity of being heard.

(2) If any surety refuses to consent to any variation proposed to be made under sub-section(1), the Court may require the offender to enter into a fresh bond and if the offender refuses or fails to do so, the Court may sentence him for the offence of which he was found guilty.

(3) Notwithstanding anything herein before contained, the Court which passes an order under section 4 in respect of an offender may, if it is satisfied on an application made by the probation officer, that the conduct of the offender has been such as to make unnecessary that he should be kept any longer under supervision, discharge the bond or bonds entered by him.

9. Procedure in case of offender failing to observe condition of bond.—(1) If the Court which passes an order under section 4 in respect of an offender or any Court which could have dealt with the offender in respect of his original offence has reason to believe, on the report of a probation officer or otherwise, that the offender has failed to observe any of the conditions of the bond or bonds entered into by him, it may issue a warrant for his arrest or may, if it thinks fit, issue a summon to him and his sureties, if any requiring him or them to attend before it at such time as may be specified in the summons.

(2) The Court before which an offender is so brought or appears may either remand him to custody until the case is concluded or it may grant him bail, with or without surety, to appear on the date which it may fix for hearing.

(3) If the Court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of the bond or bonds entered into by him, it may forthwith.—

(a) sentence him for the original offence ; and

(b) where the failure is for the first time, then without prejudice to the continuance in force of the bond, impose upon him a penalty not exceeding fifty rupees.

(4) If a penalty imposed under clause (b) of sub-section (3) is not paid within such period as the Court may fix, the Court may sentence the Offender for the Original offence.

10. Provision as to sureties.—The provisions of sections 122, 126, 126-A, 406-A, 514, 514-A, 514-B and 515 of the Code shall, so far as may be, apply in the case of bonds and sureties given under this Act.

11. Courts competent to make order under the Act, appeal and revision and power of Courts in appeal and revision.—(1) Notwithstanding anything contained in the Code or any other law, an order under this act may be made or any Court empowered to try and sentence the offender to imprisonment and also by the High Court or any other Court when the case comes before it, in appeal or in revision.

(2) Notwithstanding anything contained in the Code, where an order under section 3 or section 4 is made by any Court trying the offender (other than a High Court), an appeal shall lie to the Court to which appeals ordinarily lie from the sentences of the former Court.

(3) In any case where any person under twenty-one years of age is found guilty of having committed an offence and the Court by which he is found guilty declines to deal with him under section 3 or section 4, and passes against

him any sentence of imprisonment with or without fine from which no appeal lies or is referred, then, notwithstanding anything contained in the Code or any other law, the Court to which appeals ordinarily lie from the sentence of the former Court may, either of its own motion or on an application made to it by the convicted person or the probation officer, call for and examine the record of the case and pass such order thereon as it thinks fit.

(4) When an order has been made under section 3 or section 4 in respect of an offender, the Appellate Court or the High Court in exercise of its power of revision may set aside such order and in lieu thereof pass sentence on such offender according to law :

Provided that the Appellate Court or High Court in revision shall not inflict a greater punishment than might have been inflicted by the Court by which the offender was found guilty.

12. Removal of disqualification attaching to conviction.—Notwithstanding anything contained in any other law, a person found guilty of an offence and dealt with under the provisions of section 3 or section 4 shall not suffer disqualification, if any, attaching to a conviction of an offence under such law :

Provided that nothing in this section shall apply to a person who, after his release under section 4, is subsequently sentenced for the original offence.

13. Probation Officers.—(1) A Probation Officer under this Act shall be.—

- (a) a person appointed to be a probation officer by the Government or recognised as such by the Government ; or
- (b) a person provided for this purpose by a society recognised in this behalf by the Government ; or
- (c) in any exceptional case, any other person, who in the opinion of the Court, is fit to act as a probation officer in the special circumstances of the case.

(2) A Court which passes an order under section 4 or the District Magistrate of the district in which the offender for the time being resides may, at any time, appoint any probation officer in the place of the person named in the supervision order.

(3) A probation officer in the exercise of the duties under this Act, shall be subject to the control of the District Magistrate of the district in which the offender for the time being resides.

14. Duties of Probation Officer.—A Probation Officer shall, subject to such conditions and restrictions, as may be prescribed—

(a) inquire, in accordance with, any directions of a Court, into the circumstances or home surroundings of any person accused of an offence with a view to assisting the Court in determining the most suitable method of dealing with him and submit reports to the Courts.

(b) Supervise probationers and other persons placed under his supervision and where necessary, endeavour to find them suitable employment ;

(c) Advise and assist offenders in the payment of compensation or costs ordered by the Court ;

(d) Advise and assist, in such cases and in such manner as may be prescribed, persons who have been released under section 4 ; and

(e) Perform such other duties as may be prescribed.

15. Probation Officers to be public servants.—Every Probation Officer and every other officer appointed in pursuance of this Act shall be deemed to be public servants within the meaning of section 21 of the Jammu and Kashmir State Ranbir Penal Code, Svt. 1989.

16. Protection of action taken in good faith.—No suit or other legal proceedings shall lie against the Government or any Probation Officer or any other officer appointed under this Act in respect of anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made thereunder.

17. Power to make rules.—(1) The Government may by notification in the Government Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(a) appointment of Probation Officers, the terms and conditions of their service and the areas within which they are to exercise jurisdiction ;

(b) duties of Probation Officers under this Act and the submission of reports by them ;

(c) the conditions on which societies may be recognised for the purpose of clause (b) of sub-section (1) of section 13 ;

(d) the payment of remuneration and expenses of Probation Officers or of a subsidy to any Society which provides Probation Officers ; and

(e) any other matter which is to be, or may be prescribed.

18. Saving of operation of certain enactments:—Nothing, in this Act shall affect the provision of sub-section (2), of section 5 of the Jammu and Kashmir Prevention of Corruption Act, Svt.2006 or the Super session of Immoral traffic in Woman and Girls Act, 1956 (Central Act of 1956) or any law in force in the State relating to Juvenile offenders.

19. Section 562 of the Code cease to apply: —Subject to the provisions of section 18, section 562 of the Code shall cease to have effect.

* * * *

THE PRISONS ACT, 1977 (1920 A. D.)**(Act No. XXXI of 1977).**

[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Minister's endorsement No. 8372, dated 11th September, 1920 read with State Council Resolution No. 1, dated 8th April 1925. (Notification No. 14-L/81)]

An Act to amend the law relating to Prisons.

Where it is expedient to amend the law relating to prisons in the State and provide rules for the regulation of such prisons ; it is hereby enacted as follows :—

CHAPTER 1**Preliminary,**

1. (1) This Act may be called the Prisons Act, 1977.

(2) It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1978.

2. Omitted.

3. **Definitions.**—In this Act.—

(1) “**prison**” means any jail or place used permanently or temporarily under the general or special orders of [the Government] for the detention of prisoners, and includes all lands and buildings appurtenant thereto, but does not include —

(a) any place for the confinement of prisoners who are exclusively in the custody of the police ;

(b) any place specially appointed by [the Government] under section 541 of the Code of Criminal Procedure ;

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

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

(3) “**convicted criminal prisoner**” means any criminal prisoner under sentence of a Court or Court-martial, and includes a person detained in prison under the provisions of Chapter VIII of the Code of Criminal Procedure, or under the Prisoners Act, 1977 ;

(4) “**civil prisoner**” means any prisoner who is not a criminal prisoner ;

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

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

(7) “**Inspector-General**” means [the officer for the time being appointed by the Government as] the Inspector – General of Prisons ;

(8) “**Medical Subordinate**” means an Assistant Surgeon Apothecary or qualified Sub-Assistant Surgeon ; and

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

CHAPTER II.

Maintenance and Officers of Prisons

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

5. **Inspector-General.**—The [Inspector-General] shall exercise, subject to the orders of the [the Government], the general control and Superintendence of all prisons situated in the State.

6. **Officers of prisons.**—For every prison there shall be a Superintendent, a Medical Office (who may also be the Superintendent), a Medical Subordinate, a Jailor and such other officers as [the Government] think necessary.

7. **Temporary accommodation for prisoners.**—Whenever it appears to the [Inspector-General] that the number of prisoners in any prison is greater than can conveniently or safely be kept therein, and it is not convenient to transfer the excess number to some other prison, or whenever from the outbreak of epidemic disease within any prison, or for any other reason, it is desirable to provide for the temporary shelter and safe custody of any prisoners :

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

CHAPTER III

Duties of Officers

Generally.

8. **Control and duties of officers of prisons.**—All officers of a prison shall obey the directions of the Superintendent ; all officers subordinate to the Jailor shall perform such duties as may be imposed on them by the Jailor with the sanction of the Superintendent or be prescribed by rules under section 60.

9. **Officer not to have business dealing with prisoners.**—No officer of a prison shall sell or let, nor shall any person in trust for or employed by him sell or let, or derive any benefit from selling or letting, any article to any prisoner or have any money or other business dealing directly or indirectly with any prisoner.

10. **Officers not to be interested in prison contracts.**—No officer of a prison shall, nor shall any person in trust for or employed by

him, have any interest, direct or indirect, in any contract for the supply of the prison ; nor shall he derive any benefit, directly or indirectly, from the sale or purchase of any article on behalf of the prison or belonging to a prisoner.

SUPERINTENDENT.

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

(2) Subject to such general or special directions as may be given by [the Government], the Superintendent of a prison other than a central prison shall obey all orders not inconsistent with Act or any rule thereunder which may be given respecting the prison by the District Magistrate, and shall report to the Minister-in-charge all such orders, and the action taken thereon.

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

(1) a register of prisoners admitted ;

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

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

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

(5) a record of the money and other articles taken from prisoners ; and all such other records as may be prescribed by rules under section 59 or section 60.

MEDICAL OFFICER.

13. Duties of Medical Officer.—Subject to the control of the Superintendent, the Medical officer shall have charge of the sanitary administration of the prison, and shall perform such duties as may be prescribed by rules made by the Government under section 60.

14. Medical Officer to report in certain cases.—Whenever the Medical Officer has reason to believe that the mind of a prisoner is, or likely to be, injuriously affected by the discipline or treatment to which he is subjected, the Medical Officer shall report the case in writing to the Superintendent, together with such observations as he may think proper.

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

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

- (1) the day on which the deceased first complained of illness or was observed to be ill,
- (2) the labour, if any, on which he was engaged on that day.
- (3) the scale of his diet on that day,
- (4) the day on which he was admitted to hospital,
- (5) the day on which the Medical Officer was first informed of the illness,
- (6) the nature of disease,
- (7) when the deceased was last seen before his death by the Medical Officer or Medical Subordinate,

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

JAILOR

16. **Jailor.**—(1) The Jailor shall reside in the prison, unless the Superintendent permits him in writing to reside elsewhere.

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

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

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

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

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

SUBORDINATE OFFICERS

21. **Duties of gate-keeper.**—The officer acting as gate-keeper, or any other officer of the prison, may examine anything carried in or out of the prison,

and may stop and search or cause to be searched any person suspected of bringing any prohibited article into or out of the prison, or of carrying out any property belonging to the prison, and if any such article or property be found, shall give immediate notice thereof to the Jailor.

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

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

CHAPTER IV

Admission, Removal and Discharge of Prisons

24. **Prisoners to be examined on admission.**—(1) Where a prisoner is admitted into prison, he shall be searched, and all weapons and prohibited articles shall be taken from him.

(2) Every criminal prisoner shall also, as soon as possible after admission, be examined under the general or special orders of the Medical Officer, who shall enter or cause to be entered in a book, to be kept by the Jailor, a record of the state of the prisoner's health and of any wounds or marks on his person, the class of labour he is fit for if sentenced to rigorous imprisonment, and any observations which the Medical Officer thinks fit to add.

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

25. **Effects of Prisoners.**—All money or other articles in respect whereof no order of a competent Court has been made, and which may with proper authority be brought into the prison by any criminal prisoner or sent to the prison for his use, shall be placed in the custody of the Jailor.

26. Removal and discharge of prisoners.—(1) All prisoners, previously to being removed to any other prison, shall be examined by the Medical Officer.

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

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

CHAPTER V.

Discipline of Prisoners

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

(1) in a prison containing female as well as male prisoners, the females shall be imprisoned in separate building, or separate parts of the same building, in such manner as to prevent their seeing, or conversing or holding any intercourse with, the male prisoners.

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

(3) un-convicted criminal prisoners shall be kept apart from convicted criminal prisoners ; and

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

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

29. **Solitary confinement.**—No cell shall be used for solitary confinement unless it is furnished with the means of enabling the prisoner to communicate at any time with an officer of the prison, and every prisoners so confined in a cell for more than twenty-four hours, whether as a punishment or otherwise, shall be visited at least once a day by the Medical Officer or Medical Subordinate.

30. **Prisoners under sentence of death.**—(1) Every prisoner under sentence of death shall, immediately on his arrival in the prison after sentence, be searched by, or by order of, the Jailor and all articles shall be taken from him which the Jailor deemed it dangerous or inexpedient to leave in his possession.

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

CHAPTER VI.

Food, Clothing and Bedding of Civil and Unconvicted Criminal Prisoners

31. **Maintenance of certain prisoners from private sources.**—A civil prisoner or an un-convicted criminal prisoner shall be permitted to maintain himself, and to purchase, or received from private sources at proper hours, food, clothing, bedding or other necessaries, but subject to examination and to such rules as may be approved by the [Inspector General].

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

33. **Supply of clothing and bedding to civil and unconvicted criminal prisoners.**—(1) Every civil prisoner and un-convicted criminal prisoner unable to

provide himself with sufficient clothing and bedding shall be supplied by the Superintendent with such clothing and bedding as may be necessary.

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

CHAPTER VII.

Employment of Prisoners.

34. Employment of civil prisoners.—(1) Civil prisoner may, with the Superintendent's permission, work and follow any trade or profession.

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

35. Employment of civil prisoners.—(1) No criminal prisoner sentenced to labour or employed on labour at his own desire shall, except on an emergency with the sanction in writing of the Superintendent, be kept to labour for more than nine hours in any one day.

(2) The Medical Officer shall from time to time examine the labouring prisoners while they are employed and shall at least once in every fortnight cause to be recorded upon the history-ticket of each prisoner employed on labour the weight of such prisoner at the time.

(3) When the Medical Officer is of opinion that the health of any prisoner suffers from employment on any kind or class of labor, such prisoner shall not be employed on that labour but shall be placed on such other kind of class of labor as the Medical Officer may consider suited for him.

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

CHAPTER VIII

Health of Prisoners

37. Sick Prisoners.—(1) The names of prisoners desiring to see Medical Subordinate or appearing out of health in mind or body shall, without delay, be reported by the officer in immediate charge of such prisoners to the Jailor.

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

38. Record of Directions of Medical Officers.—All directions given by the Medical Officers, Medical Subordinate in relation to any prisoner, with the exception of orders for the supply of medicines or directions relating to such matters as are carried into effect by the Medical Officer himself or under his superintendence, shall be entered day by day in the prisoner's history-ticket or in such other record as [the Government] may by rule direct, and the jailor shall make an entry in its proper place stating in respect of each direction the fact of its having been or not having complied with, accompanied by such observations, if any, as the Jailor thinks fit to make, and the date of the entry.

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

CHAPTER IX.**Visits to Prisoners.**

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

41. **Search of visitors.**—(1) The Jailor may demand the name and address of any visitor to a prisoner, and when the Jailor has any ground for suspicion, may search any visitor, or cause him to be searched, but the search shall not, be made in the presence of any prisoner or of another visitor.

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

CHAPTER X.**Offences in Relation to Persons**

42. **Penalty for introduction or removal of prohibited articles into or from prison and communication with prisoners.**—Whoever, contrary to any rule under section 60, introduces or removes or attempts by any means whatever to introduce or remove, into or from any prison, or supplies or attempts to supply to any prisoner outside the limits of a prison, any prohibited article,

and every officer of a person who, contrary to any such rule, knowingly suffers any such article to be introduced into or removed from any prison, to be possessed by any prisoner, or to be supplied to any prisoner outside the limits of a prison,

and whoever contrary to any such rule, communicates or attempts to communicate with any prisoner,

and whoever abets any offence made punishable by this section, shall, on conviction before a [Judicial Magistrate] be liable to imprisonment for a term not exceeding six months or to fine not exceeding two hundred rupees, or to both.

43. Powers to arrest for offence under section 42.—When any person, in the presence of any officer of a prison, commits any offence specified in the last foregoing section, and refuses on demand of such officer to state his name and residence, or gives a name or residence which such officer knows, or has reason to believe, to be false, such officer may arrest him, and shall without unnecessary delay, make him over to a Police Officer, and thereupon such Police officer shall proceed as if offence had been committed in his presence.

44. Publication of penalties.—The Superintendent shall cause to be affixed in a conspicuous place outside the prison, a notice in English and the Vernacular setting forth the acts prohibited under section 42 and this penalties incurred by their commission.

CHAPTER XI.

Prison Offences

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

- (1) such willful disobedience to any regulation of the prison as shall have been declared by rules made under section 59 to be a prison-offence ;
- (2) any assault or use of criminal force ;
- (3) the use of insulting or threatening language ;
- (4) immoral or indecent or disorderly behaviour ;

- (5) wilfully disabling himself from labour ;
- (6) continuously refusing to work ;
- (7) filling, 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 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.

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 sever form ;
- (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 rule made by [the Government] ;
- (5) the substitution of gunny or other coarse fabric for clothing of other material, not being woollen for a period which shall not exceed three months ;
- (6) imposition of handcuffs of such pattern and weight, in such manner and for such period, as may be prescribed by rules made by [the 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 Government] ;
- (8) separate confinement for any period not exceeding six 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 Government] :

Provided that such restriction of diet shall in no case be applied to a prisoner for more than ninety-six consecutive hours, and shall not be repeated except for a fresh offence not until after an interval of one week ;

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

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

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

(11) solitary confinement for any period not exceeding seven days :

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

Explanation.—Solitary confinement means such confinement with or without labour as entirely secludes the prisoner both from sight of, and communication with, other prisoners ;

(12) penal diet as defined in clause (9) combined with solitary confinement as defined clause (11) ;

(13) 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.

47. Plurality of punishments under section 46.—Any two of the punishment 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 of (4) of that section ;

(3) 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 solitary confinement ;

- (3) solitary confinement shall not be combined with cellular confinement or with separate confinement, nor cellular confinement 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 and separate confinement and loss of privileges admissible under the remission system.

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 forgoing sections, subject, in the case of separate confinement for a period exceeding one month, to the previous confinement of the Minister-in-charge.

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

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.

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.

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 Jailor and Superintendent shall affix their initials as evidence of the correctness of the entries.

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 [Chief Judicial Magistrate or of any Judicial Magistrate] of the Ist class having jurisdiction, together with a statement of the circumstances, and such Magistrate shall thereupon inquire into and try the charge so brought against the prisoner, and upon conviction, may sentence him to imprisonment which may extend to one year, such term to be in addition to any term for which such prisoner was undergoing imprisonment when he committed such offence, or may sentence him to any of the punishments enumerated in section 46 :

Provided that any such case may be transferred for inquiry and trial by the [Chief Judicial Magistrate to any Judicial Magistrate] of the first class : and

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

53. Whipping.—(1) No punishment of whipping shall be inflicted in instalments, 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 the prisoners under the age of sixteen it shall be inflicted, in the way of school discipline, with a lighter ratan.

54. Offences by prison subordinates.—(1) Every Jailor or officer of a prison subordinate to him who shall be guilty of any violation of duty or wilful breach or neglect of any rule or regulation or lawful order made by competent authority, or who shall withdraw from the duties of his office without permission, or without having given previous 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.

CHAPTER XII

Miscellaneous

55. Extramulra custody, control and employment of prisoners.—A prisoner, when being taken to or from any prison in which he may be lawfully confined, or whenever he is working outside or is otherwise beyond the limits of any such prison in or under the lawful custody or control of a prison officer belonging to such prison, shall be deemed to be in prison and shall be subject to all the same incidents as if he were actually in prison.

