

# ORDINANCE

## OF THE STATES OF DELIBERATION

ENTITLED

### **The Prison Administration (Guernsey) Ordinance, 1998 \***

[CONSOLIDATED TEXT]

#### **NOTE**

*This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from Her Majesty's Greffier, Royal Court House, Guernsey, GY1 2PB.*

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\* No. XXIII of 1998 (Recueil d'Ordonnances Tome XXVIII, p. 90); as amended by the Prison Administration (Amendment) Ordinance, 2002 (No. XXXII of 2002, Recueil d'Ordonnances Tome XXIX, p. 206); the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003 (No. XXXIII of 2003, Recueil d'Ordonnances Tome XXIX, p. 406); the Prison Administration (Guernsey) (Amendment) Ordinance, 2006 (No. XLVIII of 2006, Recueil d'Ordonnances Tome XXXI, p. 656). See also the Magistrate's Court (Guernsey) Law, 2008 (No. XVIII of 2009). This Ordinance has been repealed by the Prison (Guernsey) Ordinance, 2013 (No. XXIX of 2013).

# ORDINANCE OF THE STATES OF DELIBERATION

ENTITLED

## **The Prison Administration (Guernsey) Ordinance, 1998**

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(Made on 30th September, 1998.)

## The Prison Administration (Guernsey) Ordinance, 1998

THE STATES, in pursuance of their Resolution of the 29<sup>th</sup> day of April 1998<sup>a</sup> and in exercise of the powers conferred upon them by section 3 of the Prison Administration (Guernsey) Law, 1949 as amended<sup>b</sup>, hereby order: –

### PART I INTERPRETATION

#### Interpretation.

1. (1) In this Ordinance, unless the context otherwise requires, the following expressions have the following meanings –

"**appellant prisoner**" has the meaning assigned in section 93 of this Ordinance,

"**authorised medical practitioner**" and "**authorised dentist**" mean a medical practitioner or dentist authorised to practice in Guernsey according to the law for the time being in force,

"**business day**" means a day not being –

(a) a Saturday, Sunday, Good Friday, or Christmas Day,

(b) a day appointed by Ordinance as a public holiday,

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<sup>a</sup> Article VIII of Billet d'État No. VII of 1998.

<sup>b</sup> Ordres en Conseil Vol. XIV, p. 159.

- (c) a day appointed as a day of public thanks giving or public mourning,

**"the Chaplain"** means the person for the time being appointed chaplain of the prison under section 41 of this Ordinance,

**"civil prisoner"** has the meaning assigned to it under section 101 of this Ordinance,

**"the Committee"** means the States of Guernsey [Home Department] or such committee as the States by resolution may appoint,

**"customs officer"** means an officer of Customs and Excise within the meaning of the Customs and Excise (General Provisions) (Bailiwick of Guernsey) Law, 1972, as amended<sup>c</sup>,

**"disciplinary award"** means any award which the Governor or the Committee are respectively empowered to make under sections 27, 28 and 29 of this Ordinance,

**"the Governor"** means the person for the time being appointed to be Governor of the Prison under section 4 of the Law or any person authorised by the committee to perform the Governor's duties,

**"the Law"** means the Prison Administration (Guernsey) Law, 1949,

**"legal adviser"** means in relation to the prisoner, the prisoner's

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<sup>c</sup> Ordres en Conseil Vol. XXIV, p. 273.

advocate or any clerk authorised by the prisoner's advocate, to interview the prisoner,

**"the Medical Officer"** means the person for the time being appointed medical officer of the prison under section 69(1) of this Ordinance,

**"mental defective"** has the same meaning as the expression "faible d'esprit" has in the Mental Deficiency Law,

**"the Mental Deficiency Law"** means the Law entitled "Loi ayant Rapport aux Faibles d'Esprit" registered on the fourth day of September 1926<sup>d</sup>,

**"offence against discipline"** has the meaning assigned to it by section 25 of this Ordinance,

**"officer"** means an officer of the Prison or prison officers from the Prison Service in England and Wales seconded to the service of the Prison,

**"the Panel"** means the Panel of Visitors constituted in pursuance of the provisions of section 6 of the Law,

**"police officer"** means a salaried member of the Island Police and within the limits of his jurisdiction, a member of the special constabulary,

**"unauthorised article"** means any article which a prisoner is not authorised to have in his possession under the provisions of this Ordinance or by virtue of any direction given by the Committee or the Governor,

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<sup>d</sup> Ordres en Conseil Vol. VIII, p. 16.

**"untried prisoner"** has the meaning assigned to it by section 79(1) of this Ordinance,

**"Visitors' Register"** has the meaning assigned to it by section 117 of this Ordinance,

**"young offender"** means a prisoner under twenty-one years of age.

(2) For the purposes of this Ordinance –

(a) every prisoner shall be deemed to be in the legal custody of the Governor,

(b) a prisoner shall be deemed to be in legal custody while he is confined in, or is being taken from, the Prison and while he is working, or is for any reason, outside the Prison in the custody or under the control of an officer, a police officer or a custom's officer.

(3) Except so far as the context otherwise requires, any reference in this Ordinance to any other enactment shall be construed as a reference to that enactment as amended, extended or applied by or under any other enactment.

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#### NOTES

*In section 1, the words in square brackets in the definition of the expression "the Committee" in subsection (1) were substituted by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 2, Schedule 1, paragraph 9, with effect from 6th May, 2004.*

*The functions, rights and liabilities of the Committee for Home Affairs and*

of its President arising under or by virtue of this Ordinance were transferred to and vested in, respectively, the Home Department and its Minister by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003, section 1, Schedule 1, paragraph 9, with effect from 6th May, 2004, subject to the savings and transitional provisions in section 4 of the 2003 Ordinance.

The *Loi ayant rapport aux Faibles d'Esprit, 1926* ("the Mental Deficiency Law") has since been repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 2(a), with effect from 8th April, 2013.

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## PART II

### THE PURPOSE OF PRISON TRAINING AND TREATMENT

#### *Application of Part II*

#### **Application of Part II.**

2. Subject to the provisions of Parts III to IX of this Ordinance, the provisions of this Part of this Ordinance shall apply to all classes of prisoners.

#### *Training*

#### **Purpose of training.**

3. The purpose of the training and treatment of convicted prisoners shall be to encourage and assist them to lead useful and law abiding lives on discharge and prepare them to do so.

#### **Privileges.**

4. (1) The Governor shall in the interest of good conduct and training, establish at the Prison such system or systems of privileges as he may deem appropriate for different classes of prisoners.

(2) Any system of privileges established in accordance with subsection (1) above shall include arrangements under which money earned by prisoners may be spent by them within the Prison.