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

57. Confinement of prisoners under sentence of transportation in irons.—
(1) Prisoners under sentence of transportation may, subject to any rules made under section 60, be confined in fetters for the first three months after admission to prison.

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

58. Prisoners not to be ironed by Jailor except under necessity.—No prisoner shall be put irons or under mechanical restraint by the Jailor of his own authority, except in case of urgent necessity, in which case notice thereof shall be forthwith given to the Superintendent.

59. Power to make rules.—[The Government] may make rules consistent with this Act,—

- (1) defining the acts which shall constitute prison offences ;
- (2) determining the classification of prison-offences into serious and minor offences ;
- (3) fixing the punishments admissible under this Act which shall be awardable for commission of prison-offences or classes thereof ;
- (4) declaring the circumstances in which acts constituting both a prison-offence and an offence under the Ranbir Penal Code may or may not be dealt with as a prison-offence ;
- (5) for the award of marks and the shortening of sentences ;

- (6) regulating the use of arms against any prisoner or body of prisoners in the case of an out-break or attempt to escape ;
- (7) defining the circumstances and regulating the conditions under which prisoners in danger of death may be released ;
- (8) regulating their transfer from one part of the State to another of prisoners whose term of transportation or imprisonment is about to expire ; and,
- (9) generally for carrying into effect the purposes of this Act.

60. Powers of the Government to make rules.—[The Government] may make rules consistent with this Act –

- (a) for the classification of prisons, and description and construction of wards, cells and other places of detention ;
- (b) for the regulation by numbers, length or character of sentences, or otherwise, of the prisoners to be confined in each class of prisons ;
- (c) for the government of prisons and for the appointment, guidance, control, punishment and dismissal of all officers appointed under this Act ;
- (d) as to the food, bedding clothing of criminal prisoners and of civil prisoners maintained otherwise than at their own cost ;
- (e) for the employment, instruction and control of convicts within or without prisons ;
- (f) for the defining articles the introduction or removal of which into or out of prisons without due authority is prohibited ;
- (g) for classifying and prescribing the forms of labour and regulating the periods of rest from labour ;

- (h) for regulating the disposal of the proceeds of the employment of prisoners ;
- (i) for regulating the confinement in fetters of prisoners sentenced to transportation;
- (j) for the classification and the separation of prisoners ;
- (k) for regulating confinement of convicted criminal prisoners under section 28 ;
- (l) for the preparation and maintenance of history-tickets ;
- (m) for the selection and appointment of prisoners as officers of prisons ;
- (n) for rewards for good conduct ;
- (o) for regulating the transfer of prisoners whose term of transportation or imprisonment is about to expire ;
- (p) for the treatment, transfer and disposal of criminal lunatics or recovered criminal lunatics confined in prisons ;
- (q) for regulating the transmission of appeals and petitions from prisoners and their communications with their friends ;
- (r) for the appointment and guidance of visitors of prisons;
- (s) for the extending any or all of the provisions of this Act and of the rules thereunder to subsidiary jails or special places of confinement appointment under section 541 of the Code of Criminal Procedure, and to the officers employed, and the prisoners confined, therein ; and
- (t) generally, in regard to the admission, custody employment, dieting treatment and release of prisoners and for other purposes consistent with this Act.

61. **Exhibition of copies of rules.**—Copies of rules, under section 59 and 60, so far as they affect the Government of prisons, shall be exhibited, both in English and in Vernacular, in some place to which all persons employed within a prison have access.

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

* * * * *

THE PRISONERS ACT, 1977 (1920 A. D.)

(Act No. XXXIII of 1977)

[Sanctioned by His Highness the Maharaja Sahib Bahadur per Chief Ministers endorsement No. 8372, dated 11th September, 1920 read with the State Council Resolution No. 1, dated 8th April, 1925 (Notification No. 14-L/81.)]

An Act to consolidated the law relating to Prisoners confined by order of a Court.

Whereas it is expedient to consolidate the law relating to prisoners confined by order of a Court ; It is hereby enacted as follows :—

PART I

Preliminary

1. (1) This Act may be called the Prisoners Act, 1977.

(2) It extends to the whole of Jammu and Kashmir State. It shall come into force on the 1st day of Baisakh, 1978.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

- (a) “**Court**” includes any officer lawfully exercising civil, criminal or revenue jurisdiction ; and
- (b) “**Prison**” includes any place which has been declared by ¹[the Government], by general or special order, to be a subsidiary jail.

Officers in charge of prisons to detain persons duly committed to their custody.

3. The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any Court, according to the exigency of any writ, warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law.

Explanation.—For the purpose of execution, a sentence of “imprisonment for life” shall mean a sentence of imprisonment for 20 years.

Officers in charge of prisons to return writs, etc after execution or discharge.

4. The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such

writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharge from custody before the execution thereof.

PART III.

5 to 13 Omitted.

PART IV.

Prisoners.

14. Omitted.

15. Power for officers in charge of prisons to give effect to sentences of certain Courts.—Officers in charge of prisons shall give effect to any sentence or order or warrant for the detention of any person passed or issued by any Court or tribunal in the State.

16. Warrant of officer of such Court to be sufficient authority.—A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

17. Procedure where officer in charge of prison doubts the legality of warrant sent to him for execution under this part.—(1) where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to [the Government], by whose order on the case he and all other public officers shall be guided as to the further disposal of the prisoner.

(2) Pending a reference made under sub-section (1) the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

18. Omitted.

PART V.

Servitude.

19 to 27. Omitted.

PART VI.**Removal of Prisoners.**

28. Omitted.

29. **Removal of prisoners.**—(1) [The Government] may, by general or special order, provide for the removal of any prisoner confined in a prison.—

(a) under sentence of death, or

(b) under, or in lieu of, a sentence of imprisonment or imprisonment for life,
or

(c) in default of payment of fine, or

(d) in default of giving security for keeping the peace or for maintaining good behavior, to any other prison in the State.

(2) [The Government], and (subject to its orders and under its control) the [Inspector General] may in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in the State to any other prison in the State.

30. **Lunatic Prisoner how to be dealt with.**—(1) Where it appears to [the Government] that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, [the Government] may, by a warrant setting forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within the State, there to be kept and treated as [the Government] directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to [the Government] that the prisoner has become of sound mind, [the Government] shall, by a warrant directed to the person having

charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within the province, or if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of section 31 of Lunacy Act, shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned ; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

31. Omitted.

PART VII.

Persons under sentence of imprisonment for life.

32. Appointment of places for confinement of persons under sentence of imprisonment for life and removal thereto.—[The Government] may appoint places within the State to which persons under sentence of imprisonment for life shall be sent ; and [the Government], or some officer duly authorised in this behalf by [the Government], shall give orders for the removal of such persons to the places so appointed, except when sentence of imprisonment for life is passed on a person already undergoing imprisonment for life under a sentence previously passed for another offence.

PART VIII.

Discharge of Prisoners.

33. Release on recognizance, by order of High Court, of prisoner recommended for pardon.—The High Court may, in any case in which it has recommended to [the Governor] the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

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PART IX.

**Provision for requiring the attendance of prisoners and obtaining
their evidence.**

Attendance of Prisoners in Court.

34. Omitted.

35. Power for Civil Courts to require appearance of prisoner to give evidence.—Subject to the provisions of section 39, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is the High Court, or if it is not the High Court, then within the local limits of the appellate jurisdiction of the High Court, is material in any matter pending before it, make an order in the form set forth in the pending in the first schedule, directed to the officer in charge of the Prison.

36. District Judge in certain cases to countersign orders made under section 35.—(1) Where an order under section 35 is made in any civil matter pending—

- (a) in a Court subordinate to the District Judge, or
- (b) in a Court of Small Causes,

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,—

- (i) the District Judge to which the Court is subordinate, or
- (ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situated.

(2) Every order submitted to the District Judge under sub-section (1) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

37. Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge.—Subject to the provisions of section 39, any Criminal Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is the High Court, or if it is not the High Court, then within the local limits of the appellate jurisdiction of the High Court, is material in any matter pending before it, or if a charge of an offence against such person is made or pending, make an order in the form set forth in the first or second schedule, as the case may be, directed to the officer in charge of the prison :

Provided that if such Criminal Court is inferior to the Court of a Magistrate of the first class, the order shall be submitted to, and countersigned by, the District Magistrate [or the Chief Judicial Magistrate, as the case may be] to whose Court such Criminal Court is subordinate or within the limits of whose jurisdiction such Criminal Court is situated.

38. Order to be transmitted through Magistrate of the district or sub-division in which person is confined.—Where any person, for whose attendance an order as in this part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situated, the order shall be sent by the Court by which it is made or countersigned to the [District Magistrate or the Chief Judicial magistrate] within the local limits of whose jurisdiction the person is confined, and that Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

39. Procedure where removal is desired of person confined in a prison more than one hundred miles from place where evidence is required.—(1) Where a person is confined in a prison more than one hundred miles distant from the place where any Court, subordinate to the High Court, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required shall, if he think that such person should be removed under this Part for the purpose of giving evidence in such Court, apply in writing to the High Court, and the High Court may, if it thinks fit, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

(2) The High Court making an order under sub-section (1) shall send it to the [District Magistrate or the Chief Judicial Magistrate] within the local limits of whose jurisdiction the person named therein is confined, and such Magistrate shall cause it to be delivered to the officer in-charge of the prison in which the person is confined.

40. Omitted.

41. Prisoners to be brought up.—Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in or near the Court until he has been examined or until the Judge or presiding officer of the Court authorises him to be taken back to the prison in which he was confined.

42. Power to Government to exempt certain prisoners from operation of this Part.—[The Government] may, by notification in the Government Gazette, direct that any person or any class of person shall not be removed from the prison in which he or they may be confined; and thereupon and so long as such notification remains in force, the provisions of this Part, other than those contained in sections 44 to 46, shall not apply to such person or class of persons.

43. Officer in charge of prison when to abstain from carrying out order.—In any of the following cases, that is to say,—

(a) where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer in charge of the prison in which he is confined, shall apply to the [District Magistrate or the Chief Judicial Magistrate] within the local limits of whose jurisdiction the prison is situate and if such Magistrate, by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed; or

- (b) where the person named in any such order is under committal for trial ; or
- (c) where the person named in any such order is under a remand pending trial or pending a preliminary investigation ; or
- (d) where the person named in any such order is in custody for a period which would expire before the expiration of the time required for removing him under this Part and for taking him back to the prison in which he is confined ;

the officer in charge of the prison shall abstain from carrying out the order, and shall send to the Court from which the order has been issued a statement of the reason for so abstaining :

Provided that such officer as aforesaid shall not so abstain where—

- (i) the order has been made under section 37 ; and
- (ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity, unfit to be removed ; and
- (iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

44. Commissions for examination of prisoners.—In any of the following cases, that is to say,—

- (a) where it appears to any Civil Court that the evidence of a person confined in any prison, who for any of the causes mentioned in section 42 or section 43, cannot be removed, is material in any matter pending before it ; or
- (b) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so situate and more than ten miles distance from the place at which such Court is held, is material in any such matter ; or

(c) where the District Judge declines, under section 36, to countersign an order for removal ;

the Court may, if it thinks fit, issue a commission, under the provisions of the Code of Civil Procedure for the examination of the person in the prison in which he is confined.

45. Omitted.

46. Commission how to be directed.—Every commission for the examination of a person issued under section 44 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situate, and the District Judge shall commit the execution of the commission to the officer in charge of the prison, or to such other person as he may think fit.

Service of Process on Prisoners.

47. Process how served on prisoners.—When any process directed to any person confined in any prison is issued from any Criminal of Revenue Court, it may be served by exhibiting to the officer in charge of the prison the original of the process and depositing with him a copy thereof.

48. Process served to be transmitted at prisoner's request.—(1) Every officer in charge of a prison upon whom service is made under section 47 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under his charge and has been shown and had explained to him a copy of the process.

(2) Such certificate as aforesaid shall be prime facie evidence of the service of the process, and, if the person to whom the process is directed requests that the copy shown and explained to him be sent to any other person and provided the cost of sending it by post, the officer in charge of the prison shall cause it to be so sent.

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49. Omitted.

50. **Deposit of costs.**—No order in any civil matter shall be made by a Court under any of the provisions of this part until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court : Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by the Government from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the Code of Civil Procedure.

51. **Power to make rules under this Part.**—(1) [The Government] may make rules—

- (a) for regulating the escort of prisoners to and from Courts in which their attendance is required and for their custody during the period of such attendance ;
- (b) for regulating the amount to be allowed for the costs and charges of such escort ; and
- (c) for the guidance of officers in all other matters connected with the enforcement of this part.

(2) All rules made under sub-section (1) shall be published in the Jammu & Kashmir Government Gazette, and shall, from the date such publication, have the same force as if enacted by this Act.

52. **Power to declare who shall be deemed officer in charge of prison.**—[The Government] may declare what officer shall, for the purpose of this Part, be deemed to be the officer in charge of a prison.

53. Omitted.

THE FIRST SCHEDULE.

(See sections 35 and 37)

Court of

To the officer in charge of the (State name of prison.)

You are hereby required to produce
now a prisoner in under safe and sure conduct before the Court of
at on the
day of next by of the clock in the forenoon of the same
day, there to give evidence in a matter now pending before the said Court, and after the
said more has then and there given his evidence before the said Court or the said Court
has dispensed with his further attendance, cause him to be conveyed under safe and sure
conduct back to the prison.

The day of

A. B.
(Countersigned) C. D.

THE SECOND SCHEDULE.

(See sections 35 and 37)

Court of

To the officer in charge of the (state name of prison).

You are hereby required to produce now a prisoner in ,
under safe and sure
conduct before the Court of at
on the day of next by
of the clock in the forenoon of the same day, there to answer a charge now pending
before the said Court, and after such charge has been disposed of or the said Court
has dispensed with his further attendance, cause him to be conveyed under safe and sure
conduct back to the said prison.

The day of

A. B.
(Countersigned) C. D.

THE THIRD SCHEDULE.

Omitted

GOVERNMENT OF JAMMU AND KASHMIR

Jammu, the 8th April, 1978

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of Governor on 8th April, 1978 and published for general information :—

THE JAMMU AND KASHMIR PUBLIC SAFETY ACT, 1978.

Act No. VI of 1978.

[8th April, 1978.]

Whereas it is necessary in the interest of the security of the State and Public order to make law providing for the measures hereinafter appearing.

Now, therefore, it is enacted by the Jammu and Kashmir State Legislature in the Twenty-nine Year of the Republic of India as follows:—

CHAPTER I.**Preliminary**

1. **Short title and extent.**—(1) This Act may be called the Jammu and Kashmir Public Safety Act, 1978.

(2) It extends to the whole of Jammu and Kashmir state.

2. **Definitions.**— In this Act, unless there is anything repugnant in the subject or context,—

(1) “ the code” means the code of Criminal Procedure, Samvat 1989;

(2) “notified” and “notification” means notified and notification respectively in the Government Gazette.

Chapter II.**Access to certain premises and areas.**

3. **Prohibited places.**—(1) If as respects any place the Government considers it necessary or expedient that special precautions should be taken to prevent the entry of unauthorised persons, the Government may, by notified order, declare that place to be a prohibited place.

(2) No person shall, without the permission of the Government or the authority specified by the Government, enter or be on or in, or pass over, or loiter in vicinity of, any prohibited place.

(3) Where in pursuance of sub-section (2) any person is granted permission to enter , or to be on or in , or to pass over , a prohibited place , that person shall , while acting under such permission , comply with such order for regulating his conduct as may be given by the Government or the authority specified by the Government.

(4) Any police Officer, or any other person authorised in this behalf by the Government, may search any person entering or seeking to enter or being on or in, or leaving a prohibited place, and any vehicle, aircraft or article brought in by such person, and may, for the purpose of the search, detain such person, vehicle, aircraft and article :

Provided that no female shall be searched in pursuance of this sub- section except by a female.

(5) If any person is in a prohibited place in contravention of this section then, without prejudice to any other proceedings which may be taken against him, he may be removed therefrom by any Police Officer not below the rank of a Sub- Inspector or by any other person authorized in this behalf by the Government.

(6) If any person is in a prohibited place in contravention of any of the provisions of this section he shall be punishable with imprisonment for a term which may extend to one month, or with fine, or with both.

4. Protected areas.—(1)If the Government considers it necessary or expedient in the interests of the defence or security of the State to regulate the entry of persons into any area, it may by a notified order declare the area to be a protected area and thereupon, for so long as the order is in force, such area shall be a protected area for the purposes of this Act.

(2) The Government or the authority specified by the Government may regulate the entry of any person into a protected area.

(3) If any person is in a protected area in contravention of the provisions of any order passed under this section then, without prejudice to any other proceedings

which may be taken against him he may be removed therefrom by or under the direction of any Police Officer not below the rank of a Sub-Inspector.

(4) If any person is in a protected area in contravention of any of the provisions of this section, he shall be punishable with imprisonment for a term which may extend to two months, or with fine, or with both.

5. Forcing or evading a guard.—Any person who effects or attempts to effect entry into a prohibited place or a protected area after taking precautions to conceal his entry or attempted entry from any person posted for the purpose of protecting or preventing or controlling access to such place or area shall be punishable with imprisonment for a term which may extend to three months , or with fine , or with both.

CHAPTER III

Maintenance of communal and regional harmony.

6. Power to prohibit circulation within the State or entry into the State of certain documents.—(1) The Government, or any authority authorised by it in this behalf, if satisfied that such action is necessary for the purposes of preventing or combating any activity prejudicial to the maintenance of communal or sectarian, or regional harmony affecting or likely to affect public order, may , by notified order, regulate, or restrict the circulation within the state, or prohibit or restrict the importation into the State, of any document ;

Provided that no such order shall remain in force for more than three months from the making thereof unless before the expiry of such period and in case the High Court does not otherwise direct, the Government, by an order made in the like manner, extend it by any period not exceeding three months at a time as it thinks fit, so, however, that the total period of the original order does not exceed one year :

Provided further that a person aggrieved by such order may, within ten days of the passing thereof, make a representation to the Government which may on consideration confirm , modify or rescind the order within 21 days of the making of the representation after giving the aggrieved party an opportunity of being heard :

Provided also that in such the representation is rejected by the Government, the aggrieved person may within a period of two months from the date of the order rejecting the representation apply to the High Court to set aside such order. Every

such application shall be heard and determined by a special Bench of the High Court composed of three Judges.

(2) Any person who contravenes an order made under this section shall be punishable with imprisonment for a term which may extend to three months or with fine, or with both.

(3) In the event of disobedience of an order made under sub-section (1) the Government or the authority issuing the order, may, without prejudice to the penalty to which the person guilty of the disobedience is liable under sub-section (2) order the seizure of all copies of any such document.

7. **Removal of doubts.**—For the removal of doubts it is hereby declared that the restriction imposed by section 6 on the rights conferred by clause (1) of Article 19 of the Constitution of India shall be deemed to be reasonable restrictions.

CHAPTER IV.

Power to make orders detaining certain persons.

8. **Detention of certain persons.**—(1) The Government may.

(a) if satisfied with respect to any person that with a view to preventing him from acting in any manner prejudicial to—

(i) the security of the State or the maintenance of the public order ; or

[(ii) Omitted].

2 [(a-1) if satisfied with respect to any person that with a view to preventing him from—

(i) smuggling timber, or

(ii) abetting the smuggling of timber, or

(iii) engaging in transporting or concealing or keeping smuggled timber, or

(iv) dealing the smuggled timber otherwise than by engaging in transporting or concealing or keeping in smuggled timber, or

(v) harboring persons engaged in smuggling of timber or abetting the smuggling of timber; or]

(b) if satisfied with respect of such person who is—

- (i) a foreigner within the meaning of the Foreigners Act,
- (ii) a person residing in the area of the State under the occupation of Pakistan,

that with a view to regulating his continued presence in the State or with a view to making arrangements for his expulsion from the State,

it is necessary so to do, make an order directing that such person be detained.

(2) any of the following officers, namely :—

- (i) Divisional Commissioners,
- (ii) District Magistrate,

May, if satisfied as provided in sub-clauses (I) and (ii) of clauses [(a) or (a-1)] of sub-section (1), exercise the powers conferred by the said sub-section.

(3) for the purposes of sub-section (1),

[(a) Omitted.]

(b) “acting in any manner prejudicial to the maintenance of public order” means—

- (i) promoting, propagating, or attempting to create, feelings of enmity or hatred or disharmony on ground of religion, race, caste, community, or region;
- (ii) making preparations for using, or attempting to use, or using, or instigating, inciting, provoking or otherwise abetting the use of force where such preparation, using, attempting, instigating, inciting, provoking or abetting, disturbs or is likely to disturb public order;
- (iii) attempting to commit, or committing, or instigating, inciting, provoking or otherwise abetting the commission of, mischief within the meaning of section 425 of the Ranbir Penal Code where the commission of such mischief disturbs, or is likely to disturb public order;

(iv) attempting to commit, or committing, or instigating, inciting, provoking or otherwise abetting the commission of an offence punishable with death or imprisonment for life or imprisonment of a term extending to seven years or more, where the commission of such offence disturbs, or is likely to disturb public order;

[(c) “smuggling” in relation to timber means possessing or carrying of illicit timber and includes any act which will render the timber liable to confiscation under Forest Act, Samvat 1987;

(d) “timber” means timber of Fir, Kail, Chir or deodar tree whether in logs or cut up in pieces but does not include firewood.]

(4) When any order is made under this section by an officer mentioned in subsection(2), he shall forthwith report the fact to the Government together with the grounds on which the order has been made and such other particulars, as in his opinion have a bearing on the matter, and no such order shall remain in force for more than twelve days after the making thereof unless in the meantime it has been approved by the Government.

9. Execution of detention orders.—A detention order may be executed at any place in the manner provided for the execution of warrants of arrest under the Code.

10. Power to regulate place and conditions of detention.—Any person in respect of whom a detention order has been made under section 8 shall be liable—

(a) to be detained in such place and under such conditions including conditions as to the maintenance of discipline and punishment for breaches of discipline as the Government may, by general or special order, specify; and

(b) to be removed from one place of detention to another place of detention in the State by order of the Government.

[10-A. **Grounds of detention severable.**—Where a person has been detained in pursuance of an order of detention under section 8 which has been made

on two or more grounds, such order of detention shall be deemed to have been made separately on each of such grounds and accordingly—

- (a) such order shall not be deemed to be invalid or inoperative merely because one or some of the grounds is or are—
 - (i) Vague,
 - (ii) not-existent,
 - (iii) not relevant,
 - (iv) not connected or not proximately connected with such person, or
 - (v) invalid for any other reasons whatsoever, and it is not, therefore, possible to hold that the Government or officer making such order would have been satisfied as provided in section 8 with reference to the remaining ground or grounds and made the order of detention;
- (b) the Government or officer making the order of detention shall be deemed to have made the order of detention under the said section after being satisfied as provided in that section with reference to the remaining ground or grounds.]

11. Detention orders not to be in valid or inoperative on certain grounds.—No detention order shall be invalid or inoperative merely on the ground.

- (a) that the person to be detained thereunder is outside the limits of the territorial jurisdiction of the officer making the order ; or
- (b) that the place of detention of such person is outside the said limits.

12. Powers in relation to absconding persons.—If the Government, or an officer specified in sub-section (2) of section 8, as the case may be, has reason to believe that a person in respect of whom a detention order has been made has absconded or is concealing himself so that the order cannot be executed, the Government or the officer may—

- (a) make a report in writing of the fact to a Magistrate of the First Class having jurisdiction in the place where the said person ordinarily resides,

and thereupon the provisions of sections 87,88 and 89 of the Code shall apply in respect of the said person and property as if the order directing that he be detained were a warrant issued by the Magistrate;

- (b) by notified order direct the said person to appear before such officer, at such place and within such period as may be specified in the order, and if the said person fails to comply with such direction, he shall, unless he proves that it was not possible for him to comply therewith and that he had within the period specified in the order, informed the officer mentioned in the order of the reason which rendered compliance therewith impossible and of his whereabouts, be punishable with imprisonment for a term which may extend to [one year] or with fine or with both.

13. Grounds of order of detention to be disclosed to persons affected by the order:-(1) When a person is detained in pursuance of a detention order, the authority making the order shall, as soon as may be, [but ordinarily not later than five days and in exceptional circumstances and for reasons to be recorded in writing, not later than ten days from the date of detention] communicate to him grounds on which the order has been made, and shall afford him the earliest opportunity of making a representation against the order to the Government.

(2) Nothing in sub-section (1) shall require the authority to disclose facts which it considers to be against the public interest to disclose.

14. Constitution of Advisory Board.—(1) This Government shall, whenever necessary, constitute an advisory Board for the purposes of this Act.

(2) Such Board shall consist of a chairman, who is or has been a Judge of the High Court, and two other members who are, or have been, or are qualified to be appointed as judges of the High Court.

(3) The Chairman and the other members of the Board shall be appointed by the Government in consultation with the Chief Justice of the High Court.

15. Reference to Advisory board.—In every case where a detention order has been made under this Act, the Government shall, within four weeks [from the date of detention under the order] place before the Advisory Board constituted by it under section 14, the grounds on which the order has been made, the representation, if any, made by the person affected by order and in

case where the order has been made by an officer, also report by such officer under sub-section (4) of section 8.

16. Procedure of Advisory Board.—(1) The Advisory Board shall, after considering the material placed before it and, after calling for such further information as it may deem necessary from the Government or from the person called for the purpose through the Government or from the person concerned and if in any particular case it considers it essential so to do or, if the person concerned desires to be heard, after hearing him in person, submit its report to the Government within eight weeks from the date of detention.

(2) **Notwithstanding anything contained in sub-section.**— (1), the Board may, if the person detained so demands, at any time before submitting its report, after affording an opportunity to the person detained and the Government or the officer, as the case may be, of being heard, determine whether the disclosure of facts, not disclosed under sub-section (2) of section 13 to the person detained, is or is not against public interest. Such finding of the Board shall be binding on the Government.

(3) The report of the Advisory Board shall specify in a separate part thereof the opinion of the Advisory Board as to whether or not there is sufficient cause for the detention of the person concerned.

(4) When there is a difference of opinion among the members forming the Advisory Board, the opinion of the majority of such members shall be deemed to be the opinion of the Board.

(5) Nothing in this section shall entitle any person against whom a detention order has been made to appear by any legal practitioner in any matter connected with the reference to the Advisory Board and its report, excepting that part of the report in which the opinion of the Advisory Board is specified, shall be confidential.

17. Action upon report of Advisory Board.—(1) In any case where the Advisory Board has reported that there is in its opinion sufficient cause for the detention of a person, the Government may confirm the detention order and continue the detention of the person concerned for such period as it thinks fit.

(2) In any case where the Advisory Board has reported that there is, in its opinion, no sufficient cause for the detention of the person concerned, the Government shall revoke the detention order and cause the person to be released forthwith.

[18. **Maximum period of detention.**—(1) The maximum period for which any person may be detained in pursuance of any detention order which has been confirmed under section 17, shall be—

- (a) twelve months from the date of detention in the case of persons acting in any manner prejudicial to the maintenance of public order or indulging in smuggling of timber; and
- (b) two years from the date of detention in the case of persons acting in any manner prejudicial to the security of the State.

(2) Nothing contained in this section shall affect the powers of the Government to revoke or modify the detention order at any earlier time, or to extend the period of detention of a foreigner in case his expulsion from the State as not been made possible.]

19. **Revocation of detention orders.**—(1) Without prejudice to the provisions of section 21 of the General Clauses Act, Samvat 1977, a detention order may at any time be revoked or modified by the Government notwithstanding that the order has been made by any officer mentioned in sub-section (2) of section 8.

(2) There shall be no bar to making of a fresh order of detention against a person on the same facts as an earlier order of detention made against such person in any case where—

- (i) the earlier order of detention or its continuance is not legal on account of and technical defect; or
- (ii) the earlier order of detention has been revoked by reason of any apprehension, or for avoiding any challenge that such order or its continuance is not legal on account of any technical defect :

Provided that in computing the maximum period for which a person against whom such fresh order of detention has been issued may be detained, the period during which such person was under the earlier order of detention shall be excluded.

20. **Temporary release of persons detained.**—(1) The Government may at any time order that a person detained in pursuance of detention order may be released for any specified period either without conditions or upon such conditions specified in the direction as that person accepts and may at any time cancel his release.

(2) In directing the release of any person under sub-section, (1), the Government may require him to enter into a bond with or without sureties for the due observance of the conditions specified in the direction.

(3) Any person released under sub-section (1) shall surrender himself at the time and place and to the authority, specified in the order directing his release or cancelling his release as the case may be.

(4) If any person fails without sufficient cause to surrender himself in the manner specified in sub-section (3) he shall be punishable with imprisonment for a term which may extend to [two years] or with fine, or with both.

(5) If any person released under sub-section (1) fails to fulfil any of the conditions imposed upon him under the said sub-section or in the bond entered into by him, the bond shall be declared to be forfeited and any person bound thereby shall be liable to the penalty thereof.

[(6) The period of release shall not count towards the total period of detention undergone by the person released under this section.]

CHAPTER V.

Miscellaneous.

21. Cognizance of offences under this Act.—(1) No Court shall take cognizance of any offence under this Act except on a report in writing made by a public servant.

(2) Notwithstanding anything contained in the Second Schedule to the Code, offences under this Act shall be cognizable and non-bailable.

22. Protection of action taken under this Act.—No suit, prosecution or any other legal proceeding shall lie against any person for anything done or intended to be done in good faith in pursuance of the provisions of this Act.

23. Power to make rules.—The Government may, by notification, make such rules consistent with the provisions of this Act, as may be necessary for carrying out the objects of this Act.

24. **Repeal and saving.**—(1) The Jammu and Kashmir Public Safety Ordinance, 1977 is hereby repealed.

(7) Notwithstanding such repeal anything done or any action taken (including any rule or order made) under the said Ordinance shall, so far as consistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provisions of this Act.

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THE JAMMU AND KASHMIR CIVIL SERVICES
(CLASSIFICATION, CONTROL AND APPEAL)
RULES, 1956.

General Department Order No. 962-C of 1956 dated 14th June, 1956. In exercise of the powers conferred by sub-section (1) of section 3 of the (Jammu and Kashmir Civil Servants) (Removal of Doubts and Declaration of Rights) Ordinance, 1956 the Government hereby make the following rules, namely:-

1. **Short title.**—These rules may be called the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956.

2. **Definitions.**—For the Purpose of these rules, unless there is anything repugnant in the subject or context :—

- (a) ‘Cadre’ means sanctioned strength of service, class category or grade (permanent or temporary);
- (b) ‘Category’ means the posts borne on the cadre of a service or class;
 - (i) the duties of which are of the same character and importance, and
 - (ii) which are either known by the same designation or the scales or pay for which are the same;
- (c) ‘Selection Category’ means a category declared to be Selection Category;
- (d) ‘Class’ means the posts borne on the cadre of a service between which and the other posts borne on the cadre of the same service, promotions and transfers are not ordinarily admissible;
- (e) ‘A member of a service’ means a person holding or appointed to a whole-time pension-able post;
- (f) ‘Period of probation of a member of a service’ means the period of probation prescribed in these rules or by special notification by government, together with :—
 - (i) the period until the issue of an order under clause (a) of sub-rule (1) of rule 22, declaring the probation to have satisfactorily completed his period of probation,

Or

(ii) the period until an order discharging the probationer under clause (b) of sub-rule (1) of rule 21, clause (a) or (b) of sub-rule (2) of that rule or clause (b) of sub-rule (1) of rule 22 takes effect;

(g) 'Probationer' in a service means a person appointed to that service who has not been declared to have satisfactorily completed the period of his probation;

(h) 'Promotion' means the appointment of a member of service or class of a service, in any category or grade to a higher category or grade of such service or class.

Explanation.—The appointment of a member of a service or class of service in any category to hold additional charge of a post include in a higher class category in the same service or class or to discharge the current duties thereof does not amount to promotion to the latter category.

(i) '**Recruited direct**'.—A candidate recruited otherwise than by promotion or by transfer will be treated to be recruited direct;]

(j) '**Recruited by transfer**'.—A candidate is made to be recruited by transfer to a service when at the time of his first appointment thereof he is either a member or a probationer in an other service.

(k) '**Service**' means a group of posts declared by government to be a service.

(l) A person is said to attain the age of "n" years have elapsed since the beginning of the day of his birth.

Illustration.—A person born on 1st August, 1900 attains the age of 25 years at midnight of 31st July- 1st August, 1925.

3. **Commencement and extent.**—(1) These rules shall come into force on the date they are published on the Government Gazette.

(2) They shall apply to all services and all persons appointed to any services before, or after the said date except to the extent otherwise expressly provided;

(a) by or under any law or rules for the time being in force; or

(b) in respect of any member of such service by a contract or agreement subsisting between such member and the Government.

(3) Except as otherwise expressly provided in these rules, in case of a conflict between these rules and anything contained in any previous rules or orders the provisions of these rules shall prevail.

4. Notwithstanding the provisions of rule 3, the Government may by notification published in the Jammu and Kashmir Government Gazette:—

(a) exclude wholly or in part from the operation of these rules any ministerial or petty officers or inferior servants or any class of such officers or servants, to whom the Government shall declare that the rules cannot suitably be applied, and these rules shall thereupon, to the extent or such exclusion, cease to apply accordingly;

(b) declare in respect of any person or group of persons that these rules shall not apply in whole or in part to such person or group and these rules shall thereupon, cease to apply accordingly.

5. Any of these rules made under them, may for reasons to be recorded in writing be released by the Government in individual cases if Government is satisfied that a strict application of the rule would cause hardship to the individual concerned. Or conflict undue benefit on him.

6. **Cadre.**—The cadre of each service, class category or grade shall be determined by the Government by a notification published in the Jammu and Kashmir Government Gazette.

7. If a member of any service, class, category or grade is reduced to a lower service, class category or grade, he shall be deemed to be a member of the latter and the permanent cadre thereof shall, if there is no vacancy in which he could be absorbed, be deemed to be increased by one so long as such member continues therein and the post held by him in the higher service, class, category or grade remains vacant.

8. All first appointments to any service or class shall be made by the Government or by an authority empowered by the Government in this behalf and where they are made by an authority subordinate to the Government they shall, subject to a general or special order of the Government, be made to the lowest category or the lowest grade of a category if it consist of more than one grade.

9. First appointment to a service or class may be made :—

(a) by promotion from the same or by transfer from an other service or class,
or

(b) by direct recruitment, or

(c) partly by (a) and partly by (b).

10. No member of any service, class, category shall when transferred to another service, class or category receive less pay than that attaching to his relative substantive position in the service, class or category to which he belongs except as a punishment or except with his consent.

11. A vacancy in any service, class or category (not being a vacancy which should be filled by direct recruitment) shall not be filled the appointment of a person who has not yet commenced his probation in such service or class when a probationer therein is available for such appointment.

12. Probationers recruited by transfer or promotion shall be discharged, that is, reverted to their original appointments if there are no vacancies to which they could be appointed but such discharge shall be in order of juniority.

Provided that the order of juniority may be departed from for special reasons, the reasons for every such departure being, however, reported without delay to the next higher authority or Government in case the probationers were recruited with the sanction of the Government.

13. Probationers who have been discharged under rule 12 for want of vacancies shall be re-appointed as vacancies not being vacancies which should be filled by direct recruitment arise, in the order of their seniority which subsisted before they were discharged :

Provided that the said order may also be departed from for special reasons, the reasons for every such departure being, however, reported without delay to the next higher authority or Government in case the probationers were recruited with the sanction of the Government.

14. Temporary appointments.— (1) Where it is necessary in the public interest owing to an emergency which has arisen and could not have been foreseen, to fill immediately a vacancy in a post borne on the cadre of service, class or category and the making of an appointment to such vacancy in accordance with these rules would involve undue delay, excessive expenditure or administrative inconvenience, the appointing authority may appoint a person otherwise than in accordance with these rules temporarily with the prior approval of the Chief Minister in Co-ordination until a person is appointed in accordance with these rules but such temporary appointment shall in no case exceed three months on each occasion and not more than nine months in all.

(2) Every appointment made under sub-rule (1) together with all the particulars relating to the persons so appointed, namely the date of appointment, the duration of the vacancy and the period or periods, if any, for which the same person had previously held a post borne on the cadre of the same service class or category, the nature of the emergency or inconvenience and the reasons for the appointment shall be reported without delay to the Minister-in-charge, if the order is passed by a lower authority.

(3) A person appointed under sub-rule (1) shall be replaced as soon as possible by a member of the service or a candidate qualified and considered fit to hold the post under these rules.

(4) A person appointed under sub-rule (1) shall not be regarded as a probationer in such service, class or category, or be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category.

15. If such person is subsequently appointed to such service, class or category in accordance with these rule, he shall commence his probation therein from the date of such sub- sequent appointment or from such earlier date as may be determined by the Minister-in- charge.

16. (1) No part time post shall be created in lieu of a whole time post borne on the cadre of any service, class or category without the sanction of the Government. A person appointed to any time post created in lieu of a whole time post borne on the cadre of a service, class or category shall not be regarded as a probationer in such service nor shall he be entitled by reason only of such appointment to any preferential claim to future appointment to such service, class or category.

(2) Notwithstanding anything in these rules, if and when a temporary post is created as an addition to the cadre of any service and the holder thereof is required

by Government to possess any special qualifications, knowledge or experience, any person who possesses such qualifications, knowledge or experience and who is considered to be best fitted to discharge the duties of such post may, irrespective of other considerations, be appointed to that post. But the Person so appointed shall not by reason only of such appointment, be regarded as a probationer in such service, class or category nor shall he acquire thereby any preferential right to future appointment to such service, class or category.

17. **Qualification.**—No person shall be eligible for appointment to any service by direct recruitment, unless :—

- (a) he is hereditary State Subject to be known hereafter as a permanent resident;
- (b) The age of the candidate for appointment to Government service shall be subject to the following maximum and minimum limits as on first day of January of the year in which the competitive examination is held or applications are invited for a vacancy for which direct recruitment is made.

Category	Minimum age	Maximum age
1. General Candidate	18 years	35 years
2. Members of Schedule Castes & Schedule Tribes	18 years	38 years
3. Physically handicapped	18 years	37 years
4. Candidates already in Govt. Services	38 years.	

Provided that the age limits as shown above against each category may be relaxed by the competent Authority in respect of any individual case on the merits of each case :

Provided further that Government may in respect of any particular service prescribe a different age limit.

- (c) he satisfies the appointing authority that he is of sound health, active habits and free from any bodily defect or infirmity un-fitting him for such service; and

- (d) he satisfies the appointing authority that his character and antecedents are such as to qualify him for such service.

Explanation.—The decision as to whether a person is qualified under clause (a) of this rule or not shall rest with the Government.

Note:.—This rule does not apply to pensioners re-employed under the provisions of the Jammu and Kashmir Civil Service Regulation.

18. Special qualification.—No person shall be eligible for appointment to any service, class, category or grade or any Post borne on the cadre thereof unless he—

(a) possesses such qualification and has passed such special tests as may be prescribed in that behalf by the Government, or

(b) possesses such other qualifications as may be considered by the Government to be equivalent to the said special qualifications or special tests.