*Accommodation*

**Cells.**

5. (1) Each prisoner shall occupy a cell by himself:

PROVIDED THAT any certificate given by the Committee under this section shall specify the maximum number of prisoners who may sleep or be confined at any one time in the cell to which the certificate relates, and that the number so specified shall not be exceeded without the permission of the Committee.

(2) A cell shall not be used for the confinement of a prisoner unless it is certified by the Committee that its size, lighting, heating, ventilation and fittings are adequate for health and that it allows the prisoner to communicate with an officer at any time.

(3) The Committee shall allocate a cell or cells in respect of which a certificate has been given under this section for the temporary confinement of refractory or violent prisoners.

**Beds and bedding.**

6. Every prisoner shall be provided with a separate bed and bedding adequate for warmth and health.

*Reception, removal from the Prison and the death of prisoners*

**Search.**

7. (1) Every prisoner shall be searched when taken into custody by an officer, on reception at the Prison and at such time or times thereafter as the Governor may direct, and all unauthorised articles shall be taken from him.

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

(3) A prisoner shall not be stripped and searched in the sight of another prisoner.

(4) A prisoner shall be searched only by an officer of the same sex.

**Retention of Property.**

8. (1) All property belonging to a prisoner which he is not allowed to retain and that is deemed appropriate by the Governor shall be placed in the custody of the Governor, who shall keep an inventory thereof.

(2) After it has been completed, the inventory shall be shown to the prisoner and a request made by an officer for the prisoner to sign his signature. If the prisoner refuses to sign, the officer shall make a note on the inventory recording the refusal and any reason or reasons given by the prisoner.

(3) Any monies which a prisoner has at the Prison shall be paid into an account under the control of the Governor and the prisoner will be credited with the amount in the records of the Prison.

**Recording of particulars.**

9. A personal record of each prisoner shall be prepared and maintained in such a manner as the Governor, may from time to time, direct.

**Photographs.**

10. (1) A prisoner may be photographed on reception and at any time thereafter during his imprisonment.

(2) A copy of any photograph of a prisoner taken under the provisions of subsection (1) of this section shall not be given to any person unless that person is authorised to receive it.

**Baths or showers.**

11. Every prisoner shall take a hot bath or shower on reception unless exempted by the Governor or by the Medical Officer.

**Medical examination.**

12. Every prisoner shall be examined by the Medical Officer as soon as is practicable after his reception and the Medical Officer shall record the state of health of the prisoner and such other particulars as the Committee may direct.

**Babies.**

13. Subject to such conditions as the Committee may determine, a woman prisoner may have her baby with her in the Prison during the normal period of lactation and, if required in special circumstances, for any longer period, and the baby may be supplied with clothing and necessaries at the expense of the Committee.

**Information to prisoners.**

14. (1) Every prisoner shall be provided, as soon as possible after his reception into the Prison, and in any case within 48 hours, with information in writing about those provisions of this Ordinance and other matters which it is necessary that he should know, including earnings and privileges, and the proper

method of making requests and complaints.

(2) In the case of a young offender or any prisoner who cannot read or appears to have difficulty in understanding the information so provided, the Governor, or an officer deputed by him, shall so explain it to him that he can understand his rights and obligations.

(3) A copy of this Ordinance shall be made available to any prisoner who requests it.

**Custody while outside the Prison.**

15. A prisoner whom the Governor has directed to be taken to any place outside the Prison and a prisoner who has been directed to be brought before any Court shall while outside the Prison, be kept in the custody of an officer, a police officer or a custom's officer.

**Clothing while outside the Prison.**

16. A prisoner required to be taken in custody to any place outside the Prison, including a Court, shall be afforded the opportunity to wear his own clothing or clothing deemed appropriate by the Governor.

**Protection from insult or curiosity.**

17. When a prisoner is being removed to or from the Prison he shall be concealed from public view as much as possible and proper safeguards shall be adopted to protect him from, insult or curiosity.

**Death of prisoners.**

18. Upon the death of a prisoner the Governor shall give immediate notice thereof to the Law Officers of the Crown, the Chief Officer of Police and the Committee.

*Discipline and control*

**Discipline and control.**

**19.** (1) Order and discipline shall be maintained with firmness but with no more restriction than is required for safe custody and a well ordered community life.

(2) In the control of prisoners officers shall seek to influence them through their own example and leadership and to enlist their willing co-operation.

(3) At all times the treatment of prisoners shall be such as to encourage their self respect and a sense of personal responsibility.

(4) A prisoner shall not be employed in any disciplinary capacity.

**Classification of prisoners.**

**20.** Prisoners shall be classified having regard to their age, temperament and record and with a view to maintaining good order, and facilitating training and, in the case of convicted prisoners, of furthering the purpose of their training and treatment as provided by section 3 above.

**The use of force.**

**21.** (1) An officer shall not, in dealing with prisoners, use force unnecessarily and, when the application of force to a prisoner is necessary, shall not use more force than is necessary.

(2) An officer shall not deliberately act in a manner calculated to provoke a prisoner.

**Remission.**

22. (1) The Committee shall make arrangements by which a prisoner serving a sentence of imprisonment, whether by one sentence or by consecutive sentences, for a period exceeding five days, including a person committed to prison in default of payment of a sum adjudged to be paid by a conviction, may, by good conduct and industry, become eligible for discharge when a portion of his sentence not exceeding one third of the whole sentence has yet to run:

PROVIDED that nothing in the said arrangements shall authorise the reduction of any period of imprisonment to a period less than five days.

(2) Notwithstanding the provisions of subsection (1) above, the Governor shall have a discretion in the case of any prisoner whose normal date of release falls on a non-working day to release that prisoner on the nearest working day preceding that date.

**Reports against prisoners for offences against discipline.**

23. (1) A report against any prisoner for an offence against discipline shall not be dealt with by any officer other than the Governor or an officer authorised by the committee to deal with such reports.

(2) When a prisoner has been reported to the Governor for an offence against discipline the Governor may order him to be kept apart from other prisoners pending investigation of the report.

(3) A prisoner shall, before a report against him for any offence against discipline is dealt with, be informed of the offence for which he has been reported and shall be given a proper opportunity of hearing the facts alleged against him and of presenting his case.

**Deprivation of unauthorised articles.**

24. The Governor or any other officer may deprive a prisoner of any unauthorised article found in his cell or in his possession.