18-A. No person who has more than one wife living or who, having a spouse living marries in any case in which such marriage is void by reason of its taking place during the life time of such spouse, shall be eligible for appointment to service. No woman whose marriage is void by reason of the husband having a wife living at the time of such marriage or who has married a person who has wife living at the time of such marriage shall be eligible for appointment to service :

Provided that the Government may, if satisfied that there are special grounds for doing so exempt any person from the operation of this rule.

19. In making appointments to a service reservation may be made in favour of any backward class which in the opinion of the Government is not adequately represented in the service.

20. Probation (1) Except as otherwise provided for by special orders of Government, no person shall be eligible for confirmation as member of a service or class until he has been on probation in such service or class continuously or in the aggregate for a period of two years.

(2) No probationer shall, during the period of his probation except for the purposes of instruction or training be employed on duties which are not normally discharged by members of the service in the category to which he belongs.

21. (1) At any time before the expiry of the prescribed period of probation, the appointing authority may-

- (a) suspend the probation of a probationer and discharge him from the service for want of vacancy; and
- (b) at its discretion terminate the probation of a probationer and discharge him from the service.

(2) (a) If within the prescribed period of probation, a probationer fails to acquire the special qualifications or to pass the special tests, if any are prescribed, or to acquire such other qualifications as may be considered by Government to be equivalent to the said special qualifications or special tests, the appointing authority shall forthwith be order, discharge him from the service.

(b) If such probationer has appeared with the prescribed period of probation for any such tests for any examination in connection with the acquisition of any such qualifications, having passed all the other tests and acquired all the other qualifications, and the results of the tests or examinations for which he has so appeared are not known before the expiry of such period he shall continue to be on probation until the publication of the results of the tests or examinations for which he has appeared or the first of them in which he fails to pass, as the case may be . In case the probationer fails to pass any of the tests or examinations for which he has so appeared, the appointing authority shall forthwith by order, discharge him from the service.

(c) Where a probationer has before he commenced his probation, already acquired any special qualification or passed any special test or has acquired such other qualifications as may be considered by Government to be equivalent to the said special qualification or special tests, he shall not be required to acquire such special qualification or to pass such special test again within the period of his probation.

(d) Nothing contained in this sub- rule shall debar the Government from extending the period of probation of a probationer who has failed to acquire the prescribed qualifications or to pass the prescribed tests or examinations; provided that the period so extended shall in no case exceed two years.

22. (1) (a) If at the end of the prescribed period of probation, the appointing authority considers the probationer to be suitable for membership, it shall as soon as possible, or in cases failing under clause (b) of sub-rule (2) of rule 21 as soon as possible after the probationer has passed the tests and examinations for which he has appeared, issue an order declaring the probationer to have satisfactorily completed his period of probation. On the issue of such order, the probationer shall be deemed to have satisfactorily completed his period of probation on the date of the expiry of the prescribed period of probation.

(b) If the appointing authority does not consider the probation to be suitable for such membership, it shall by order discharge him from the service.

(c) In cases not falling under clause (b) of sub-rule (2) of rule 21, if no order is issued by the appointing authority under clause (a) or (b) of this sub-rule within ninety days after the expiry of the prescribed period of probation, the probationer shall be deemed to have satisfactorily completed his period of probation on the date of the expiry of the prescribed period of probation.

(d) In cases falling under clause (b) of sub-rule (2) of rule 21, if the candidate has passed the tests and examination for which he has appeared and no order is issued under clause (a) or (b) of this sub-rule by the appointing authorities within ninety days after the expiry of the prescribed period of probation or within thirty days of the publication of the results of such tests and examinations, whichever is latter, the probationer shall be deemed to have satisfactorily completed his period of probation on the date of the expiry of the prescribed period of probation.

(2) The authority competent to entertain an appeal under the rules may revise any other discharging a probationer under any of the provision referred to in this rule or sub-rule (1) of rule 21, on an appeal filled within ninety days of the date of receipt of such order by the probationer concerned.

3(a) When an order discharging a probationer is set aside on revision under sub-rule (2) and the probationer is restored to the service, the period on and from the date of discharge to the date of such restoration may be treated as duty by the appointing authority except for purposes of probation. The period of probation undergone by such probationer at the time of his discharge shall, however, count towards the period of probation prescribed by the rule applicable to him.

(b) such probationer may during the period on and from the date of his discharge to the date of his restoration be paid such pay and allowances not

exceeding the pay and allowances to which he would have been entitled if he had not been discharged as the authority passing the order under sub-rule (2) may determined.

23. Appointment of members.—(1) A probationer shall, if a substantive vacancy in the permanent cadre of the category for which he was selected exists, be appointed to the service at the earliest possible opportunity in order of seniority, and if such vacancy existed from a date previous to the issue of the order of appointment, he may be so appointed with retrospective effect from such date or, as the case may be, from such subsequent date from which he was continuously on duty as a member of the service.

(2) Where recruitment to any service shall normally be both by direct recruitment and by transfer or promotion, the provisions of sub- rule (1) shall apply separately as regards:

- (a) vacancies against which persons have recruited direct, and
- (b) other vacancies.

(3) No probationer shall be required to produce a medical certificate of physical fitness before appointment as a member of the service :

Provided that in the case of a probationer who is not a member of any other services the appointing authority may, if it has reason to believe that the probationer's physical fitness and seriously deteriorated since he satisfied the authority under clause (c) of rule 17 require he undergo fresh medical examination. If on such examination he is found to be physically fit for the service for which he was selected the appointing authority shall discharge him from the service.

(4) No person shall at the same time be a member of more than one service.

24. Seniority.— (1) The seniority of a person who is subject to these rules has reference to the service, class, category or grade with reference to which the question has arisen. Such seniority shall be determined by the days of his first appointment to such service, class, category or grade as the case may be.

Note 1.—The rule in this clause will not effect the seniority on the date on which these rules come into force of a member of any service, class, category or grade as fixed in accordance with the rules and orders in force before the date on which these rules come into force.

Interpretation.— The words “ date of first appointment” occurring in the above rule will mean the date of first substantive appointment, meaning thereby the date of permanent appointment or the date of first appointment on probation on a clear vacancy, confirmation in the latter case being subject to good work and conduct and/or passing of any examination or examinations and/ or tests :

Provided that the interest seniority of two or more persons appointed to the same service, class, category or grade simultaneously will, notwithstanding the fact that they may assume the duties of their appointments on different dates by reason of being posted to different stations, be determined—

- (a) in the case of those promoted by their relative seniority in the lower service, class, category or grade;
- (b) in the case of those recruited direct except those who do not join their duties when vacancies are offered to them according to the positions attained by and assigned to them in order of merit at the time of competitive examination or on the basis of merit, ability and physical fitness etc, in case no such examination is held for the purpose of making selections;
- (c) as between those promoted and recruited direct by the order in which appointments have to be allocated for promotion and direct recruitment as prescribed by the rules.

Note 2.—Any substantive appointments or permanent promotions made in any department prior to 15th May, 1953, will not be disturbed if otherwise in order unless such appointments or promotions are already the subject of any appeal, review or revision or otherwise pending decision.

(2) a member of a service, class, category or grade, unless he is reduced in seniority as a punishment shall retain seniority in such service or grade as determined by sub-rule (1) notwithstanding any delay in the completion of his probation or his appointment as a member of such service, class, category or grade.

(3) Where a member of any service, class, category or grade reduced to a lower service, class, category or grade he shall be placed at the top of the latter unless the authority ordering such reduction directs that he shall rank in such lower service, class, category or grade next below any specified member thereof.

25. **Promotions.**—(1) All promotions shall be made by the appointing authority.

(2) Promotions to a service or class or to a selection category or grade in such service or class shall be made on grounds of merit and ability and shall be subject to the passing of tests that Government may prescribe in this behalf, seniority being considered only where the merit and ability are approximately equal.

(3) All other promotions shall be made in accordance with seniority and subject to any tests or special qualifications prescribed by Government unless—

- (a) the promotions of a member has been withheld as a penalty; or
- (b) a member is given special promotion for conspicuous merit and ability.

(4) where it is necessary in the public interest owing to an emergency which has arisen and could not have been foreseen, to fill immediately a vacancy by promotion from a lower category and where promotion in accordance with these rules would involve undue delay or expenditure or cause administrative inconvenience the appointing authority may promote a person otherwise than in accordance with these rules temporarily until a person is promoted in accordance with these rules, but such temporary promotion shall in no case exceed three months on each occasion.

(5) A person promoted under sub-rule (4) shall not be entitled by reason only of such promotion to any preferential claim to future promotion.

26. **Members absent from duty.**—The absence of a member of a service from duty in such service whether on leave or on foreign service or on deputation or for any other reason and whether his lieu on a post borne on the date of such service is suspended or not shall not, if he is otherwise fit, render him ineligible on his return—

- (a) for re-appointment to a substantive or officiating vacancy in the class, category, service or grade in which he may be a probationer or an approved probationer;
- (b) for promotion from a lower to higher category in such service; or
- (c) for appointment to any substantive or officiating vacancy in another service of which he may be an approved candidates as the case may be

in the same manner as if he had not been absent. He shall be entitled to all the privileges in respect of appointment, seniority, probation and appointment as full member which he would have enjoyed but for his absence to his completing satisfactorily the period of probation on his return.

27. Posting and transfer.—(1) A member of a service or class of a service may be required to serve in any part of the Jammu and Kashmir State in any post borne on the cadre of such service or class.

(a) All transfers and postings shall be made by the authority prescribed by Government in his behalf.

28. Pay, allowances, leave, leave allowances, pension and other conditions of service or category in the matter of their conduct, discipline, pay, allowances, leave, leave allowances, pensions and other conditions of service issued by the Government from time to time and not expressly provided herein, shall, in so far as they are not inconsistent with these rules, continue to be in force until repeated or modified.

(2) Every member of a service shall on being appointed substantively to a post carrying a pay of a Rs. 50 or more per mensem be liable—

(a) to take out an insurance policy with the State Insurance Fund according to a scale prescribed by Government, the policy being issued on the basis of the certificates as to age and physical fitness accepted by the appointing authority under clause (b) and (c) of rule 17 without the other formalities required by the State Insurance Fund Rules; and

(b) to subscribe to the General Provident Fund in accordance with the rule of that Fund.

29. Special provision by agreements.—(1) When in the opinion of the Government special provisions inconsistent with any of these rules or any rules made thereunder are required in respect of the conditions of the service, pay and allowances, pensions, discipline and conduct with reference to any particular post, or any of them, it shall be open to Government to provide by agreement with the person appointed to such post for any of the matters in respect of which special provisions are required to be made, and to the extent to which such provisions are made in the agreement; nothing in these rules or in any rules made thereunder

shall apply to any person so appointed in respect of any matter for which provision is made in the agreement :

Provided that in every such agreement it shall further be provided that in respect of any matter in respect of which no provision has been made in the agreement the provisions of these rules or rules made thereunder shall apply.

2. Any agreement of the nature referred to in sub-rule (1) may provide that the person with whom it is made shall not, save in the circumstances stated in the agreement, be dismissed otherwise than on payment to him of compensation by Government.

30. **Punishment.**—The following penalties may, for good and sufficient reason and as hereinafter provided, be imposed upon members of a service, namely—

- (i) censure;
- (ii) fine not exceeding one month's pay;
- (iii) withholding of increments and/ or promotions;
- (iv) reduction to a lower post and/ or lower time- scale and/ or to a lower stage in time-scale;
- (v) recovery from pay of the whole or part of any pecuniary loss caused to Government by negligence or breach of orders;
- (vi) "premature retirement on proportionate pension other than that specified in rule 226 (2) of Jammu and Kashmir Civil Service Regulations.
- (vii) Removal from the service of the State which does not disqualifies from future employment;
- (viii) Dismissal from the service of the State which ordinarily disqualifies from future employment.

Explanation I.— The termination of employment—

- (a) of a person appointed on probation during or at the end of the period of probation in accordance with the terms of the appointment and the rules governing the probationary service; or

- (b) of a temporary Government servant appointed otherwise than under contract; or
- (c) of a person engaged under a contract, in accordance with the terms of his contract; or
- (d) of a Government servant who is retired in accordance with Article 226 (2) of the Jammu and Kashmir Civil Service Regulations, 1956 ;
- (e) does not amount to removal or dismissal within the meaning of this rule or of rule 33.

Explanation II.— Stopping a Government servant at an efficiency bar in the time scale of his payment on the ground of his unfitness to cross the bar does not amount to withholding of increment or promotion within the meaning of this rule.

31. (1) The appointing authority or any authority to which it is subordinate or any other authority empowered by the Government in this behalf, may place to a Government servant under suspension where :—

- (a) an inquiry into his conduct is contemplated or is pending; or
- (b) a complaint against him of any criminal offence is under investigation or trial.

(2) A Government servant who is detained in custody whether on a criminal charge or otherwise, for period longer than forty eight hours shall be deemed to have been suspended by the appointment authority under this rule.

(3) An order of suspension under sub-rule (1) may be revoked at any time by the authority making the order or by any authority to which it is subordinate.

(4) Where a penalty of dismissal or removal from service imposed upon a Government Servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or who any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal or removal and shall remain in force until further orders.

(5) Where a penalty of dismissal or removal from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a Court of law and the competent authority on a consideration of

the circumstances of the case, decides to hold a further inquiry against him on the allegations on which the penalty of dismissal or removal was originally imposed, the Government servant shall be deemed to have been placed under suspension by the appointing authority from the date of the original order of dismissal or removal and shall continue to remain under suspension until further orders.

Government Instructions.—(1) An officers on suspension entitled to ask that the matter should be investigated with reasonable diligence and charges should be framed within reasonable period of time and if such steps are omitted then it would imply that the authorities are vested with a total, arbitrary and unfettered power of placing its officers under disability and distress for an indefinite duration. The suspension order is bad if it is not followed by charge sheet and enquiry within a reasonable time.

It has been observed that on occasion the power under the a fore side rule is being invoked on unjustifiable grounds or on mere suspicious of misconduct before prima facie case has been established.

It may be appreciated that frequent resort to suspensions even at slightest provocation is not only unwarranted but also counter productive. Besides affecting morale in the service it puts avoidable strain on the public exchequer by way of subsistence allowance for non-work done. Public interest should be the guiding factor in deciding whether or not a government servant should be placed under suspension or whether such action should be taken even while the matter is under investigation and before a prima facie case has been established. It is, therefore, imperative that the discretion vested in the authorities should be exercised with due care and caution after taking all the factors into account.

For example where continuance in office of a government servant is considered likely to prejudice, investigation, trial or enquiry or his continuance is considered likely to subvert the discipline in the office in which he works, the purpose can be achieved if he is transferred to some other station or office as the case may be rather than to place him under suspension. Likewise if such a Government servant would like to proceed on leave that might be due to him and if the authority concerned thinks that such a step would not be inappropriate, there should be no objection to leave being granted instead of suspending him. Similarly, in case where a Government servant has unauthorisedly absented from the duty, the proper course is to initiate action against him under article 128 of Jammu and Kashmir Civil Service Regulations and not to place him under suspension.

The following circumstances may, however, be considered appropriate to place a Government servant under suspension :—

- (i) Where the continuation in office of the Government servant will be against the wider public interests, e.g. if there is public scandle and it is considered necessary to place the Government servant under suspension to demonstrate the policy of the Government deal strictly with officer involved in such scandles.
- (ii) Where a preliminary enquiry into allegations made has revealed a prima to lead to his conviction or and dismissal, removal or compulsory retirement from service other than under Article 226 (2) of Jammu and Kashmir Civil Service Regulations.
- (iii) Where the public servant is suspected to have engage himself in activities prejudicial to interest of the security of the State.
- (iv) Serious negligence and dereliction of duty resulting in loss to the Government.

Government Instruction 2.—Competent authorities should endeavor to have charge sheet filed in Court, in case of prosecution, or served on the Government servant, incase of departmental proceedings within three months from the date of suspension. Cases in which this is not possible such authorities will report to the next higher authority, explaining the reason for delay.

The cases of Government servants under suspension should be reviewed by the competent authority periodically to see that steps could be taken to expenditure the progress of the court trial/departmental proceedings, so as to reduce the periods of suspension to barest minimum.

Where a penalty of dismissal or removal from service imposed upon a Government servant under suspension is set aside in appeal or on review under these rules and the case is remitted for further inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued tin force on and from the date of original order of dismissal or removal and shall remain in force until further orders.

Where a penalty of dismissal or removal from service imposed upon a Government servant is set aside or declared or rendered void in consequence of or by a decision of a court of law and the competent authority on a consideration of the circumstances of the case, decides to hold a further inquiry against him on the allegation on which the penalty of dismissal or removal was originally imposed, the Government servant shall be deemed to have been placed under suspension by

the appointing authority from the date of the original order of dismissal or removal and shall continue to remain under suspension until further orders.

32. (1) *Subject to the provisions of these rules*, Government may impose any of the penalties specified in rule 30 on any member of a service.

(2) Subject to such conditions, if any, as Government may prescribe, it may delegate to any subordinate authority power to impose any of the penalties specified in rule 30 :

Provided that the power to impose the penalties specified in clause (iv), (vii) and of rule 30 shall not be so delegated in the case of the members of any gazetted service.

Delegation.—Under sub-rule (2) of this, the Government delegates to—

- (i) The Heads of Departments the power to censure and withhold increments in respect of District Officers and below subordinate to them ;
- (ii) Class I Officers the power to censure and withhold increments of officers getting a salary not exceeding Rs. 600 p.m.;
- (iii) Clause II Officers the power to censure officers getting a salary upto Rs. 500 p.m; and
- (iv) The various appointing authorities the power to impose any of the penalties except compulsory retirement specified in the rule 30 on such members of the services as such appointing authority is competent to appoint.]

33. (1) Without prejudice to provisions of the Public Servants Inquiries Act, 1977, no order (other than an order based on facts which had led to his conviction in a criminal court or by a court- martial) of dismissal removal, or reduction in rank [which includes reduction to a lowest post and/ or lower time-scale, and or/to a lower stage in time –scale] but excludes the revision to a lower post of a person, who is holding a higher post temporarily shall be passed on a person who is a member of a Civil service , or hold a Civil post under the State unless he has been informed in writing of the grounds on which it is proposed to take action and has been afforded an adequate opportunity of defending himself . The grounds on which it is proposed to take action shall be reduced in the form of a definite charge or charges which shall be communicated to the person charged, together with a statement of all allegations on which each charge is based and of any other circum

stances which it is proposed to take into consideration in passing orders on the case. He shall be required, within a reasonable time, to put in a written statement of his defence and to state whether he desires to be heard in person. If he so desires, or if the authority concerned so directs, an oral evidence will be heard as the inquiring officer considers necessary. The person charged shall be entitled to cross-examine the witness, to give evidence in person and to have such witness called as he may wish; provided that the officer conducting the inquiry may for sufficient reason to be recorded in writing refuse to call a witness. The proceedings shall contain sufficient record of the evidence and statement of the findings and the grounds thereof.

(2) The rule shall not apply where the person concerned has absconded, or where it is for other reasons impracticable to communicate with him, or where in the interest of the security of the State, it is considered not expedient to give to that person an opportunity of showing cause against the action proposed to be taken against him. All or any of the provisions of the rule may for sufficient reasons to be recorded in writing be waived, where there is difficulty in observing exactly the requirements of the rule and those requirements can in the opinion of the inquiring officer be waived without injustice to the person charged.

(3) This shall also not apply where it is proposed to terminate the employment of a probationer whether during or at the end of the period of probation, or to dismiss, remove or reduce in rank a temporary Government servant, for any specific fault or on account of his unsuitability for the service.

(4) The competent authority may inquire into the charges itself or if it considers it necessary so to do, it may appoint as inquiry officer for the purpose.

34. After the inquiry against a Government servant has been completed, and after the authority competent to impose penalty has arrived at provisional conclusions in regard to the penalty to be imposed, the Government servant charged shall, if the penalty proposed is dismissal, removal or reduction in rank, be supplied with a copy of the proceedings prepared under rule 33 excluding the commendations, if any, in regard to punishment, made by the officer conducting the inquiry and asked to show cause by particular date which affords him reasonable time, why the proposed penalty should not be imposed on him.