**Offences against discipline.**

25. A prisoner is guilty of an offence against discipline if he –
- (a) commits any assault,
  - (b) detains any person against his will,
  - (c) mutinies,
  - (d) fights with any person,
  - (e) intentionally endangers the health or personal safety of others or, by his conduct, is reckless whether such health or personal safety is endangered,
  - (f) intentionally obstructs an officer in the execution of his duty, or any person (other than a prisoner) who is at the Prison for the purpose of working there, or in the performance of his work,
  - (g) escapes or absconds from the Prison or from lawful custody,
  - (h) fails to comply with any condition upon which he is temporarily released under section 67 below or fails to

return,

- (i) administers a controlled drug to himself or fails to prevent the administration of a controlled drug to him by another prisoner (but subject to section 26 below),
- (j) voluntarily consumes, or has in his possession any intoxicating liquor which has not been authorised in accordance with section 37(1) below,
- (k) has in his possession any unauthorised article, or a greater quantity of any article than he is authorised to keep,
- (l) sells or delivers to any person any unauthorised article,
- (m) sells or, without permission, delivers to any person any article which he is allowed to have only for his own use,
- (n) takes improperly any article belonging to another person or the Prison,
- (o) intentionally or recklessly sets fire to any part of the prison or any other property, whether or not his own,
- (p) destroys or damages any part of a prison or any other property, other than his own,

- (q) absents himself from any place where he is required to be or is present at any place where he is not authorised to be,
- (r) is disrespectful to any officer, or any person (other than a prisoner) who is at the Prison for the purpose of working there, or any person authorised to visit the Prison,
- (s) uses threatening, abusive or insulting words or behaviour,
- (t) intentionally fails to work properly or, being required to work, refuses to do so,
- (u) disobeys any lawful order,
- (v) commits gross personal violence to any person (other than a prisoner), who is at the prison for the purpose of working there, or any person authorised to visit the prison,
- (w) commits gross personal violence to any other prisoner,
- (x) makes false and malicious accusations against the Governor, an officer or any person working or visiting the prison,
- (y) disobeys or fails to comply with any rule or regulation applying to him,

- (z) in any way offends against good order and discipline,
- (aa) attempts to commit, incites another prisoner to commit, or assists another prisoner to commit any of the foregoing offences.

**Defences.**

26. It shall be a defence for a prisoner charged with an offence under section 25(i) to show that –

- (a) the controlled drug had been, prior to its administration, lawfully in his possession for his use or was administered to him in the course of a lawful supply of the drug to him by another person,
- (b) the controlled drug was administered by or to him in circumstances in which he did not know and had no reason to suspect that such a drug was being administered, or
- (c) the controlled drug was administered by or to him under duress or to him without his consent in circumstances where it was not reasonable for him to have resisted.

**Investigation of offences against discipline, and disciplinary awards by the Governor.**

27. (1) Subject to the provisions of sections 28 and 29 below, every offence against discipline shall be reported to the Governor and the Governor shall

as soon practicable investigate every report of such an offence.

(2) Subject to the provisions of subsection (2) of section 28 below, if upon investigation the Governor considers that an offence against discipline is proved he shall make one or more of the following awards, that is to say –

- (a) caution,
- (b) ...
- (c) forfeiture or postponement of privileges for a period not exceeding 42 days,
- (d) exclusion from working in association with other prisoners for a period not exceeding 21 days,
- (e) cellular confinement for a period not exceeding 14 days,
- (f) stoppage of earnings for a period not exceeding 42 days.

(3) In every case where the Governor –

- (a) investigates an offence against discipline pursuant to subsection (1) above, and,
- (b) makes a disciplinary award pursuant to subsection (2) above,

then a record shall be made of such investigation and award made.

(4) The power of the Governor to make a disciplinary award shall include power to direct that the award, or such part of it as the Governor considers appropriate, is not to take effect unless during a period in the direction (not being more than 6 months from the date of the direction) the prisoner commits another offence against discipline and a direction is given under subsection (5) below.

(5) Where a prisoner commits an offence against discipline during the period specified in a direction under subsection (4) above the Governor when dealing with that offence may –

- (a) direct that the suspended award shall take effect, or
- (b) reduce the period or amount of the suspended award and direct that it shall take effect as so reduced, or
- (c) vary the original direction by substituting for a period specified therein a period expiring not later than 6 months from the date of variation, or
- (d) give no direction with respect to the suspended award.

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**NOTE**

*In section 27, paragraph (b) of subsection (2) was repealed by the Prison Administration (Amendment) Ordinance, 2002, section 1(1), with effect from 27th November, 2002.*

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**Investigation of offences against discipline, and disciplinary awards by an adjudicator.**

28. (1) Where a prisoner is reported in accordance with section 27(1) for –

- (a) escaping, attempting to escape, absconding or attempting to abscond from lawful custody,
- (b) assault upon the Governor or an officer,
- (c) gross personal violence to another prisoner,

the Governor shall forthwith refer the case to an adjudicator who shall be a Lieutenant Bailiff or Assistant Magistrate appointed for the purpose by the Bailiff ("the adjudicator") and also to the Law Officers; and, unless a Law Officer otherwise directs, the adjudicator shall inquire into the case.

(2) Where a prisoner is reported for any other serious or repeated offence against discipline, not being an offence to which section 29 applies, for which such awards as the Governor is empowered to make under section 27 are in his opinion insufficient the Governor may, at any time before making an award under section 27, refer the case to the adjudicator.

(3) Subject to subsection (1), the adjudicator shall inquire into every case referred to him under subsection (1) or (2), and if he finds the offence proved shall make one or more of the following awards –

- (a) caution,
- (b) forfeiture of remission of sentence for a period not

exceeding 6 months,

- (c) forfeiture or postponement of privileges,
- (d) exclusion from working in association with other prisoners for a period not exceeding 56 days,
- (e) cellular confinement for a period not exceeding 21 days,
- (f) stoppage of earnings for a period not exceeding 56 days.

(4) The power of the adjudicator to make a disciplinary award includes power to direct that the award, or such part of it as the adjudicator considers appropriate, is not to take effect unless during a period specified in the direction (not being more than 6 months from the date of the direction) the prisoner commits another offence against discipline and a direction is given under subsection (5).

(5) Where a prisoner commits an offence against discipline during the period specified in a direction given under subsection (4) the adjudicator when dealing with that offence may –

- (a) direct that the suspended award shall take effect, or
- (b) reduce the period or amount of the suspended award and direct that it shall take effect as so reduced, or
- (c) vary the original direction by substituting for the

period specified therein a period expiring not later than 6 months from the date of the variation, or

(d) give no direction with respect to the suspended award.

(6) At an inquiry under this section the prisoner shall be entitled to be legally represented.]

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**NOTES**

*Section 28 was substituted by the Prison Administration (Amendment) Ordinance, 2002, section 1(2), with effect from 27th November, 2002.*

*In accordance with the provisions of the Magistrate's Court (Guernsey) Law, 2008, section 47(3), the reference in this section to the "Assistant Magistrate" shall be construed as a reference to a Deputy Judge of the Magistrate's Court within the meaning of the 2008 Law, with effect from 1st September, 2009.*

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**Investigation and disciplinary awards by the adjudicator in cases of grave offences against discipline.**

**29.** (1) When a prisoner is reported in accordance with section 27(1) for –

- (a) mutiny,
- (b) incitement to mutiny,
- (c) gross personal violence to the Governor, an officer, or other person who is at the prison for the purpose of work or a visit,

the Governor shall forthwith refer the case to the adjudicator, and also to the Law Officers; and, unless a Law Officer otherwise directs, the adjudicator shall inquire into the case.

(2) At any inquiry under this section the prisoner shall be entitled to be legally represented; and if the adjudicator finds the offence is proved, he shall make one or more of the following awards –

- (a) any of the awards which he is empowered to make under section 28(3), other than the awards specified in paragraphs (b) and (e) of that subsection,
- (b) forfeiture of remission of sentence for such period as he may direct,
- (c) cellular confinement for a period not exceeding 28 days.]

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**NOTE**

*Section 29 was substituted by the Prison Administration (Amendment) Ordinance, 2002, section 1(3), with effect from 27th November, 2002.*

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**Special provisions in respect of cellular confinement.**

**30.** (1) Cellular confinement for more than one day shall not be awarded in respect of any prisoner unless the Medical Officer has certified that the prisoner is in a fit condition of health to sustain it.

(2) Any prisoner undergoing cellular confinement for more than one day shall be visited at least once a day by the Governor.

(3) Any prisoner undergoing cellular confinement shall be visited during the day by an officer at intervals of not more than three hours.

(4) Any prisoner undergoing cellular confinement for more than one day shall be visited at least once every three days by the medical officer.

**Review of adjudicator's award.**

**31.** (1) If an award is made by an adjudicator under section 28(3) or 29(2), a prisoner may request that the award be reviewed.

(2) Unless there are exceptional circumstances, a request under subsection (1) must be made within 14 days of an award by an adjudicator.

(3) A request under subsection (1) shall be in writing and made to the Governor who shall, within three working days of receipt of such a request, provide the Bailiff with a copy.

(4) Upon receipt of a copy request provided under subsection (3), the Bailiff shall appoint the Deputy Bailiff or a Lieutenant Bailiff ("**the reviewer**") to conduct the review requested by a prisoner.

(5) The reviewer may only review the award made by the adjudicator and for the avoidance of doubt, no review may be made of any finding of fact determined by the adjudicator when deciding whether the offence, for which the award was made, was proved.

(6) The reviewer may only consider the papers relating to the adjudicator's inquiry and any written representations concerning the award made by or on behalf of the prisoner.

(7) Following consideration of the documents referred to in subsection (6) the reviewer may –

- (a) confirm the award made by the adjudicator,
- (b) if he is of the opinion that the award made by the adjudicator was unduly lenient, quash the award and substitute any other award which could have been imposed by the adjudicator, or
- (c) if he is of the opinion that the award made by the adjudicator was excessive, quash the award, and –
  - (i) substitute any other award which could have been imposed by the adjudicator, or
  - (ii) impose no further award.

(8) Notice of the decision of the reviewer shall be served on the prisoner.

(9) Any award in respect of which a request is made under subsection (1) shall remain in effect unless, and until, quashed under subsection (7)(b) or (c).]

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**NOTE**

*Section 31 was substituted by the Prison Administration (Guernsey) (Amendment) Ordinance, 2006, section 3, with effect from 24th August, 2006.*

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**[Remission and mitigation of awards of adjudicator and Governor.]**

**31A.** Subject to any directions given by the Home Department, the Governor may, on the grounds of subsequent good behaviour, remit or mitigate any award made by an adjudicator or the Governor.]

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**NOTE**

*Section 31A was inserted by the Prison Administration (Guernsey) (Amendment) Ordinance, 2006, section 4, with effect from 24th August, 2006.*

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**Restraints and special control.**

**32.** (1) Except on medical grounds by direction of the Medical Officer or in the circumstances and under the conditions stated in the succeeding subsections of this section, a prisoner shall not be placed under any mechanical restraint as a punishment or for any purpose other than safe custody during removal.

(2) Where it appears to the Governor that it is necessary to place a prisoner under mechanical restraint in order to prevent his injuring himself or others, damaging property or creating a disturbance, the Governor may order him to be placed under mechanical restraint and notice thereof shall forthwith be given to the Committee and to the Medical Officer.

(3) The Medical Officer, on receipt of a notice given in accordance with subsection (2) above, shall forthwith inform the Governor whether or not he concurs with the order and if on medical grounds he does not so concur the Governor shall act in accordance with any recommendations which he may make.

(4) A prisoner shall not be kept under mechanical restraint longer than is necessary and in any case for a longer period than 24 hours unless the Committee directs by an order in writing specifying the reason for keeping the prisoner under mechanical restraint and the time during which the prisoner is to be so kept, and any such order shall be preserved by the Governor as his warrant.

(5) The Governor shall record the relevant particulars of any case where any mechanical restraint is used.

(6) Mechanical means of restraint shall not be used unless they are of such patterns and used in such manner and under such conditions as may be approved by the Committee.

**Temporary confinement.**

33. The Governor may order any refractory or violent prisoner to be temporarily confined in any cell allocated for the purpose by the Committee by section 5(3) above:

PROVIDED that a prisoner shall not be confined in any such cell as a punishment or after he has ceased to be refractory or violent.

**Removal from association.**

34. (1) Where it appears desirable, for the maintenance of good order or discipline or in his own interests, that a prisoner should not associate with other prisoners, either generally or for particular purposes, the Governor may arrange for the prisoner's removal from association accordingly.

(2) A prisoner shall not be removed under the provisions of this section for more than 24 hours without the authority of the Committee, which

authority shall be for a period not exceeding one month, but may be renewed from month to month.

(3) The Governor may arrange at his discretion for a prisoner as aforesaid to resume association with other prisoners, and shall do so if in any case the Medical Officer so advises on medical grounds.

**Complaints by prisoners.**

35. (1) The Committee shall make arrangements for any request by a prisoner to see the Governor, any member of the Committee or any member of the Panel to be recorded by the officer to whom the request is made and for the request to be conveyed without delay to the Governor.

(2) The Governor shall, as soon as may be and at a convenient hour on any business day, hear the application of any prisoner who has made a request to see him.