35. Without prejudice to the provisions of rule 33, no order imposing the penalty [specified in clause (i), (ii), (iii) and (v)] of rule 30 (other than an

order based on facts which have led to his convictions in a criminal court or by a court-martial, or an order superseding him for promotion to a higher post on the ground of his unfitness for that post) on any Government servant to whom these rules are applicable shall be passed unless he has been given an adequate opportunity of making any representation, that he may desire to make any such representation if any, has been taken into consideration before the order is passed :

Provided that the requirements of this rule may, for sufficient reasons to be recorded in writing, be waived where there is difficulty in observing them and where they can be waived without injustice to the officer concerned.

36. **Appeals.**—Every member of a service shall be entitled to appeal, as hereinafter provided from an order passed by any authority imposing upon him any of the penalties specified in rule 30, provided that no appeal shall lie against the order made by the Government.

37. (1) A member of a gazetted service may appeal to the Minister-in-Charge from an original order passed by a subordinate authority to Government from such an order passed by the Minister-in-Charge.

(2) In the case of members of other services appeals shall lie :—

- (a) from an original order of punishment of a subordinate officer to the next higher officer,
- (b) from an original order of punishment of a Head of Department to the Minister-in- Charge;
- (c) from an original order of punishment of a Minister-in- Charge to Government.

(3) No appeal shall lie from an order passed in appeal under this rule provided that the Government or the authority next higher to the one to which the appeal lies may revise any such order of a subordinate authority in cases of penalties specified in clauses (vii) and (viii) of rule 30 if it is satisfied that there has been a substantial miscarriage of justice.

38. (1) Every member of a service shall be entitled to appeal to the authority hereinafter specified against any order passed by an authority subordinate to the said authority which :—

- (a) alters to his disadvantage, his conditions of service, pay, allowances or pension as regulated in rules or in a contract or service, or

(b) interprets to his disadvantage the provisions of any rules or contract of service whereby his conditions of service, pay, allowances or pension are regulated.

(2) The authority herein before referred to shall be the authority which made the rule to which the order under appeal relates, or in the case of an appeal relating to a contract of service, the authority which appointed the appellant.

39. In the case of an appeal against an order imposing any penalty specified in rule 30, the appellate authority shall consider :—

- (a) whether the facts on which the order was based have been established :
- (b) whether the facts established afford sufficient grounds for taking action; and
- (c) whether the penalty is excessive, adequate, and after such consideration shall pass such order as it thinks proper :

Provided that no penalty shall be enhanced unless an opportunity/is given to the person concerned to show cause why such penalty should not be enhanced.

In any case in which the appellate authority enhances the penalty, the appellant shall be entitled to submit a second appeal to the next higher authority. The second appeal will, however be admissible only in respect of the additional punishment awarded by the appellate authority.

40. In the case of an appeal against an order under rule 38, the appellate authority shall pass such order as appears to it just and equitable, having regard to all the circumstances of the case.

41. An authority from whose order an appeal is preferred under these rules shall give effect to any order by the appellate authority.

42. Every person preferred under these rules shall do so separately and in his own name.

43. Every appeal preferred under these rules shall contain all material statements and arguments relied on by the appellant, shall contain no disrespectful or improper language, and shall be complete in itself. Every such appeal shall be submitted through the Head of the office to which the appellant belongs or belonged and through the authority from whose order the appeal is preferred.

Note.—Advance copies of appeals, review or revision petitions and any such application if submitted should be filed.

44. Every appeal preferred under these rule shall be accompanied by a stamp paper of a value prescribed in the Stamp Act and also by an attested copy of the orders appealed against.

45. Applications for obtaining attested copies of the appealed against may be submitted by the appellant concerned direct to the authority which passed the orders.

46. An appeal may be withheld by an authority not lower than the authority from whose order it is preferred if—

- (a) it is an appeal in a case in which under these rules no appeal lies, or
- (b) it does not comply with the provisions of rule 43, or
- (c) it is not preferred within ninety days (the period spent in obtaining the attested copy of the order appealed against not being accounted for provided the application for the supply of the copy is submitted within the period of 90 days) after the date on which the appellant received information in writing of the order appealed against and no reasonable cause is shown for the delay, or
- (d) it is repetition of a previous appeal and is made to the same appellate authority by which such appeal has been decided, and no new fact or circumstances are adduced which afford grounds for a reconsideration of the case :

Provided that in every case in which an appeal is withheld the appellant shall be informed of the fact and the reasons for it :

Provided further that an appeal withheld on account only of failure to comply with the provisions of rule 43 may be resubmitted at any time within thirty days of the date on which the appellant has been informed of the withholding of the appellant and, if re-submitted in a form which complies with those provisions, shall not be withheld.

47. No appeal shall lie against the withholding of an appeal by a competent authority.

48. Every appeal which is not withheld under these rules shall be forwarded within a period not exceeding sixty days to the appellate authority by the authority from whose order the appeal is preferred with an expression of opinion and all the connected papers.

49. A list of appeals withheld under rule 46, with the reasons for withholding them, shall be forwarded quarterly by the withholding authority to the appeal authority together with a list of other appeals not disposed of within the period of sixty days referred to in rule 48.

50. An appellate authority may call for any appeal admissible under these rules which has been withheld by a subordinate authority and may pass such orders thereon as it considers fit.

51. The existing appeal rules for the Police Department shall be followed by the department only so far as they are not repugnant to the provisions of these rules.

52. Every appeal, review or revision application submitted under these rules shall be disposed of by the authority to whom it is addressed within a period of three months from the date of receipt and if it is not possible in any particular case to adhere to this time limits a report explaining the reasons for delay shall be submitted to the next higher authority.

53. Notwithstanding anything contained in these rules, the Government may, of its own motion or otherwise, call for the record of any case decided by an authority subordinate to it in the exercise of any power conferred on such authority by these rules, and :—

- (a) confirm, modify or reverse the order passed by such authority; or
- (b) direct that further inquiry be held in the case; or
- (c) reduce or enhance the penalty imposed by the order; or
- (d) make such other order in the case as it may deem fit:

Provided that where it is proposed to enhance the penalty imposed by such order, the Government servant concerned shall be given an opportunity of showing cause against the proposed enhancement :

Provided further that the period of Limitation for an application for revision on behalf of an aggrieved party shall be thirty days from the date of the communication of the order sought to be revised to the party aggrieved.

54. The procedure prescribed for the preferment and withholding of appeals under rules 43, 44 and 46 of these rules shall apply mutatis mutandis to applications for revision.

55. **Review petitions.**—The authority passing an order may review such order or that of its predecessor either suo moto or at the instance of the aggrieved party :

Provided that an order passed in review shall not be subject to further review by the same authority :

Provided further that a review petition submitted by an aggrieved party will be admissible only if—

- (a) there are some new facts or circumstances warranting a re-consideration of the order, or
- (b) there has been a mistake or error apparent on the face of the record, or
- (c) for any other sufficient reason.

56. Applications for review may before submission of appeal be preferred to the authority which passed the original order by a person who on account of some mistake or error apparent on the face of record or for any other sufficient reason desires to obtain review of the order passed against him.

57. The period of limitation for an application for review shall be ninety days.

58. An order confirmed in appeal shall not be open to review of the authority whose order is so confirmed.

59. Nothing in these rules shall operate to deprive any person of any right of appeal, which he would have had if these rules had not been made in respect of any orders passed before they come into force. An appeal pending at the time when, or

preferred after, these rules come into force shall be deemed to be an appeal under these rule.

Government order No. 501-C of 1962 dated 6th July 1962 :—

In exercise of the powers conferred by proviso to sub-rule 21 (b) rule 17 of Jammu and Kashmir Civil Services (Classification Control and Appeal) Rules, 1956, it is ordered that upper age limit for Medical Graduates who are released by the Army Medical Corps after completing Short Service Regular Commission and available for civil appointment be raised to 35 years.

(Government Gazette dated 19th July, 1962).

Jammu and Kashmir Government Employees (Conduct) Rules, 1971

General Department Notification SRO. 47 Dated 5th February, 1971.

In exercise of the powers conferred by the proviso to section 124 of the Constitution of Jammu and Kashmir, the Governor is pleased to make the following rules, namely :—

1. **Short title, Commencement and application** .—(1) These rules may be called the Jammu and Kashmir Government Employees (Conduct) Rules, 1971.

(2) They shall come into force on the date they are published in Government Gazette.

(3) They shall apply to every person appointed to a civil service or post in connection with the affairs of the State :

Provided that nothing in these rules shall apply to :—

- (a) a member of an All India Service who is subject to the All India Service (Conduct) Rules, 1954; and
- (b) a holder of any post in respect of which the Government may, by a general or special order, direct that these rules shall not apply.

Government Instructions.

Conduct rules for the employees in public sector undertakings :—In the corporate undertakings entirely financed by the Government i.e, where the whole

capital is invested by the State, the activities of the employees should be restricted in the same manner as for those working directly under Government. In such cases, action should be taken to extend the provisions of these rules to the employees either by a self-contained set of rules under the specific statutory authority for framing such rules, or as terms or the contract.

2. **Definitions.**— In these rules, unless the context otherwise requires.—

- (a) “**Government**” means the Government of Jammu and Kashmir,
- (b) “**Government employee**” means any person appointed to any civil service or post in connection with the affairs of the State.

Explanation.— A Government employee whose service are placed at the disposal of a company, corporation, organisation, or a local authority by the Government, shall for the purposes of these rules, be deemed to be a Government employee serving under the Government notwithstanding that his salary is drawn from sources other than from the Consolidated Fund of the State.

- (c) “**Members of family**” in relation to a Government employee includes—
 - (i) the wife or the husband, as the case may be, of the Government employee, whether residing with the Government employee or not but does not include a wife or husband, as the case may be, separated from the Government employee, by a decree or order of a competent court ;
 - (ii) son or daughter or step-son or step-daughter of the Government employee and wholly dependent on him but does not include a child or step-child who is longer in any way dependent on the Government employee or of whose custody the government employee has been deprived by or under any law ;
 - (iii) any other person related, whether by blood or marriage, to the Government employee or to the government employee’s wife or husband, and wholly dependent on the Government employee ;
- (d) “**classes of government employee**” shall mean the classes as defined in Article 309 of Jammu and Kashmir Civil Services Regulations.

(e)“**Prescribed authority**” unless otherwise defined for purposes of any rule under these rules means:-

- (i) Government in case of Gazetted Government employee;
- (ii) Head of Department in the case of a Government employee holding any other post; and
- (iii) In respect of Government employee on foreign service or on deputation to any other Government, the authority who would be the prescribed authority in relation to that Government employee if he were not on deputation or foreign service.

3. **General.**—(1) Every Government employee shall at all times—

- (i) maintain absolute integrity;
- (ii) maintain devotion to duty; and
- (iii) do nothing which is unbecoming of a Government employee.

(2) (I) Every Government employee holding a supervisory post shall take all possible steps to ensure the integrity and devotion to duty of all Government employees for the time being under his control and authority.

- (iii) No Government employee shall, in the performance of his official duties or in the exercise of powers conferred on him, act otherwise than in his best judgement except when he is acting under the direction of his official superior and shall, where he is acting under direction, obtain the directions in writing, wherever practicable, and where it is not practicable to obtain the direction in writing, he shall obtain written confirmation of the direction as soon thereafter as possible.

Explanation.— Nothing in clause (ii) of sub-rule (2) shall be construed to justify a Government employee to evade his responsibilities by seeking instructions from or approval of, a superior officer or authority when such instructions are not necessary under the scheme of distribution of powers and responsibilities.

Government Instruction.—Proper behaviour in private life. A government servant is expected to maintain a responsible and decent standard of conduct in his

private life and not bring discredit to his service by his misdemeanor. In case where a Government servant is reported to have acted in a manner unbecoming of Government servant, as for instance, neglect of his wife and family, departmental action can be taken against him on that score without invoking any of the conduct Rules. Rule 30 of the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956 specifies the nature of penalties that may for good and sufficient reasons, be imposed on a Government servant. Neglect by a Government servant of his wife and family in a manner unbecoming of a Government servant may be regarded as good and sufficient reasons to justify action being taken against him under this rule.

4. **Gifts.**—(1) Save as otherwise provided in these rules, no Government employee shall accept or permit any member of his family or nay person acting on his behalf to accept any gift.

Explanation.—The expression ‘gift’ shall include free transport, boarding, lodging or other service or any other pecuniary advantage when provided by any person other than a near relative or personal friend having no official dealings with the Government servant.

Note 1.—A casual meal, lift or other social hospitality shall not be deemed to be a gift.

Note 2.— A Government employee shall avoid accepting lavish hospitality or frequent hospitality from any individual having official dealings with him or from industrial or commercial firms, organisations etc.

(2) On occasions such as weddings, anniversaries, funerals or religious functions, when the making of a gift is in conformity with the prevailing religious or social practice, a Government if the value of any such gift exceeds—

- (i) Rs. 500 in the case of Government employee holding any class I or class II post ;
- (ii) Rs. 250 in the case of Government employee holding any class III post ;
- (iii) Rs. 100 in the case of Government employee holding and class IV post.

(3) On such occasions as are specified in sub-rule (2), a Government employee may accept gifts from his personal friends having no official dealing with him, but he shall make a report to the Government if the value of such gifts exceeds—

- (i) Rs. 250 in case of Government employee holding any class I or class II post;
- (ii) Rs. 150 in the case of a Government employee holding any class III post; and
- (iii) Rs. 100 in the case of Government employee holding any class IV post.

(4) in any other case, a Government employee shall not accept any gift without the sanction of the Government if the value thereof exceeds—

- (i) Rs. 75 in the case of a Government employee holding any class I or class II post; and
- (ii) Rs. 25 in the case of a Government employee holding any class III or class IV post.

5. Public demonstration in honour of government employees.—No Government employee shall except with the previous sanction of the Government, receive any complimentary or valedictory address or except any testimonial or attend any meeting or entertainment held in his honour or in the honour of any other Government employee :

Provided that nothing in this rule shall apply to—

- (1) a farewell entertainment of a substantially private an informal character held in honour of Government employee or any other Government employee on the occasion of his retirement or transfer of any person who has recently quit the service of any Government; or
- (2) the acceptance of simple and inexpensive entertainment arranged by public bodies or institutions.

6. Employment of near relatives of Government servants in private undertakings employing Government patronage.—(1) No Government employee

shall use his position or influence directly or indirectly to secure employment for nay member of his family in any private undertakings.

(2) (i) No class I officer shall, except with the previous sanction of the Government permit his son, daughter or other dependent to accept employment in any private undertaking with which he has official dealings or in any other undertaking having official dealings with the Government ;

Provided that where the acceptance of the employment cannot await prior permission of the government or is otherwise considered urgent, the matter shall be reported to the government; and the employment may be accepted provisionally subject to the permission of the Government.

(ii) A Government employee shall, as soon as he becomes aware of the acceptance by a member of his family of an employment in any private undertaking , intimate such acceptance to the prescribed authority and shall also intimate whether he has or has had any official dealings with that undertakings :

Provided that no such intimation shall be necessary in the case of as Class I officer if he has already obtained the sanction of, or sent a report to the Government under clause (I).

(3) No Government employee shall in the discharge of his official duties deal with any matter or give or sanction any contract to any undertaking or any other person if any member of his family is employed in that undertaking or under that in any other manner and the Government employee shall refer every such matter or contract to his official superior and the matter or contract shall thereafter be disposed of according to the instructions of the authority to whom the reference is made.

(4) No Government employee shall award contract to any member of his family or to any other person on a Benami basis or to someone whom the government employee has reason to believe is connected or has a shared interest with a member of his family.

Explanation.— For purposes of rules (3) and (4) the expression member of family shall mean—

Father, mother, step- father, step-mother, brother, sister, step-brother,

in-law, sister-in-law, grand children, uncle, aunt, son-in-law, daughter-in-law, nephew, niece and first cousins, whether wholly dependent and the Government employee or not.

Government Instructions.—Government employees, especially those holding positions of trust and responsibility, should not only be honest and impartial in the discharge of their official duties but also have the reputation of being so. They should ensure that there is no ground or occasion to suggest that some individuals have greater access or influence with them than others.

7. **Subscriptions.**—No government servant shall, except with the previous sanction of the Government or of the prescribed authority, ask for or accept contributions to, or otherwise associate himself with the raising of any funds or other collections in cash or in kind in pursuance of any object whatsoever.

Explanation.—(1) Mere payment of subscription to a Charitable or benevolent fund does not by itself violate this rule except when such subscriptions are made to or for Organisations or Associations with which a Government employee is expressly debarred from associating

(2) Voluntary association of a government employee with the collection of the Army, Navy or Air Force Flag Day contribution is permissible and no prior permission is necessary for this purpose.

(3) Collection of subscription by members of a Service Association:— The conduct of a Government employee who is member of a Service Association is subject to the provisions of the Jammu and Kashmir Government Employees (Conduct) Rules. A Government employee even in his capacity as a member of any such Association cannot, therefore, sponsor collection of funds on behalf of the Association without prior permission of the Government. Neither the consultation of the Association which may envisage collection of funds nor the fact that it has been registered as a trade union under law which permits Trade Unions to raise funds, gives any immunity to a Government employee in the matter. General permission has, however, been granted in relaxation of the rule to collection of

subscriptions by a Government employee qua member of a Service Association of Government employees from amongst its other members if—

- (i) the Association has been and continues to be recognised by the Government;
- (ii) the proceeds are proposed to be utilised for welfare activities of the association; and
- (iii) when a matter affecting the general interest of the members of the Association is in dispute, and it is permissible under the rules of the Association to spend its fund over such matter.’ Where, however, action is taken against a Government employee who happens to be a member of the Association, in his personal capacity or grounds which concern him in particular, no funds should be collected even among its members by the Association for his defence. Approach to the members of the public for collecting funds without prior sanction of the Government is not permitted.

8. Investment, lending and borrowing .— (1) No Government employee shall speculate in any stock; share or other investment.

Explanation.— Frequent purchase or sale or both, of shares, securities or other investments shall be deemed to be speculation within the meaning of this sub-rule.

(2) No government employees shall make, or permit any member of his family or any person acting on his behalf to make, any investments which is likely to embarrass or influence him in the discharge of his official duties.

(3) If any question arises whether any transaction is of the nature referred to in sub-rule (1) or sub-rule (2), the decision of the Government thereon shall be final.

- (4) (i) No government employee shall, save in the ordinary course or business with a bank or a firm of standing duly authorised to conduct banking

business, either himself or through any member of his family or any other person acting on his behalf.—

- (a) lend or borrow money, as principal or agent, to or from any person within the local limits of his authority or with whom he is likely to have official dealings, or otherwise place himself under any pecuniary obligation to such person; or
- (b) lend money to any person at interest or in a manner where by return in money or in kind is charged or paid.

Provided that a Government employee, give to ,or accept from a relative or a personal friend a purely temporary loan of a small amount free of interest, or operate a credit account with a bona fide tradesman or make an advance of pay to his private employee :

Provided further that nothing in this sub-rule shall apply in respect of any transaction entered into by a Government employee with the previous sanction of the Government.

(ii) When a Government employee is appointed or transferred to post of such nature as would involve him in the breach of any of the provisions of sub-rule (2) or sub-rule (4), he shall forthwith report circumstances to the prescribed authority and shall thereafter act in accordance with such orders as may be made by such authority.

Government Instructions.—(1) Procedure for report under rule 8 (4) (ii). The report prescribed in sub-rule (4) (ii) should be submitted by the Government employee to his immediate superior who should forward it through the normal channels to the authority competent to remove or dismiss him from service. Except where such authority requires guidance or clarification from a higher authority, it shall consider the report and pass appropriate orders on it. If any penalty is to be imposed on the government employee, the procedure prescribed in the Jammu and Kashmir Civil Services (Classification, Control and Appeal) rules, should be followed.