(3) Where a prisoner requests to see a member of the Committee or a member of the Panel the Governor shall ensure that the President of the Committee or the Chairman of the Panel is told of the request as soon as is reasonably practicable.

(4) A prisoner shall have the right at any time to submit a written petition to the Committee and the Governor shall, on receipt of such a petition, record the fact and forward the petition to the Committee.

**Prohibited articles generally.**

36. (1) A person shall not, without lawful authority, convey into or throw into or deposit in the Prison or convey or throw out of the Prison or convey to a prisoner or deposit in any place with intent that it shall come into the possession

of a prisoner any money, clothing, food, drink, tobacco, letter, paper, book, tool, or other article whatever.

(2) Anything so conveyed, thrown or deposited may be confiscated by the Governor.

**Drink and tobacco.**

37. (1) A prisoner shall not be given or allowed to have any intoxicating liquor except in pursuance of an order in writing of the Medical Officer specifying the quantity to be given and the name of the prisoner for whose use it is intended.

(2) A prisoner shall not be allowed to smoke or be given or to be allowed to have in his possession any tobacco except in accordance with such orders as may be given by the Governor.

**Control of admission.**

38. (1) Any person and any vehicle entering or leaving the Prison may be stopped, examined and searched by an officer.

(2) Any person suspected –

- (a) of bringing any prohibited article into the Prison,
- (b) of carrying out of the Prison any prohibited article or any property belonging to the Prison, or
- (c) while in the Prison, of being in possession of any prohibited article or in improper possession of any property belonging to the Prison,

may be apprehended by an officer and where any such person is so apprehended immediate notice thereof shall be given to the Governor, who may order that such person shall be examined and searched.

(3) The Governor or any other officer may refuse admission to the Prison of any person who refuses to be examined and searched.

(4) The Governor may direct the removal from the Prison of any person who, while in the Prison, refuses to be examined and searched or whose conduct is improper.

(5) The Governor may direct the removal from the Prison of any person who, or vehicle which, does not leave the Prison when required to do so.

**Visitors viewing the Prison.**

**39.** (1) Subject to the provisions of this Ordinance, of any Law or any other Ordinance for the time being in force and any directions of the Committee, the Governor shall not allow any person to view the Prison.

(2) The Governor shall ensure that any person authorised to view the Prison shall not make a sketch, take a photograph or hold any conversation with a prisoner, unless that person has been authorised so to do by the Committee.

*Work*

**Work.**

**40.** (1) Subject to the provisions of this section, every prisoner shall be required to engage in useful work for not more than 10 hours a day.

(2) The Medical Officer may excuse a prisoner from work on medical grounds, and no prisoner shall be set to work which is not of a class for which he has been passed by the Medical Officer as being fit.

(3) No prisoner shall be set to do work of a kind not authorised by the Committee or the Governor.

(4) No prisoner shall work in the service of another prisoner or an officer, or for the private benefit of any person, without the authority of the Committee.

(5) An unconvicted prisoner shall be permitted, if he wishes, to work as if he were a convicted prisoner.

(6) Prisoners may be paid for their work at rates set by the Governor, either generally or in relation to particular cases.

*Religion, education and welfare*

**Chaplain of the prison.**

41. The Committee shall from time to time appoint a Minister of a major denomination of the Christian Church to act as Chaplain of the Prison.

**Recording of the religious denomination of prisoners.**

42. The religious denomination of every prisoner shall be ascertained and recorded on his reception and he shall be treated as a member of the denomination then recorded unless and until he satisfies the Governor that he has good grounds for desiring the record to be altered.

**Visits of ministers of religious denominations other than that of the Chaplain.**

43. Where a prisoner is recorded as belonging to a religious denomination other than that of the Chaplain, the Chaplain shall, if the prisoner so requests, arrange for him, so far as possible, to be visited by a minister of that denomination and every such prisoner shall on his reception be informed of the provisions of this section.

**Divine services.**

44. (1) The Chaplain shall conduct Divine Service for prisoners who wish to attend at least once on every Sunday, and such celebrations of Holy Communion and such services on other days as may be arranged.

(2) The Chaplain may from time to time arrange for Divine Services to be held for prisoners recorded as belonging to any religious denomination other than that of the Chaplain.

**Visits by the Chaplain, etc.**

45. Every prisoner shall, so far as reasonably practicable, be visited regularly at reasonable times by the Chaplain or, if the prisoner is recorded as belonging to any religious denomination other than that of the Chaplain, by a minister of his own denomination.

**Interviews, visits to the sick by Chaplain, etc.**

46. (1) The Chaplain shall –
- (a) interview individually every prisoner recorded as belonging to his denomination from time to time as often as may be reasonably practicable during his imprisonment,
  - (b) visit as often as may be necessary any such prisoner

who is sick, under restraint or undergoing cellular confinement,

- (c) if no other arrangements are made, read the burial service at the funeral of any prisoner.

(2) Where a prisoner is recorded as belonging to a religious denomination other than that of the Chaplain, the Chaplain shall, so far as is reasonably practicable, arrange for a minister of that prisoner's denomination to carry out, in relation to that prisoner, any of the duties which the Chaplain is required under subsection (1) above to carry out in relation to a prisoner belonging to his denomination.

(3) Where any prisoner who is not recorded as belonging to the denomination of the Chaplain is sick, under restraint or undergoing cellular confinement, and is not regularly visited by a minister of his own religious denomination, the Chaplain shall visit him if the prisoner is willing.

**Sunday work, etc.**

47. The Governor shall make arrangements for avoiding all unnecessary work by prisoners of the Christian religion on Sunday, Christmas Day and Good Friday, and by prisoners recorded as belonging to any other religion on the recognised days of religious observance of that other religion.

**Substitute for Chaplain.**

48. The Committee may authorise any clergyman to carry out the duties of the Chaplain imposed by this Ordinance in the event of the Chaplain being unable for any reason to carry out any of those duties.

**Educational facilities.**

49. (1) Every prisoner able to profit from the educational facilities provided by the Prison shall be encouraged to do so.

(2) Programmes of educational classes shall be arranged at the Prison and subject to any directions of the Committee, reasonable facilities shall be afforded to prisoners who wish to do so to improve their education by correspondence courses or private study, or to practice handicrafts in their spare time.

(3) Special attention shall be paid to the education of illiterate prisoners, and if necessary they shall be taught within the hours normally allotted for work.

**Library.**

50. A library shall be provided by the Committee in the Prison and, subject to any conditions as the Committee may determine, every prisoner shall be allowed to have library books and to exchange them as often as may be reasonably practicable.

**Books, etc., from outside.**

51. Prisoners may receive books or periodicals from outside the Prison and under such conditions as the Governor may determine.

**Outside contacts.**

52. (1) Special attention shall be paid to the maintenance of such relations between a prisoner and his family as are desirable in the best interests of both.

(2) A prisoner shall be encouraged and assisted to establish such relations with persons and agencies outside the Prison as may, in the opinion of the

Governor, best promote the interests of his family and his own social rehabilitation.

(3) The Governor may at any time communicate to a prisoner, or to his family or friends, any matter of importance to such prisoner.

**Information to family of transfer.**

53. A prisoner shall be allowed to inform his family of his transfer to any other place of detention.

**After care.**

54. From the beginning of every prisoner's sentence, consideration shall be given by the Governor, in consultation with the appropriate after-care organisation, to the prisoner's future and the assistance to be given to him on or after his release.

**Notification to family of death, etc.**

55. In the event of –

- (a) the death or serious illness of a prisoner,
- (b) any serious injury to a prisoner,
- (c) the certification of a prisoner as a person of unsound mind under the provisions of the Mental Treatment Law (Guernsey), 1939<sup>e</sup>,
- (d) an order being made by the Royal Court under the Mental Deficiency Law for the removal of a prisoner

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<sup>e</sup> Ordres en Conseil Vol. XI, p. 405.

who has been certified in accordance with the provisions of that Law as a mental defective to an institution in England for the treatment of mental defectives,

the Governor shall, as soon as may be after the event, notify, if the prisoner is married to a person whose address is known, the wife or husband of the prisoner, as the case may be, and in any other case the nearest relative of the prisoner whose address is known, and shall notify any other person whom the prisoner has requested to be notified.

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**NOTE**

*The Mental Treatment Law (Guernsey), 1939 has since been repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 2(b), with effect from 8th April, 2013, subject to the savings and transitional provisions in section 104 of and Schedule 4 to the 2010 Law.*

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**Minimum number of letters and visits allowed.**

56. (1) An untried prisoner shall be allowed to send and receive as many letters and may receive as many visits as he wishes, within such limits and subject to such conditions as the Governor may direct either generally or in a particular case.

(2) A prisoner who is serving a sentence of imprisonment shall be allowed to send and to receive a letter on his reception and thereafter once a week, and to receive a visit once in four weeks.

(3) Notwithstanding anything contained in sections 27, 28 and 29 above, the letters and visits to which a prisoner is entitled under subsections (1) and

(2) above shall not be liable to forfeiture.

**Letters and visits generally.**

57. (1) Subject to the provisions of section 56 above, the Committee may, notwithstanding anything contained in this section and in sections 59, 60, 61, 62, 63, 64 and 65 below, impose such restrictions upon, and supervision over, letters and visits as it may consider necessary for securing discipline and good order, the prevention of crime and criminal associations, and the welfare of individuals.

(2) Except as provided by this Ordinance, a person shall not be allowed to communicate with a prisoner without the authority of the Committee.

(3) Every letter to or from a prisoner may be read by the Governor or by a responsible officer authorised by the Governor in that behalf.

(4) The Governor may stop any letter on the grounds that its contents are objectionable or that it is of inordinate length.

(5) Every visit to a prisoner shall be made in the sight and, unless the Governor otherwise directs, the hearing of an officer.

(6) Except in a emergency or except where the Governor otherwise directs, a prisoner shall not be allowed to receive a visit on a day other than a business day.

**Money and articles received by post.**

58. (1) Any cash received in a letter or package addressed to a prisoner confined at the Prison shall at the discretion of the Governor be –

- (a) placed to the credit of the prisoner,
- (b) returned to the sender, or
- (c) where the sender's name and address are not known, paid to the Prison's Prisoner Comfort Fund for its general purposes provided that in relation to a prisoner committed to the prison in default of a payment of any sum of money the prisoner shall be informed of the receipt of the cash and unless he objects it shall be applied in or towards the satisfaction of the amount due from him.

(2) Any security for money received in a letter or package addressed to a prisoner confined at the prison shall at the discretion of the Governor be –

- (a) delivered to the prisoner,
- (b) placed with his property at the prison,
- (c) returned to the sender, or
- (d) encashed and the cash dealt with in accordance with the provisions of subsection (1) above.

(3) Any other article received in a letter or package addressed to a prisoner confined at the prison shall at the discretion of the Governor be –

- (a) delivered to the prisoner,

- (b) placed with his property at the prison,
- (c) returned to the sender, or
- (d) sold where either the sender's name and address are not known or the article is of such a nature that it would be unreasonable to return it and the net proceeds given to the Prison's Prisoners Comfort Fund.

**Deferment of visits during cellular confinement.**

59. Where a prisoner is undergoing cellular confinement, the Governor may defer any visit which the prisoner would otherwise have been entitled to receive under the provisions of this Ordinance until after the expiration of his cellular confinement.

**Additional letters and visits.**

60. The Governor may allow a prisoner an additional letter or visit in special circumstances, and may direct that a visit may extend beyond the normal duration.

**Letters instead of visits and special letters and visits.**

61. (1) The Governor may allow a prisoner entitled to a visit to send and to receive a letter instead.

(2) The Governor may allow any prisoner to have special letters and visits for any purpose which, in the opinion of the Governor, is likely to promote the best interests of the prisoner or his family during his sentence or after discharge.

**Visits by police, etc.**

62. (1) A police officer may visit any prisoner on production of an authority issued by or on behalf of the Chief Officer of Police.

(2) The Governor may, at the request of any prisoner, allow him to be visited by a police officer.

(3) A customs officer may visit a prisoner on production of an authority issued by or on behalf of the Chief Customs Officer.

(4) The Governor may, at the request of any prisoner allow him to be visited by a customs officer.

**Persons imprisoned on default of payment.**

63. A person committed to the Prison in default of the payment of a sum which he is required to pay in pursuance of any conviction or order shall be allowed to have an interview with his friends on any business day at any reasonable hour or to communicate with them for the purpose of providing for a payment which would procure his release from the Prison and every such prisoner shall on his reception be informed of this section.

**Visits by legal adviser.**

64. (1) The Governor shall allow reasonable facilities for the legal adviser of any prisoner who is party to legal proceedings, civil or criminal, to interview the prisoner with reference to those proceedings in the sight of but not in the hearing of an officer.

(2) The legal adviser of any prisoner may, with the permission of the Governor, interview any prisoner with reference to any other legal business in

the sight and hearing of an officer.

**Special purpose visits not to be forfeited.**

65. Any visit to a prisoner under or in pursuance of sections 62, 63 or 64 above shall be in addition to any visit which the prisoner is entitled to receive under any other sections of this Ordinance and notwithstanding any thing contained in sections 27, 28 or 29 above, shall not be liable to forfeiture.