(2) *Standing survey for loans taken by official superiors*,—Where a Government employee stands surety for loans taken by his official superiors or their friends or relatives, it might create an impression that official pressure has been exerted for his purpose. The superior officer will also be putting himself

under obligation to subordinate and such a situation is not conducive to efficient office management and maintenance of discipline. Officers should not, therefore, approach their subordinates for standing surety for loans taken from private sources either by them or by their relatives or friends,

9. Movable, immovable and valuable property.—(1) Every Government employee shall on his first appointment to any service or post and thereafter at such intervals as may be specified by the Government, submit a return of his assets and liabilities in such forms as may be prescribed by the Government giving the full particulars regarding—

- (a) the immovable property inherited by him, or owned or acquired by him or held by him on lease or mortgage either in his own name or in the name of any member of his family or in the name of any other person ;
- (b) shares, debentures, cash including bank deposits inherited by him or similarly owned, acquired or held by him;
- (c) other movable property inherited by him or similarly owned, acquired or held by him; and
- (d) debts and other liabilities incurred by him directly or indirectly.

Note.—Sub-rule (I) shall not ordinarily apply to Class IV employees.

(2) No Government employee shall, except with the previous knowledge of the prescribed authority, acquire or dispose of any immovable property by lease, mortgage, purchase, sale, gift or otherwise either in his own name or in the name of nay member of his family :

Provided that the previous sanction of the prescribed authority shall be obtained by the Government employee if any such transaction is :—

- (i) with a person having official dealings with the Government employee, or
- (ii) otherwise than through a regular reputed dealer.

(3) Every Government employee shall report to the prescribed authority every transaction into by him either in his own name or in the name of a member of his family in respect of movable property if the value of such property

exceeds Rs. 1,500 in the case of a Government employee holding any Class I or Class II post or Rs. 750 in case of a Government employee holding and Class III or Class IV post :

Provided that the previous sanction of the prescribed authority shall be obtained if any such transaction is-

- (i) with a person having official dealings with the Government servant ; or
- (ii) otherwise than through a regular or reputed dealer.

(4) The Government or the prescribed authority may, at any time, by general or special order, require a Government employee to furnish, within a period specified in the order, a full and complete statement of such movable or immovable property held or acquired by him or on his behalf or by any member of his family as may be specified in the order. Such statement shall, if so required by the Government or by the prescribed authority, include the details of the means by which, or the source from which such property was acquired.

(5) The Government may exempt any category of Government employees belonging to Class IV from any of the Provisions of this rule except sub-rule (4). No such exemption shall, however, be made without the concurrence of the Department incharge of services.

Explanations.— For the purposes of sub-rule (1) the expression movable property includes—

- (a) jewellery insurance policies, shares, securities and debentures;
- (b) loans advanced by such government employee whether secured or not;
- (c) motor cars, motor cycles or scooters, horses or any other means of conveyance and
- (d) refrigerator, radios, radiograms, tape recorders, televisions sets and cameras.

Government Instruction.—(1) Property returns prescribed under rule 9(1) should be submitted in the form at Annexure I within a month of his first appoint

ment and subsequently by 15th January every year in respect of the property held at the end of the previous year to authority prescribed in this behalf.

(2) The property returns should be treated as secret documents and after security be kept under the custody of the authority prescribed in this behalf. They should not, however, be filed with Character Rolls.

(3) The sanction of the competent authority under the rule 14.20 of the J&K financial Code vol. I for the scale of a car or other conveyance purchased with advances from Government before repayment of the advance together with interest cannot bear deemed carry with it permission of the competent authority under rule 9 (3) of the Jammu and Kashmir Government Employees (Conduct) Rules relating to transactions of movable property. Since the objects according sanction under the two sets of rule are quite different, separate sanctions under the J&K Financial Code Vol. I and the Jammu and Kashmir Government Employees (Conduct) Rules should be taken by a Government employee when the sale of the conveyance is made otherwise than through a regular or reputed dealer or agent.

(4) Transactions regarding movable and immovable property require previous sanction of the prescribed authority. Seeking ex-post facto sanction renders the rules ineffective and the rules should, therefore, be strictly enforced.

(5) The expression “property owned or acquired” includes also properties which stand in the name of other persons but in which the government employee has partial or full ownership as also properties acquired on “Benami” transactions.

(6) The declarations of property should be in respect of all properties including those situated outside the State and will include such movable properties as house-boats, doonghas etc.

10. Private trade or employment.—(1) No government employee, whether on leave creative service shall except with the previous sanction of the government, engage directly or indirectly any trade or business or undertake any other employment :

Provided that a Government employee may, without such sanction undertake honorary work of a social or charitable nature or occasional work of a literary, artistic or scientific character except in organisations or associations with which a Government employee is expressly debarred from associating, subject to the

condition that his official duties do not thereby suffer; but he shall not undertake or shall discontinue such work if so directed by the Government.

Explanation.—(1) Convassing by a government employee in support of the business or insurance agency, commission agency or managed by his wife or any other member of his family shall be deemed to be a breach of this sub-rule.

Explanation.— (2) The Secretary-ship of a club does not constitute employment in the sense of this rule ; provided that it does not occupy so much of an officer's time as to interfere with his public duties and that it is an honorary office. Any officer proposing to become the honorary Secretary of club should inform his immediate departmental superior who will decide with reference to this rule and explanation, whether the matter should be reported for the orders of the government.

Explanation.— (3) Government employees are prohibited under pain of dismissal from being pecuniarily interested in a Government contract, from handling security for a contractor or acting as his agent or assistant in any way.

(2) Every Government employee shall report to the Government if any member of his family is engaged in a trade or business or owns or manages an insurance agency or commission agency.

(3) No Government employee shall, without the previous sanction of the Government, except in the discharge of his official duties, take part in the registration, promotion, or management of any bank or other company which is required to be registered under the company Act or any other law for the time being in force or any co-operative society for commercial purposes.

Provided that a Government employee may take part in the registration, promotion or management of a co-operative society substantially for the benefit of government employees registered under that co-operative Societies Act, or any other law for the time being in force or of a literary, scientific or charitable society registered under the Societies Registration Act, or any corresponding law in force.

(5) No government employee may accept any fee for any work done by him for nay public body or any private person without the sanction of the prescribed authority.

11. Insolvency and habitual indebtedness.—A government employee shall so manage his private affairs as to avoid habitual indebtedness or insolvency. A Government employee against whom any legal proceeding is instituted for adjudging him as an insolvent shall forthwith report the full facts of the legal proceedings to the government.

Note.—The burdner of proving that the insolvency or indebtedness was the result of circumstances which, with the exercise of ordinary diligence, the Government employee could not have foreseen or over which he had no control and had not proceeded from extravagant or dispatched habits, shall be upon the Government employee.

Government instructions.—(1) Reports under this rule should be submitted and dealt with in the matter explained in government Instruction No.1 below rules.

(2) When an attachment order is to be enforced against a Government employee, the appropriate authority should—

- (i) determine whether the Government employee's financial position has reached a stage at which confidence in him must be dismissed and, and if so,
- (ii) consider the question of taking disciplinary action against him.

12. Unauthorised communication of information.—No Government employee shall, except in accordance with any general or special order of the Government or in the performance in good faith of the duties assigned to him, communicate, directly or indirectly any official document or any part thereof or information to any Government employee or any other person to whom he is not authorised to communicate such document or information.

Explanation.— Quotation by a Government employee (in his representations to the Head of office or head of Department or Government) of or from any letter, circular or office memorandum, from the notes on any file, to which he is not authorised to keep in his personal custody or for personal purposes, shall amount to unauthorised communication of information within the meaning of this rule.

13. Connection with press or Radio.—(1) No Government employee shall except with the previous sanction of the Government, own wholly or in part, or

conduct or participate in the editing or management of, any newspaper or other periodical publication.

(2) No Government employee shall, except with the previous sanction of the Government or of the prescribed authority, or except in the bona fide discharge of his duties.—

- (a) publish a book himself or through a publisher, or contribute an article to a book or a compilation of articles, or
- (b) participate in a radio broadcast or contribute an article or write a letter to a newspaper or periodical either in his own name or anonymously, pseudonymously or in the name of any other person:

Provided that no such sanction shall be required :

- (i) if such publication is through a publisher and is of a purely literary, artistic or scientific character or
- (ii) if such contribution, broadcast or writing is of a purely literary, artistic or scientific character.

(3) No government employee shall, by any utterance, writing or otherwise discuss or criticize in public or in any meeting of any association or body any policy pursued or action taken by the Government nor shall he in any manner participate in any such discussion or criticism.

14. Taking part in politics or anti-secular and communal activities.— (1) No government employee shall take part in politics or anti-secular and communal activities, or subscribe in aid of any political party or any organisation engaged in anti-secular or communal activities or assist in any way any political. Movement in the state or in any other part on India or relating to the affairs of the Union or the state.

Explanation.— (1) If any question arises whether a party is a political party or whether any organisation or association takes part in politics or in anti-secular or communal activities or whether any movement or activity falls within the scope of sub-rule(1) the decision of the Government thereon shall be final.

Explanation.— (1) The expression, “Political movement” includes any movement or activity tending directly or indirectly to excite dissatisfaction against or to embarrass, the Government of India or the State Government as by law established, or to promote feelings of hatred or enmity between different classes or the residents of the State or other Indian Citizens or to disturb the public peace.

(2) No Government employee shall permit any person dependent on him for maintenance or under his care or control to take part in, or in any way assist, any movement or activity which is, or tends directly or indirectly to be subversive of Government as by law established in India or in the state.

Explanation.— (1) A Government employee shall be deemed to have permitted a person to take part in or to have assisted a movement or activity within the meaning of sub-rule (2) if he has not taken every possible precaution and done everything in his power to prevent such person so acting or if, when he knows or has reason to suspect that such person is so acting, he does not at once inform the government or the officer to whom he is subordinate.

Explanation.— (2) A Government employees shall be deemed to have contravened the provision of sub-rule (1), if, on his attending any public meeting or functions which from the invitations issued or notice published do not purport to be of a political nature but at which political speeches of an objectionable character are made with or without the knowledge or connivance of the organisers, he does, not, withdraw from such a meeting or function immediately it assumes a political character, but instead continues his presence at such a meeting or function as a silent listener.

(3) A Government employee may, for the purpose of removing misapprehensions correcting mis-statements, and refuting disloyal and serious propaganda defend and explain to the public the policy of Government, but may not save as provided in rules, make, any communications to the press in regard to the policy or acts of the Government without the sanction of the Government or such other authority as the Government may prescribe.

(4) In any action taken by him, under the provisions of sub-rule (3), the Government employee should, as far as possible, refrain from making any reference to the personalities of parties or individuals who may be in opposition to the Government.

5) No government employee shall canvass or otherwise interfere or use his influence in connection with, or take part in any election to a local body or to the Legislative or parliament :

Provided that a Government employee who is qualified to vote at such election may exercise his right to vote, but if he does so, shall, give no indication of the manner in which he proposes to vote or has voted :

Provided further that the Govt. servant should not only maintain political neutrality but it should appear to be so and should not participate in the activities of or associate themselves with any organisation, in respect of which there is the slightest reason to believe that the organisation has a political aspect.

Governmental Instructions.—(1) Reports under rule 14(2) should be submitted by a Government employee to his immediate superior who will forward them through the normal channels to the authority competent to remove or dismiss him from service. Except where such authority requires guidance or clarification from a higher authority, it shall consider the report and pass appropriate orders. If it is proposed to impose any penalty, the procedure prescribed in the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules should be followed.

(2) It is advisable that a government employee should, before participating or associating himself with any organisation, satisfy himself that its aims and objects are not such as can be treated objectionable for the purpose of this rule. The responsibility for the consequences of his decision and action will be his own. A plea of ignorance or misconception as to Government's attitude towards an Association or Organisation will not be accepted.

(3) The following action by a Government employee will also amount to contravention of these rules:—

(i) Proposing or seconding a candidate for elections;

(ii) Organising elections meetings for Ministers or being present during those meetings, except only to the extent necessary for maintaining law and order and affording normal protection to Ministers.

The following action by a Government employee does not amount to contravention of these Rules : —

- (i) making normal arrangement during elections tours of Ministers to enable them to carry out their responsibilities as Ministers ;
- (ii) arrangements by district officers for affording normal courtesies and security to Ministers on their visits connected with election campaign.

(4) Association with the activities of anti-secular and communal organisations:- Government have held the activities of the Jamaat-e-Islami Rashtriya Swayam Sewak Sangh, Islamic Study Circle Anand Marg, Proutist Forum of India and proutist League and such other Associations as may be specified by the Government from time to time, to be of such a nature that any association or participation in their activities directly or indirectly by any Government employee shall attract the provisions of these rules. Any Government employee who is found to be member of or is otherwise associated with the aforesaid organisations or with their activities is liable to disciplinary action.

(5) A Government employee should inform the prescribed authority of his membership or association in any way from whatsoever of any Union or Organisation including those of a purely professional, social or cultural character. The prescribed authority, with the approval of higher authority, if considered necessary, may require the Government employee concerned to dissociate himself from the Organisation or Union; provided in the opinion of the prescribed authority such dissociation is in the interests of the security of the State or the sovereignty and integrity of India or public order or morality. On receipt of such instructions the Government employee concerned shall forthwith comply with them.

15. Evidence before committee or any other authority.—(1) Save as provided in sub-rule (3) no government employee shall, except with the previous sanction of the government, give evidence in connection with any enquiry conducted by any person, committee or authority.

(2) Where any sanction has been accorded under sub-rule (1) no government employee given such evidence shall criticise the policy or any action of the Government of India Government of Jammu and Kashmir or any other State Government.

(3) Nothing in this rule shall apply to-

- (a) evidence given at an enquiry before an authority appointed by the Government ; parliament or a State Legislature; or
- (b) evidence given in any judicial enquiry, or
- (c) evidence given at any departmental enquiry ordered by an authority subordinate to the Government.

16. Vindication of acts and character of Government employee.

(1) No Government employee shall, except with the previous sanction of the Government, have recourse to any court or to the press for the vindication of any official act which has been the subject matter of adverse criticism or an attack of a defamatory character.

(2) Nothing in this rule shall be deemed to prohibit a government employee from vindicating his private character or any act done by him in his private capacity and where any action for vindicating his private character or any act done by him in Private capacity is taken, the Government employee shall submit a report to the prescribed authority regarding such action.

Government Instructions.—(1) it is not necessary for a government employee to obtain permission for initiating proceedings in a Court of Law in matters other than vindication of his official act.

(3) When allegations are made in the Press or by individuals against a Government employee in respect of his conduct in the discharge of his public functions a preliminary confidential enquiry by a senior officer may be ordered by the Government. If such an enquiry leads to the conclusion that the allegations are based on ignorance, insufficient information or even malice, it should be further considered whether, having regard to the nature and circumstances of the case, any action in a court of law is necessary to vindicate the conduct of the government employee concerned, for in some cases, mere publication of the results of the enquiry any not always carry conviction with the public. If it is decided to have resort to a Court of law, it should also be considered whether the Government should themselves initiate proceeding in a Court of law, against the party which made the allegations or whether the Government employee should be

required to initiate such proceedings. If, on the other hand, it is considered as a result of the enquiry that there are reasonable grounds to doubt the propriety and correctness of the conduct of the Government employee, or if the enquiry is not conclusive, Government may entrust the case to such authority, as it may consider, appropriate, or order a full departmental enquiry under the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules or require the officer to vindicate his conduct by resorting to a Court of law.

(3) In granting sanction to a Government employee to have recourse to a court for vindication of his conduct, the Government will in each case decide whether it will itself bear the cost of the proceedings or whether the Government employee shall institute the proceeding at his own expends, and if so, whether in the event of a decision in his favour, the Government shall reimburse him to the extent of the whole or in any part of the costs.

17. Convassing of non official or other outside influence.—No Government employee shall bring any political or other outside influence to bear upon any superior authority to further his interest in respect of matter pertaining to his service under the Government .

18. Criticism of Government.—No Government employee shall, in any radio broadcast or in any document published in his own name or anonymously, pseudonymously or in the name of any other person or in any communication of the press or in any public utterance make any statement of fact or opinion :—

- (i) Which has the effect of any adverse criticism of any current or recent policy or action of the Government of India, Government of Jammu & Kashmir or any state Government.
- (ii) Which is capable of embarrassing the relations between the Government of Jammu and Kashmir Government and the Government of India or the Government of any other state in India; or
- (iii) Which is capable of embarrassing the relations between the Government of India or the Government of Jammu and Kashmir and the Government of any foreign State.

Provided that nothing in this Rule shall apply to any statements made or views expressed by a Government employee in his official capacity or in due performance of the duties assigned to him.

19. Membership of Service Associations.—No Government employee shall be a member, representative or an officer of any association representing or purporting to represent, Government employee or any class of Government employees unless such association satisfies the following conditions, namely :—

- (a) it has been recognised by the Government and the recognition continues to subsists;
- (b) Membership of the association is confined to a distinct class of government employees and is open to all Government employee of that class;
- (c) The association is not in any way connected with or affiliated to :-
 - (i) Any association which does not ; or
 - (ii) Any federation of associations which do not satisfy conditions (a) and (b) ;
- (d) The association shall not in any way be connected with any political organisation or engaged in any political activity or any other organisation in which a Government employee cannot be a member under these rules;
- (e) The association shall not-
 - (i) issue or maintain any periodical publication except in accordance with any general or special order or the Government;
 - (ii) except with the previous sanction of the Government, publish any representation on behalf of its members, whether in the press or otherwise;
 - (iii) in respect of any election to the Legislative Assembly or to a local authority or body;
 - (a) pay or contribute towards any expense incurred in connection with his candidature by a candidate for such election; or
- (b) by any means support the candidature of any person for such election; or

(c) undertake or assist in the registration of electors or the election of a candidate for such election;

(iv) maintain or contribute towards the maintenance of any member of the legislative Assembly or any member of a local authority or body.

20. Demonstrations and strike.—No Government employee shall—

- (i) engage himself or participate in any demonstration which is prejudicial to the interest of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality, or which involves contempt of court, defamation or incitement to an offence; or
- (ii) resort to or in anyway abet any form of strike in connection with any matter pertaining to his service or the service of any other Government employee.

Note 1.— “Strike” means refusal to work or stoppage or slowing down of work by a group of employees in combination, and includes,-

- (i) mass abstention from work without permission (which is wrongly described as “mass causal leave”);
- (ii) refusal to work overtime where such overtime work is necessary in the public interest;
- (iii) resort to participates or conduct which is likely to result in, or results in the cessation or substantial retardation of work in any organisation. Such practices would include, what are called, ‘go-slow’, sit-down’ ‘pen down’ ‘stay-in’, ‘token’, ‘sympathetic’, ‘dharna’, ‘hunger strike’ of any kind. Or any other similar strike; absence from work for participation in a Bandh or any similar movements.

Note 2.— Government employees who resort to action of the above kind violate rule 20 (ii) of the Conduct Rules and disciplinary action can be taken against them. It may be noted that the list of activities which are covered under the definition of strike as enumerated above is only illustrative and not exhaustive.

21. Joining of associations by Government employees.—(1) No Government employee shall join, or continue to be a member of, an association the objects or activities of which are prejudicial to the interest of the sovereignty and integrity of India or public order or morality.

(2) No Government employee shall, except with the previous permission of the government, hold or continue to hold any office in any Sports Association of the State or the National Sports Federation or Association. The application for such permission shall be made through the Secretary, Jammu and Kashmir Sports Council.

22. Bigamous marriages.—(1) No Government employee who has a wife living shall contract another marriage without first obtaining the permission of the Government, notwithstanding that such subsequent marriage is permissible under the personal law for the time being applicable to him.