**Correspondence with legal adviser.**

66. Subject to any directions of the Committee, a prisoner may correspond with a legal adviser for the purpose of obtaining legal advice concerning any cause or action in relation to which the prisoner may become a party to civil proceedings or for the purpose of instructing the legal adviser to issue such proceedings.

**Temporary release.**

67. (1) Any prisoner serving a sentence of imprisonment may be temporarily released from the Prison by the Governor for such time or times and subject to such conditions as he may determine –

- (a) for the purpose of engaging in employment or receiving instruction or training,
- (b) in such other circumstances as he may approve.

(2) A prisoner released under this section may be recalled to the Prison at any time whether the conditions of his release have been broken or not.

*Physical welfare*

**Accommodation for medical cases.**

68. A suitable part of the Prison shall be equipped and furnished by the Governor in a manner proper for the medical care and treatment of sick prisoners.

**Medical Officer.**

69. (1) The Committee shall from time to time appoint an authorised medical practitioner to act as medical officer of the Prison.

(2) The Committee may authorise any authorised medical practitioner to perform any of the duties imposed on, or to exercise any of the powers conferred on, the Medical Officer by this Ordinance.

**General duties of Medical Officer.**

70. The Medical Officer shall have the care of the mental and physical health of all prisoners and shall as often as may be necessary visit every prisoner who complains of illness and every prisoner to whom his attention is specially directed by the Governor.

**Immediate medical attendance and consultations.**

71. (1) The Medical Officer shall, as soon as may be after receiving notification of the illness of any prisoner, attend that prisoner.

(2) The Medical Officer may call into consultation any other authorised medical practitioner and shall do so before a serious operation is performed upon a prisoner unless, in his opinion, it is essential for the operation to be performed immediately.

(3) The Medical Officer shall keep a record of occasions on which he has under this section consulted any other authorised medical practitioner and of the circumstances in which any serious operation has been performed without

consultation with any other authorised medical practitioner.

**Notifications, reports and recommendations by the Medical Officer to the Governor and to the Committee.**

72. (1) Where the Medical Officer has reason to believe that –
- (a) the mental or physical health of a prisoner is likely to be injuriously affected by continued imprisonment or by any conditions of imprisonment,
  - (b) the life of a prisoner will be endangered by imprisonment,
  - (c) a sick prisoner will not survive his sentence or is totally or permanently unfit for imprisonment,

he shall without delay make a written report thereof to the Governor with such recommendations as he may think fit and the Governor shall forthwith forward to the Committee the report and recommendations together with any comments and recommendations which he may have.

(2) The Medical Officer shall make a written report to the Governor of the case of any prisoner to which he thinks it necessary on medical grounds to draw attention and shall make such recommendations as he deems appropriate for the alteration of the diet or treatment of the prisoner, his separation from other prisoners or the supply to him of additional clothing, bedding or other articles and the Governor shall, so far as is reasonably practicable, give effect to any such recommendations.

- (3) Where the Medical Officer has reason to believe that any

prisoner has suicidal intentions he shall immediately notify the Governor in order that special observation may be kept on that prisoner and the Governor shall, without delay direct that such a prisoner be observed at frequent intervals.

(4) The Medical Officer shall notify the Governor when a prisoner appears to be seriously ill.

(5) The Medical Officer shall make a written report to the Committee at the end of each year on –

- (a) the general state of health of the prisoners,
- (b) the hygiene of the Prison and of the prisoners,
- (c) the food provided for the prisoners,

during that year and on any other matter as directed from time to time by the Committee and may set out in his report any observations and recommendations which he believes to be appropriate.

**Mental illness.**

73. (1) The Medical Officer shall keep under special observation any prisoner whose mental condition appears to require such attention and shall, if he thinks fit, take such steps as he thinks fit for the segregation of that prisoner.

(2) Where the Medical Officer is of the opinion that a prisoner ought to be certified under the Mental Treatment Law (Guernsey), 1939, as a person of unsound mind or is a mental defective within the meaning of the Mental Deficiency Law he shall immediately inform the Governor of that fact and the Governor shall report thereon to the Law Officers of the Crown.

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**NOTE**

*The Mental Treatment Law (Guernsey), 1939 has since been repealed by the Mental Health (Bailiwick of Guernsey) Law, 2010, section 105, Schedule 5, paragraph 2(b), with effect from 8th April, 2013, subject to the savings and transitional provisions in section 104 of and Schedule 4 to the 2010 Law.*

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**Washing, shaving and hair cutting.**

74. (1) The Governor shall make arrangements for every prisoner to wash at all proper times and to have a hot bath or shower at least once a week and for a male prisoner, unless he is excused or prohibited on medical or other grounds, to shave or be shaved daily and to have his hair cut as often as may be required.

(2) The hair of a male prisoner may be cut as short as is necessary.

(3) Except by a direction in writing of the Medical Officer for the eradication of vermin, dirt or disease, the hair of a woman prisoner shall not be cut without her consent.

**Provision of toilet articles.**

75. Every prisoner shall be provided on admission with such toilet articles as are necessary for health and cleanliness and the Governor shall make arrangements for the replacement of those articles as often as may be necessary.

**Regular exercise.**

76. (1) Subject to the provisions of subsection (2) below, every prisoner shall be given one hour's exercise each day:

PROVIDED that in special circumstances the Committee may authorise the reduction of the daily period of exercise to half an hour.

(2) The Medical Officer shall decide on the fitness of every prisoner for exercise and may on medical grounds excuse any prisoner from exercise or modify the exercise of a prisoner.

**Food.**

77. (1) The food provided for prisoners shall be of a nutritional value adequate for health and strength and shall be of wholesome quality, well prepared and served and reasonably varied.

(2) The Medical Officer shall from time to time inspect the food, cooked and uncooked and shall report to the Governor on the state and quality of the food and on any deficiency in the quantity or defect in the quality of the water provided for the prisoners.

(3) Unless the Committee or, on medical grounds, the Medical Officer otherwise directs, a prisoner shall not be allowed to have any food in addition to the normal prison diet.

(4) Except on the written recommendation of the Medical Officer in respect of any prisoner who persistently wastes his food or in any case where the Medical Officer, on medical grounds, otherwise direct, a prisoner shall not be provided with less food than is provided in the normal prison diet.

**Clothing.**

78. (1) Every prisoner will be provided on reception with an outfit of clothing adequate for warmth and health in accordance with a scale approved by the Committee unless the Governor permits a prisoner as a privilege to retain his

clothing if it is considered suitable.