(2) No female Government employee shall marry any person who has a wife living without first obtaining the permission of the government.

Government Instructions.—(1) Procedure for dealing with applications seeking permission under rule 22 (1)—

(i) The applications should be scrutinized to see-

- (a) whether such marriage is permissible under the personal law applicable to the applicant, and if so;
- (b) whether there are sufficient grounds justifying a departure from the normal policy of Government;
- (c) whether alleged grounds are true and well-founded;
- (d) where wife has joined the application whether she has willingly consented; and
- (e) whether any communication purporting to proceed for the wife is genuine and outcome of her free will from ascertain this, higher officers in the department to (concerned may, if necessary, send for the applicant and his wife to make personal enquiries)

(iii) Where the first wife's view have not been stated, they should be ascertained if possible.

(iv) If permission is sought on grounds of alleged sickness of wife, detailed information should be obtained in consultation with medical authorities.

(v) Arrangements made by the husband for his wife's maintenance should be ascertained and examined whether they are satisfactory.

(vi) The case should be referred to the General Department together with the result of the enquiry conducted in terms (i) to (iv) above.

(2) A declaration in the form given below should be obtained from every new entrant to Government service:—

DECLARATION

I, Shri/Shrimati/Kumari _____ declare
as under :—

- (i) that I am unmarried/a widower/ a widow ;
- (ii) that I am married and have only one wife living ;
- (iii) that I am married and have more than one wife living Application for grant of exemption is enclosed ;
- (iv) that I am married and that during the life time of my spouse I have contracted another marriage. Application for grant of Exemption is enclosed ;
- (v) that I am married and my husband has no other living wife, to the best of my knowledge ;

- (vi) that I have contracted a marriage with a person who has already one wife or more living. Application for grant of exemption is enclosed.

I solemnly affirm that the above declaration is true and I understand that in the event of the declaration being found to be incorrect after my application, I should be liable to be dismissed from service.

Date :

Signature :

To

Sir,

I request that in view of the reason stated below I be granted exemption from the operation of restriction on the recruitment to service of a person having more than one wife living/woman who is married to a person already having one wife or more living.

Your's faithfully

Reason

Signature

Date

23. Anti-secular or communal activities.—Any government employee found guilty of any anti-secular activity or of activities tending to create communal disharmony shall be liable to dismissal from State Service.

24. Prohibition to act as arbitrator in certain cases.—(1) No Government employee shall act an arbitrator in any case which is likely to come before him in any shape by virtue of any judicial and executive office which he may be holding.

(2) If any officer acts as an arbitrator at the private request of disputants he shall accept no fees .

(3) If he acts as an arbitrator by appointment of a Court of law he may accept such fees as the Court may fix.

25. Consumption of intoxicating drinks and drugs :—

(i) A government employees shall—

(a) Strictly abide by any law relating to intoxicating drinks or drugs in force in any area in which he may happen to be for the time being;

(b) Not be under the influence of intoxicating drinks or drugs during the course of his duty and shall also take due care that the

performance of his duties at any time is not affected in any way by the influence of such drink or drug;

- (c) Not habitually use any intoxicating drink or drug into excess; and
- (d) Refrain from consuming any intoxicating drink or drug in a public place and not appear in any such place in a state of intoxication.

Explanation.—(1) Consumption of intoxicating drink or drug any premises licensed as Bar, Club, Hotel or Rest House and permitted to be used for such consumption under the Jammu and Kashmir Excise Act and Rule thereunder or under any other law for the time being in force shall not continue a violation under the aforesaid rule.

- (2) The Competent Authority shall keep a strict watch on the conduct of government servants subordinate to it in regard to matters specified in sub-rule (1) and take a serious view of the misconduct arising from the violation of said sub-rule. In any case of violation of the said sub-rule comes or is brought to its notice, the Competent Authority shall not hesitate to initiate an enquiry into the allegation of misconduct under the Jammu and Kashmir Civil Service (Classification, Control and Appeal) Rules, 1956 and to impose, if the Government Servant is found after such enquiry guilty of violating the said sub-rule, the punishment under the said Rules.”

26. **Saving.**—Nothing in these rules shall be deemed to derogate from the provision of any law, or of any order of any competent authority, for the time being in force, relating to the conduct of Government employee.

27. **Interpretation.**—If any question arises relating to the interpretation of these Rules, it shall be referred to the Government whose decision thereon shall be final.

28. **Delegation of powers.**— The government may, by general or special order, direct that any power exercisable by it or, by any head of department under these rules (except the powers under rule 27 and this rule) shall, subject to such conditions, if any, as may be specified in the order, be exercisable also by such officer or authority as may be specified in the order.

29. **Repeal.**— Any rules corresponding to these rules in force immediately before the commencement of these rules and applicable to Government employees to whom these rules apply are hereby repealed :

Provided that any order made or action taken under the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

**GOVERNMENT OF JAMMU AND KASHMIR
HOME DEPARTMENT (I. S. SECTION)**

**THE JAMMU AND KASHMIR DETENUS (GENERAL)
ORDER, 1968**

NOTIFICATION

Jammu, Dated 9th January 1968.

SRO-9.—In exercise of the powers conferred by section 5 of the Jammu and Kashmir preventive Detention Act, 1964, the Government hereby makes the following orders :—

1. **Short Title and application.**—(1) This order may be called the "J&K Detenue General Order 1968".

(2) They shall apply to the classes of detenues referred to in clause (3).

(3) It shall come into force on the 9th day of January, 1968.

2. **Definitions.**—In this order unless there is anything repugnant in the subject or context.

(a) "**detenue**" means any person order to be detained and comitted to a place of detention in the State by any authority acting in exercise of powers conferred by section (3) of the J&K Preventive Detention Act, 1964.

(b) "**Place of detention**" a Jail or any other jail in the state in which a detenue is ordered to be detained.

(c) "**State**" means the State of Jammu and Kashmir.

(d) "**Government**" means Government of the State of Jammu and Kashmir.

(e) "**Superintendent**" means an officer appointed to be or to act as the Superintendent of a place of detention.

3. **Classification.**—(1) Detenue shall be divided into special class A, B, and C according to their high official rank, status in life, public

importance, education, reputation, status in society and the standard of living to which they were accustomed immediately before their detention.

(2) The Government shall decide the class in which a detinue shall be placed provided that when the Government do not specify the class in which a detinue shall be placed he shall be deemed to have been placed in 'C' class.

(3-A) A special class detinue shall be entitled to such amenities privileges and concessions as the Government may specify under clause 26.

4. **Accommodation.**—Detenues may be kept in single rooms or association barracks, but as far as possible, separate from ordinary prisoners. The Superintendent shall always have the power to confine any particular detinue separately if he considers it desirable to do so on grounds of health or for administrative or other reasons.

5. **Food and toilet.**—(1) The Government may spend per day a sum not exceeding that specified in the corresponding column under each class of detenues in the table given below to meet the requirements of detenues of that class in respect of his food and toilet :—

TABLE (SRO 87 dated 27-02-90)

A Class	Rs. 25.00
B Class	Rs. 20.00
C Class	Rs 17.00

(2) A detinue may intimate to the Superintendent his choice of the articles of food or toilet or both for each day or for each month as he may desire and as may reasonably be convenient to supply provided that the cost or average cost per day of the article so chosen by him shall not exceed the amount which the Government are permitted to spend under sub-clause (1).

(3) Cooked food shall not be allowed to be imported from outside the place of detention except with the written permission of the Superintendent.

6. **Clothing etc.**—The Superintendent may spend for a period of every three months a sum not exceeding that specified in the corresponding column

against each class of detenues in the table given below for the purchase of clothes, bed sheets, pillow covers cases, bath towels, shoes and chapples for a detinue of that class :—

TABLE	SRO 87 dated 27-02-90)
A Class	Rs. 250.00
B Class	Rs. 125.00
C Class	Rs. 90.00

Provided that where the Superintendent is satisfied that due to climatic conditions of a place where a detinue is kept the sum specified above for a period of three months is insufficient he may spend such additional sum to exceeding Rs. 50/- Rs. 40/- and Rs. 25/- for a detinue of Class A, B and C respectively during the said period of three months as he may consider reasonable but such additional sum shall adjustable against the sum admissible for the next three months.

(2) A detinue may intimate to the Superintendent his choice of the quality and quantity of these articles, as far as these may be reasonably convenient to supply provided that the total cost of a articles including tailoring charges chosen shall not exceed the amount which the Superintendent is permitted to spend under sub clause (1).

(3) If the Superintendent is satisfied that a detinue has already been supplied with sufficient clothes and sufficient number of shoes or chapples and that they are in good usable condition; additional clothes or shoes or chapples shall not be supplied to him. If the Superintendent entertains any doubt in the matter, he may refer it to the Inspector-General of Prisons for appropriate directions.

7. **Bedding.**—A detinue who unable to provide himself with sufficient bedding shall be supplied actually with articles of bedding at the Government cost. The cost of the articles of bedding of a detinue of Class A Class B and Class C shall not exceed Rs. 200/- Rs. 130/- and Rs. 95/- respectively for a year.

A detinue may intimate to the Superintendent his choice of the articles of bedding provided that the total cost of the articles so chosen by him shall

not exceed the amount specified in his class. Articles of bedding need not be renewed annually unless in opinion of the Superintendent they need renewal. The articles of bedding, need not be supplied if the detenues has already been supplied with them and they are in, in the opinion of the Superintendent sufficient and in decent condition.

8. Furniture, crokery and utencils.—Furniture, Crokery and utensils admissible to a detenue of the A Class, B Class, and C Class shall be as mentioned in the Schedule to this order.

Provided that no article of furniture or crokery or utensil mentioned in the Schedule need be supplied to detenue if he has already been supplied with substantially the same or similar articles and if they or such number of them as mentioned in the Schedule remain in good and usable condition.

9. Newspapers, Books and other articles.—(1) The Government may spend per month in respect of a detenue of the A. of the B, and of the C Class a sum not exceeding Rs. 10/- Rs. 6/- and Rs. 5/- respectively for purchase of postal stamps, envelopes, paper, pencils steel pen ink, periodicals, newspapers and books in accordance with the written request made by the detenue to the Superintendent.

(2) Any postal artical containing or purporting to contain a newspaper periodical or book shall first be opened by the Superintendent or a person authorised by him in this behalf.

(3) No books, periodicals are news paper which is banned or prescribed or which is obscene or surrilous shall be supplied to or permitted to be read by a detenue.

(4) Every article intended for a detenue should be handed over to the Superintendent with a written request that it may be given to the detenues.

10. (1) Subject to the provisions hereinafter made, the following classes of detenues shall be entitled to borrow books and journals from the Jail Library in such number and for such periods as shown against each :—

Person entitled to barrow books	Books	Journals	Period
Class "A" Detenues	3	2	Books for I month Journals for 6 days.
Class "B" Detenues	2	1	-do-
Class "C" Detenues	2	1	-do-

(2) The Superintendent of Jail shall before the commencement of the each financial year submit to the Government a list of books and journals which he proposes to purchase or subscribe to for his library together with the estimate of the cost thereof.

(3) No further quota of goods or journals shall be issued to a detinue until he has returned the books or journals previously issued to him. If in the opinion of the Superintendent any book or journals issued to a detinue needs to be returned to the Library before the expiry of the period provided for in this behalf he will give the necessary intimation to the detinue and thereupon the books shall be returned by the detenués to the Library.

(4) The books and journals returned by a detinue may be re-issued to him if not required otherwise.

(5) Any loss or damage to any book or journal shall be made good by the detinue concerned in such manner as the Superintendent of jail may direct.

(6) The Superintendent of jail may withhold the issue of any book or journal which is classed as a reserved or reference book or is in his opinion such as not be in a fit condition to be issued.

(7) The Government may install one or more radio sets in any Jail in such a manner as it may deem fit.

11. **Funds.**—(1) A detinue of the A Class may be allowed to received from relatives or friends or to spend out of his own monies an amount not exceeding Rs. 50/- per month to supplement his diet, clothes or toilet or to purchase books, magazines and news papers.

(2) A detinue of the B Class of the C Class and of the D Class may receive from relatives or friends or spend out of private funds an amount not exceeding Rs. 30/-, Rs. 20/- and Rs. 10/- respectively per month for the same purposes as referred to in sub-clause (1) All amounts received for a detinue under his class on the request of the detinue. No detinue shall be allowed to receive money direct from any source by Money Order or in any other be Money meant for a detinue shall be handed over to the Superintendent.

12. **Correspondence.**—(1) Every detinue of the A Class may be allowed to write not more than six letters a month. A detinue of the B Class, of the C Class or of the D Class may be allowed to write not more than five letters a month, subject to general or special directions which the Inspector General of

Prisons may issue from time to time the contents of the letters and other communication from or to a detenue shall be limited to private matters. There shall be no reference in the letters or communications to Jail administrations, discipline, to other detenue or to politics.

(2) No letter or other communication shall be transmitted to or from a detenue except through the Superintendent or such other officer as the Government may appoint in this behalf.

(3) Any letter or correspondence addressed by a detenue to the Government of India or any other member of that Government or to a Secretary to that Government or to a Government of one of States in India other than the State of Jammu and Kasmir or to a member of or Secretary to any sub State Government shall be forwarded by the Superintendent to the Home Department J&K, Government for appropriate action.

(4) Any letter or other recommendation addressed by or to a detenue from any place outside India shall be perused by the Superintendent and forwarded with his remarks to the Home Department, which shall decide whether, or nor it should be despatched to the addressee.

(5) Letter and communications addressed to a detenue may, subject to the instructions if any of the Government, be perused by the Superintendent who may withhold them if they are in his opinion detrimental to the Public interest or safety or the discipline of the detenues in case of doubt, the Superintendent shall refer them to the Inspector-General of Prisons and abide by his directions, letters and correspondence which are unobjectionable shall be forwarded forth with to the detenue.

(6) All communications addressed by a detenue who is a member of the State Legislature or Parliament to the Speaker or Chairman of the House in which he is a member or to the Chairman of a Committee (including a Committee of Privileges) of such House or of a Joint Committee of both Houses of Parliament shall be immediately forwarded by the Superintendent to the addressee.

(7) A telegram may be treated as a letter for the purposes of this clause. The receipt and despatch of telegrams by detenues shall be subject to the same control as is herein before provided for letters except that the number of telegrams which may be despatched by a detenue shall be within the discretion of the Superintendent. The cost of telegrams should ordinarily be borne by the detenue himself out of the funds obtained under clause III. In the absence of any such fund it shall be in the

discretion of the Superintendent whether or not the detenue should be permitted to send a telegram at the Government cost.

13. **Interview.**—(1) The Superintendent shall fix days in the week on which interviews with persons other than a Police Officer may take place.

(2) A detenue may be permitted to interviews a near relative or a group near relative once in a fortnight.

Note.— A near relative shall be deemed to include only wife, husband, father, mother, brother, sister, son, daughter or any in law of such relationships, direct uncle or direct aunt (i.e. brother or sister of the detenues father or mother) grand parents and grand child.

(3) Every detenue shall furnish a list of near relatives to the Superintendent who shall transmit a copy of it to the Inspector-General of Prisons.

(4) Applications for interviews by near relatives shall be made to the Superintendent who shall grant the same provided he is satisfied that the applicant are the near relatives of the detenue whom they seek to interview.

(5) A person other than a near relative shall not be permitted to interview a detenue unless he has obtained written permission therefore from the Inspector -General of Prisons.

(6) If the Superintendent is satisfied that reasonable grounds exists for doubting the identity, bonafides or genuineness the interview for a period of 10 days within which period he shall obtain instructions from the Inspector General of Prisons as to whether or not the person should be allowed to interview.

(7) The Superintendent shall appoint the time and place of each interview/interviews with near relatives should be limited to an hours duration and those with others to half an hour. Duration of interviews, may be extended by special order issued by the Inspector General of Prisons.

(8) Interviews shall take place in the presence of the Superintendent or such other officers as may be authorised in that behalf by a general or special order of the Inspector General of Prisons.

(9) The Superintendent or other officers who is present at the interview may terminate, the interview at any time, if in his opinion, the conversation is detrimental

to the public interest or safety. The conversation shall be limited to private matters and there shall be no reference to Jail administration and discipline to other detenues or to politics.

(10) Every person permitted to interview a detenue and the detenue himself may be searched before and after the interview at the discretion of the Superintendent :

Provided that no female shall be searched under this order except by a female.

Searches shall, as far as possible, be carried out only at the entrance of the gate, as the case may be of the place of detention and not inside the building which is used for detention.

(11) After an interview is over, the officer present at the interview shall, if he deems it necessary, warn both the detenue and the interviewer that future interview by any person is liable to be prohibited if the interviewer indulges in any publicity on behalf of the detenue. If in spite of the warning the interviewer indulges in any publicity on behalf of the detenue, all interviews shall be disallowed for such period as the Inspector General of Prisons may direct.

(12) The Superintendent shall maintain a register containing the names of the persons who interviewed the detenue the dates and duration of the interviews the relationship of the interviewer to the detenue and also the remarks of the superintendent in respect of each interview. A copy of the entries in the register shall be sent to the Inspector-General of Prisons, every months.

14. Police interviews.—Subject to the directions, if any, of the Government the Inspector General of Police may by general or special order authorised any Police Officer either singly or with another Police Officer and accompanied or unaccompanied by subordinate Police Officer to interview any detenue.

15. Prohibition to removal of articles from place of detention.—(1) No article belonging to or made available to a detenue or to a visitor interviewing him shall on any account be removed to any place outside the

place of detention. If a detenue allows or connives at any such articles being removed by any person to any place outside the place of detention, all or any of the amenities, concessions and privilege conferred on him by order under this order shall be withdrawn for such period as the Inspector-General of Prisons may decide.

(2) Notwithstanding anything contained in sub-clause (1) the Superintendent shall at the time of the unconditional release of a detenue from custody, allow him to take with him all the wearing apparel issued to him for his use during a period of six months previous to such release :

Provided that in the case of a detenue who is released on parole and he is a destitute, or whose private clothing has been spoiled or destroyed during the period of his detention or is insufficient for purposes of health and decency commensurate with his social status, the Superintendent may at the time of his release on parole, allow him after obtaining a receipt therefore to take with him such wearing apparel as are necessary for his use on the condition that when the said detenue surrenders himself to the Jail authorities he will bring back all that apparel.

16. Family allowances.—Allowance for the maintenance of the dependents of a detenue may be granted by the Government in cases where they are satisfied that the detention of the detenue has substantially affected the means of subsistence of thoses dependents and that the dependents do not have reasonable means of subsistence.

17. Transfer of detenue to hospital in emergent cases.—If a detenue falls ill, and in the opinion of the Controller of Prisons (who shall be immediately informed by the Superintendent. It is necessary to given special medical treatment or immediate surgical treatment to him he shall be removed to the nearest Hospital within the State having the necessary facilities and equipment and be detained there in custody untill the termination of the treatment.

(2) The Superintendent shall send information on regarding the illness of the detenue to the Government simultansously with the despatch of such information to Controller of Prisons.

(3) The Controller of Prisons shall keep the Government promptly informed about the progress of the detention, he shall be removed back to the place and detained there under the same conditions as before he took ill.

18. **Discipline.**—A detenue shall for purpose of discipline be subject to such of the existing rules relating to civil prisoners in the State are not inconsistent with the provisions of this order of the instructions which may from time to time be issued under this order.

(2) The single rooms or association barracks in which detenue are kept as also the detenues shall be liable to be searched once a month and often if the Superintendent, considers it necessary. Every precaution shall be taken to make the searches through and the fact of the search communicated to the Controller of prisons with the comments, if any of the Superintendent.

19. **Discipline and breaches.**—(1) Detenue.—

- (a) Shall reside in accommodation allotted to him by the Superintendent ;
- (b) Shall not proceed beyond the limits of the place of detention ;
- (c) shall abide by the instructions issued from time to time for his comfort safety and health or for his discipline, orderly conduct and control ;
- (d) shall attend roll-call answer to his name in person at such times and places within the place of detention as may be appointed by the Superintendent ;
- (e) shall not do anything wilfully with the object of affecting his bodily welfare ;
- (f) shall conform to the standards of cleanliness and dress laid down by the Superintendent ;
- (g) shall not have in his possession any coin, currency note for negotiable instruments, any weapon, stick, razor. other than a safety razor, piece of iron or any other article ;
- (h) shall not exchange or cell any of his kit-equipment, clothes, furniture or other or other possessions ;
- (i) shall not refuse to take the diet fixed by the Superintendent ;

- (j) shall not receive any person other than the Superintendent of other than an officer employed in the place of detention who is authorised by the Superintendent to hand over article to him.

(2) A detenue who contravenes any provision of sub-clause (1) of who contravenes any other provisions of this order of any instructions issued under this order or who—

- (i) assaults, insults, threatens or obstructs any fellow detenue or any officer of the place of detention or any other Government servant or any person employed in or visiting the place of detention ; or
- (ii) quarrels with any person in the place of detention ;
- (iii) is guilty of indecent, immoral or disorderly conduct ;
- (iv) communicates or attempts to communicate with any person out side the place of detention in any unauthorised manner or
- (v) bribes or attempts to bribe to any Government or any person employed in or visiting the place of detention ; or
- (vi) comments any nuisance or wilfully be foul any well, latrine washing or bathing place ; or
- (vii) disobeys the orders of or show disrespect to any office of the place of detention ; or
- (viii) wilfully damages any property belonging to Government or tampers with any lock, lamps or lights in the place of detenion ; or
- (ix) receive, possesses or tranfers any articles in contravention of any order of the Superintendent, or
- (x) feigns illness or
- (xi) wilfully brings a false accusation against any officer of the place of detention or fellow detenue or
- (xii) omits or refuses to report, as soon as it comes to its knowledge, the occurance of any fire any plot or conspiracy, any escape, attempt or

preparation to escape and attack or preparation for attack upon any officer of the place of detention ;

(xiii) abets the commissions by fellow detenue of any of the foregoing acts, or

(xiv) Omits or refuses to help any officer of the place of detention in the case of on attempt escape on the part of any of his fellow detenue, shall be deemed to be guilty of breaches of discipline.

20. **Punishments.**—(1)where upon such enquiry as he thinks fit to make the Superintendent is satisfied that a detenue is guilty of breach of discipline he may award the detenue once or more of the following punishment :—

(a) confinement in cells for period not exceeding fourteen days ;

(b) reduction of alternation of diet for a period not exceeding fourteen days ;

(c) cancellation or reduction for a period not exceeding two months of the concession of receiving funds from outside ;

(d) concellation or reduction, for a period not exceeding two months of the privileges of witting and receiving letters or of newspapers, periodicals and books.

(e) cancellation or reduction, for period not exceeding two months of the privileges of witting and receiving letters or of newspapers, periodicals and books.

(f) cancellation of the preivileges of wearing his own clothes,

(2) If any detenue is guilty of breach of discipline which by reasons of his having frequently committed such breaches or otherwise is in the opinion of the Controller of Prisons not adequately punished by the Superintendent under the provisions of sub-clause (1) he may report the case to the Government. The Government after examining the report and after making such enquiry or obtaining such further informed as may be deemed necessary may in their discreation pass orders that all or any of the amentities privileges and concessions allowed to the detenue by or under

this order shall be withdrawn for ever or for such period as may specified or that the detenue shall be treated in the same manner and subjected to the same conditions as a prisoners undergoing rigerious imprisonment on being convicted of a criminal offence.

21. Enforcement of orders.—The Superintendent may use or require to be used with such for as may in his opinion be necessary to compell obediance on the part of any detenue to any lawful order issued by him.

22. Operation of other laws not effected.—Nothing in this order shall be deemed to effect the provisions of any law for the time being in force under which a detenue is liable to be punished in respect on any act committed by him while under detention.

23. Attendance of detenue in Courts.—The provisions of the jammu and Kashmir prisoners Act, 1977 (XXXIII of 1977) shall as far as may be apply to the attendance of detenues in Court.

24. Government property.— All the articles and goods purchased at the cost of the Government for the use of a detenue shall remain the absolute property of the Government and their possession custody, control, use and disposal shall be in according to the instructions which the Government may issue from time to time.

25. Power of Government to issue instructions.—The Government may from time to time issue such instructions as they may deem necessary (a) for supplementing the provisions of this orders (b) for the guidance of the Controller of prisons, the Superintendent and others officers employed in the Place of detention and (c) or the proper conduct, discipline, maintenance, excercise recreation and general welfare of detenues. Such instructions shall have form and effect as if they form part of this order.

(2) The Government may be appropriate instructions direct that the provisions of this order shall apply in relation to the detenue with such modification as may be specified in the instructions.

26. Amenties privilages and concessions.—Notwithstanding anything contained in any previous order or direction issued by or on behalf of the Government, the amenties, privaleges and concessions to which a detenue of

any of the classes mentioned in clause 3 shall be entitled shall be those expressly conferred by or under this order.

27. (1) The Jammu and Kashmir (General) order, 1968 is hereby repealed ;

(2) Notwithstanding the repeal of the said order anything done or any action taken under the said order shall be deemed to have been done or taken under this order.

By order of the Government of Jammu and Kashmir.

(Sd.) G. R. RENZU,
Secretary to Government,
Home Department.

THE SCHEDULE OF FURNITURE, CROCKERY AND UTENSILS

(See Clause 9)

A Class

Wooden Cot / Steel bed	One
Writting desk with minor	One
Table lamp	One
Canvas easy chair or easy chair	One
Writing desk with chair	One
Durree for the room	One
Door mat	One

Tea-set for one person, two eating plates, three spoons, two forks and two knives one jug, and basin, one Lota and one jug with two tumblers.

B Class

Wooden Cot	One
Chair	One
Lotas	One
Tumblers	Two
Eating plates	Two
Cups	Two
Saucer	One
Spoon	One
Jug	One
Basin	One
Mirror	One
Durree	One

C Class

Wooden Cot	One
Mug	One
Spoon	One
Lotas	One
Tumbler	One
Jug	One
Eating plates	Two
Mirror	One
Durree	One

(Sd.) G. R. RENZU ,
 Secreary to Government,
 Home Department.

**GOVERNMENT OF JAMMU AND KASHMIR,
HOME DEPARTMENT, JAMMU**

NOTIFICATION

JAMMU, THE 6TH December 1978.

SRO-755.—in exercise of the powers conferred by section 10 of the Jammu and Kashmir Good Conduct Prisoners (Temporary Release) Act, 1978, the Government hereby make the following rules, namely :—

1. **Short title.**—(1) These rules may be called the Jammu and Kashmir Good Conduct Prisoners (Temporary Release) rules, 1978.

(2) These rules come into force on the date of their publication in the Government Gazette.

2. **Definition.**—In these rules , unless the context otherwise requires—

- (a) “Act” means the Jammu and Kashmir Good Conduct Prisoners (Temporary Release) Act, 1978;
- (b) “Form” means a form appended o these rules;
- (c) “Releasing Authority” means the Government or such other offender to whom the powers of the
- (d) “Section” means section of the Act.

Procedure for temporary release.—(1) Prisoner desirous of seeking temporary release under section 3 of resolution 4 of the Act shall make an application in Form A-1 or Form A-2, as the case may be, to the Superintendent of Jail. Such an application may also be made by an adult member of the Prisoner’s family.

(2) The superintendent of Jail shall forward the application along with his report to the District Magistrate, who after consulting the Superintendent of Police of his District, shall forward the case with his recommendations to the Controller of Prisons. The Controller of Prisons shall then record his views on the case whether the Prisoner is to the released or not and submit

the same to the Releasing Authority for orders. The District Magistrate, before making any recommendations, shall verify the facts and grounds on which release has been requested and shall also give his opinion whether the temporary release on parole or furlough is opposed on grounds of prisoner's presence being dangerous to the security of the state or prejudicial to the maintenance of public order.

(2) If, after making such enquiry as it may deem fit, the releasing authority is satisfied that the Prisoners is Releasing Authority may issue to the Superintendent of Jail as duly signed and sealed warrant in Form B ordering the temporary release of the Prisoner specifying therein:

- (i) the period of release;
- (ii) the place or places which the prisoner is allowed to visit during the period of such temporary release; and
- (iii) the amount for which the security bond and the surety bond shall be furnished by the prisoner in Forms C and D, respectively :

Provided that the amount of the security bond and the surety bond shall not exceed twenty thousand rupees in each case.

(3) On receipt of the release warrant the Supdt. of Jail shall member of the prisoner's family as the prisoner may specify in that behalf for making arrangements for execution of the security and surety bonds in Forms C and D, respectively for security the release of the prisoner. A copy of the release warrant shall also be sent by the Superintendent of Jail to the District Magistrate and District Superintendent of Jail to the District Magistrate and District Superintendent of Police concerned.

(4) On receipt of the information from the District Magistrate that the necessary bonds have been furnished, the Superintendent of Jail shall release the prisoner for such period as is specified in the release warrant.

(5) The Superintendent of Jail shall also immediately forward to the officer Incharge of the Police Station within whose jurisdiction the place or places to be visited by the Prisoners is or are situated, a copy of the warrant and the release certificate in Form "E". The officer- Incharge of the Police Station shall keep a watch on the conduct and activities of the prisoner and shall submit a report relating thereto to the supdt. of Jail through District Superintendent of Police and District Magistrate.

(6) The date of release as well as the date on which the prisoner surrenders himself under sub-section (1) of section 8 of the Act, shall be reported by the Superintendent of Jail to the Controller of Prisons who shall inform the Government accordingly.

2. Committee of any offence during temporary release.—(1) If the prisoner commits any offence during the period of his temporary release, the Officer-in-charge of the Police Station shall forthwith, and in any case is not later than twenty four hours of his coming to know of the commission of the offence, send a report thereof to the Superintendent of Jail and to the Superintendent of Police of the District.

(2) On receipt of a report under sub-rule (1) the Superintendent of Jail shall forthwith send the same to the Controller of Prisons for being forwarded to the Releasing authority, who may thereafter cancel the release warrant.

3. Warrant to the cancelled where prisoner commits an offence.—If any major Jail offence is committed by the Prisoner between the date of application for release and the receipt of the warrant for such release the prisoner shall not be released by the Superintendent of Jail without the previous approval of the Controller of Prisons. In case the approval is not given, the Superintendent of Jail shall return the release warrant to the Releasing Authority through the Controller of Prisons for cancellation indicating the details of the offence committed by the prisoner. The relating Authority may, on receipt of such report, cancel the release warrant.

4. Expences of Journey.—Third class Railway passes for Railway Journeys of both ways to the Railway Station to the place of destination or actual Bus fare to the bus Terminus nearest to the place of destination, will be issued/ paid by the Superintendent of Jail, if on the report of the District Magistrate, the Releasing authority is satisfied that the Prisoner's family cannot bear the expenses of the prisoner's journey from and to the prison after his temporary release.

5. Prisoner to be informed to the date of surrender and consequences of failure thereof.—(1) Before a prisoner is allowed to leave the Jail on temporary release under the set, he shall be informed by the Superintendent of Jail personally, about the date on which he has to surrender himself to the Jail and of the consequences of his failure to do so, as provided in sections 8 and 9 of the Act.

(2) The Superintendent of Jail shall, in the failure of a prisoner released temporarily, under the Act, to surrender on due date, intimate the fact to the Superintendent of Police of the District concerned and the officer-in-charge of the Police Station within whose jurisdiction the place of residence of the prisoner during his temporary release is situated, who would take necessary action against the prisoner in accordance with the provisions of the Act.

6. Release of female prisoners.—A female prisoner ordered to be temporarily released under the Act shall be transferred to the jail which is nearest to the place which she intends to visit during her temporary release. She shall be released from the jail and shall return to that Jail. If she so desires, the Supdt. Of Jail; from which she is transferred shall intimate to such member of her family as she may specify in that behalf the date of her release and the jail from which she is to be released.

7. Release certificate.—A Prisoner who is temporarily released under these rules shall be given a release certificate in Form “E” a copy whereof shall be retained in the Jail record.

8. Forfeiture of bonds and credit of amounts forfeited.—The forfeiture of the amounts of security/ surety bonds shall be regulated under the provisions of code of criminal procedure 1989 and the amount so forfeited shall be credited under the receipt head “056-Jails”

9. Expenditure on Railway or Bus Fares.—The expenditure on account of Railway or bus Fares of deserving prisoners shall be met out of the contingencies of respective Jails under Major Head. “256-Jails”.

By order of the Government of Jammu and Kashmir.

(Sd.) I. D. SHARMA,
Secretary to Government,
Home Department

No. Home-IS-63-J/78

Dated:- 06-12-78

Copy to the :—

1. Secretary to Government Law Department.(W.5.S.C)
2. Divisional Commissioner Jammu/ Srinagar.
3. All District Magistrates.

4. Controller of Prisons, J&K, Jammu.
5. Inspector General of Police J&K Jammu.
6. All District Superintendent of Police.
7. Superintendent Central Jail, Jammu/Srinagar.
8. Superintendent 'Sub'-Jail, _____
9. Director of Information.
10. Manager Government Press Jammu for Publication in the Government in Gazette

Deputy Secretary to Government,
Home Department,
Jammu.

**GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT HOME DEPARTMENT**

NOTIFICATION

Srinagar/Jammu, the 17th August 1985

SRO—304.—In exercise of the powers conferred by the proviso to section 124 of the Constitution of Jammu and Kashmir, the Governor hereby makes the following rules, namely :—

1. Short title and commencement.—(1) these rules may be called the Jammu and Kashmir Jails (Subordinate) Service Recruitment Rules, 1985.

(2) They shall come into force from the date of their publication in the Government Gazette.

2. Definitions.—In these rules, unless the context otherwise requires:—

(a) Head of Department means the Major Head of Department holding the administrative charge of the service;

(b) Cadre means the cadre of the service;

(c) Member of the Service means a person appointed to a post in the schedule annexed to these rules;

(d) 'Schedule' means the schedule annexed to these rules;

(e) 'Service' means the Jammu and Kashmir Jails (Subordinate) Service;

(f) Words and expressions used in these rules but not defined, shall have the same meaning as are assigned to them in the Jammu and Kashmir Civil Services (Classification, control and Appeal) Rules, 1956.

3. Constitution of Services.—(1) From the date of commencement of these rules there shall be constituted the Jammu & Kashmir Jails (Subordinate) Service.

(2) The Head of Department may, at the commencement of these rules, appoint to the service any person who at the commencement of these rules is holding any post in its sanctioned scale of pay included in the cadre of the service. Provided that for the purpose of initial constitution the service, the person holding any post included in the cadre of the service in its sanctioned scale of pay shall be deemed to have been appointed to the service under these rules if he is fully qualified to hold the post.

4 Strength and composition of the Service.—(1) The authorised permanent and temporary strength of the cadre and the nature of the posts included therein shall be determined by the Government from time to time and shall at the initial constitution of the service under these rules, be such as specified in the Schedule 'I' annexed to these rules:

Provided that the Government may create temporary posts in the cadre of the service for specified period as may be considered necessary from time to time.

(2) The Government shall, at the interval of every three years or at such other intervals as may be necessary, re-examine the strength and composition of the cadre of the service and make such alternations therein as it deems fit :

Provided that nothing in this sub-rule shall be deemed to affect the power of the Government to alter the strength and composition of the cadre at any time.

5. Qualifications and Method of Recruitment.— (1) No person shall be eligible for appointment or promotion to any post in any class, category or grade in the service unless he possesses

the qualifications as laid down in the schedule II and fulfills other for the time being in force.

(2) Appointment to the Service shall be made :—

- (a) By direct Recruitment (which will include appointment by transfer).
- (b) By promotion; and partly by direct recruitment and partly by promotion ;

In the ratio and in the manner mentioned against each post in the Schedule.

6. **Probation.**—(1) Persons appointed to the service either by direct recruitment or by promotion shall be on probation or trial for two years.

(2) If it appears at any time during or at end of the period of probation of trial that an officer has not made sufficient use of his opportunities or he has otherwise failed to give satisfaction and has not passed the prescribed departmental examination or training, if any, if directly recruited, be discharged from the service and if appointed by promotion by or reverted to the post on which he holds a lien.

(3) The Government may in the case or any person extend the period of promotion or trial up to the maximum period of four years.

Explanation.— Appointment on probation will be made against substantive vacancies only. All other appointments will be on trial provided that any period of officiating appointment, shall be check need as period. Spent on probation when a person appointed on trial is given regular appointment to the service.

(4) A candidate appointed to the service by competitive examination, shall be allowed the minimum on the time scale during the first year and at the second stage of that scale during the remaining period of probation/trial.

Where the period of probation/trial is extended beyond two years for reasons not directly attributable to the probationer he shall be allowed to draw the second and third increments after the expiry on 2nd and 3rd year of probation/trial :

Provided that where a person has immediately before such appointment, been holding a post under the Govt. in a substantive capacity and was drawing there in pay equal to or more than the minimum of the time scale, his initial pay at the time of his appointment to the service shall be regulated under Art. 77 (a) (ii) read with Art. 67 (a) (ii) of the Jammu and Kashmir C. S. Rs.

(5) In respect of a person who immediately before such appointment held a post under the Govt. in an officiating capacity and draw his presumptive pay equal to higher than the minimum of the time scale, his initial pay at the time of appointment to the service shall be regulated under Art, 77 (a) (ii) of the Jammu and Kashmir C. S. R the purpose of such fixation alone. He shall not, however, get the benefit of Art. 67 (a) (ii) either at the time of initial fixation or subsequently.

(6) In the case of persons who appointed under these rules other than by competitive examination, their fixation of pay shall be regulated under the normal rules relating to such fixation from time to time.

(7) **Training and Departmental Examination.**—Persons appointed to the service by competitive examination may be required to undergo such training from time to time during the course of service and to pass during the period of probation or trial such departmental examination as the government may prescribe :

Provided that the Government may exempt, either wholly or partly, from such training or departmental examination persons who have passed a Departmental examination or undergone training declared by Government to be equivalent to a Departmental Examination or training if any prescribed under these rules.

(8) Eligibility of Government servants for direct recruitment .—A person already in the Government service may apply through proper channel for direct recruitment to a vacant post in any particular class or category in the service if he possesses the educational and other qualifications prescribed for recruitment to such class or category or posts. The upper age limit or such Government Servants shall be as provided. in the general rules :

Provided that in case of post which required a higher degree of specialisation and or experience the Govt. may prescribed a higher age limit.

9. Maintenance of Seniority lists.—Seniority of the Member of the services shall be regulated under the Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules, 1956. The Head of Department shall maintain an upto-date and final seniority list or the service.

10. Residency Matters.—In regard to matters not specifically covered by these rules the member of the service shall be governed by the rules, regulations and orders applicable to the State Civil Services in general.

11. Interpretation.—If any question arises relating to the interpretation of these rule, the matter shall be referred to the Government whose decision thereon shall be final and binding.

12. Repeal and Savings.—(1) All rules corresponding to these rules and in force immediately before the commencement of these rules are hereby repealed.

(2) Not with standing such repeal, any appointment, order made or action taken under the provisions of the rules so repealed shall be deemed to have been made or taken under the corresponding provisions of these rules.

By order of the Government.

(Sd).....

Addl. Secretary to Government,
Home Department.

No:-Home-IS (Jails) 118/70 (iii)

Dated:- 17-08-1985.

Copy for information and appropriate action forwarded to the :-

1. Secretary to Govt., General Department (ARI) w.2.s.c.
2. Director General Prisons, J&K Srinagar.
3. Supdt. Central Jail Srinagar / Jammu.
4. Manager Government Press, Srinagar. for publication in the next issue of the Govt. Gazette.