(2) If he is issued with clothing under subsection (1) above, a prisoner shall wear the clothing provided and shall not, unless the Governor otherwise directs, wear any other clothing.

(3) Prisoners shall, where necessary, be issued with suitable protective clothing for use at work.

PART III  
UNTRIED PRISONERS

*General*

**Application of Part III.**

79. (1) Subject to the provisions of subsection (2) below, this part of this Ordinance shall apply to any of the following persons (hereafter referred to as an "**untried prisoner**"), that is to say –

- (a) any person committed to the Prison upon being committed for trial to the Royal Court,
- (b) any person committed to the Prison pending, or in the course of, the hearing before the Magistrate's Court or of the Royal Court sitting as an Ordinary Court of a charge against that person in respect of an offence triable on indictment,
- (c) any person who is not under sentence and who is being detained in the Prison under any Law for the time

being in force relating to the detention of aliens,

- (d) any person who is being detained in the Prison to await extradition or to await return to any place under the law for the time being in force relating to fugitive offenders,
- (e) any person who has been imprisoned pursuant to an order for his arrest granted under section (1) of Article IV of the Law entitled "Loi ayant rapport aux Débiteurs et à la Renonciation" registered on 2<sup>nd</sup> August 1929<sup>f</sup>,
- (f) any person who is being detained in the Prison to await the arrival of a naval, military, air force or police escort,
- (g) any person who has been imprisoned pursuant to a charge signed by a police officer of or above the rank of sergeant and presented to the Governor at the time of reception of that person,
- (h) any person who is being detained in the Prison by reason of his having been found drunk or drunk and incapable or drunk and disorderly and arrested by a police officer and whose transfer to the prison is authorised by a police officer of at least the rank of sergeant.

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<sup>f</sup> Ordres en Conseil Vol. VIII, p. 310.

(2) The provisions of this Part other than section 90 below, shall not apply to any untried prisoner who is already serving a sentence of imprisonment or has been committed to the Prison in default of any payment of a sum adjudged to be paid on conviction.

**Reception of drunk persons and those charged by the police.**

**80.** (1) The Committee may determine the hours of the day during which the Prison shall receive untried prisoners to whom either section 79(1)(g) or (h) above apply.

(2) Prior to the reception of an untried prisoner to whom either section 79(1)(g) or (h) above applies a prison officer may demand that the prisoner be examined by a police surgeon so that a determination may be made as to whether the prisoner is fit to be detained at the prison.

**Release of certain untried prisoners.**

**81.** (1) An untried prisoner who is a person to whom paragraph (g) of section 79 (1) above applies shall be released from the Prison –

- (a) upon receipt by the Governor of a written request in that behalf, signed by a police officer of or above the rank of sergeant,
- (b) in any case, if within 72 hours of his reception he has not been brought before any court:

PROVIDED that an untried prisoner shall not be released under this subsection if he is also a person to whom any of the other paragraphs of section 79(1) above applies.

(2) An untried prisoner who is a person to whom paragraph (h) of section 79 (1) above applies shall be released from the Prison –

- (a) at the instance of a police officer of or above the rank of sergeant,
- (b) in any case, if within 72 hours of his reception he has not been brought before a Court:

PROVIDED that an untried prisoner shall not be released under this subsection if he is also a person to whom any of the other paragraphs of section 79(1) above applies.

**Recovery of cost of maintenance and custody of certain untried prisoners.**

82. Where an untried prisoner is a person to whom paragraph (e) of section 79(1) above applies, the Committee may recover as a civil debt from the creditor at whose instance such untried prisoner is imprisoned such amount as the Committee deems reasonable in respect of the maintenance and custody of such untried prisoner during any period in which he is so imprisoned.

*Physical welfare, work and visits*

**Separation.**

83. An untried prisoner shall, so far as may be reasonably practicable, be kept apart from convicted prisoners.

**Association.**

84. The association of an untried prisoner shall only be restricted to what is necessary to prevent contamination or conspiracy to defeat the ends of justice.

**Private clothing.**

85. (1) Subject to the provisions of this section, an untried prisoner whose own clothing is not required for the purposes of justice may, if he so desires, wear that clothing and have adequate changes of his underclothing supplied to him from time to time.

(2) Where an unconvicted prisoner chooses to and is allowed to wear his own clothing he will be permitted from time to time to make arrangements for the supply from outside the prison of sufficient clean clothing.

(3) Where an untried prisoner escapes or attempts to escape from the Prison or from legal custody, the Governor or the Committee, as the case may be, may, in addition to or instead of making any award which they are respectively empowered to make under sections 27, 28 and 29 above, make an award for the forfeiture of the privileges to which he is entitled under subsection (1) above.

(4) Where an untried prisoner –

(a) has no clothing of his own,

(b) does not desire to wear his own clothing,

(c) has in the opinion of the Governor, insufficient, dirty or unsuitable clothing of his own,

(d) has forfeited the privileges to which he is entitled to under subsection (1) above under an award made by the Governor or the committee under subsection (2) above:

the Governor may require him to wear any clothing provided by the Committee in

pursuance of section 78 above.

**Hair cutting and shaving.**

86. An untried prisoner shall not be required to have his hair cut or, if he usually wears a beard, to shave or to be shaved, unless the Medical Officer deems it necessary for the purposes of health or cleanliness, in which case his hair shall not be cut closer than is necessary for any of those purposes.

**Work to be voluntary and paid.**

87. An untried prisoner shall not be required to work in the service or in any of the industries of the Prison but may do so with his own consent and in that event shall receive payment in accordance with such rates as may be fixed by the Governor.

**Visits generally.**

88. An untried prisoner may be visited during such hours and under such restrictions as the Committee may determine.

**Prisoners in default of bail.**

89. Where an untried prisoner is in the Prison in default of bail, facilities shall be given to him, for the purposes of securing bail, to have an interview on any business day at a reasonable hour or to communicate with friends.

**Visits, letters and other facilities for defence.**

90. (1) An untried prisoner may, for the purposes of his defence, receive a visit from an authorised medical practitioner, other than the Medical Officer, selected by him, his friends or his legal adviser under the same conditions as apply to a visit by his legal adviser under the provisions of this Ordinance.

(2) An untried prisoner shall be allowed all reasonable facilities,

including the provision of writing materials, for communicating by letter with his friends or for conducting correspondence or preparing notes in connection with his defence.

(3) A confidential written communication prepared by an untried prisoner as instructions to his legal adviser may be delivered personally to such legal adviser and shall not be treated as a letter to which section 57 (3) above applies unless the Governor has reason to suppose that it contains any matter not relating to such instructions.

*Discipline*

**Forfeiture of privileges.**

91. Where an untried prisoner is guilty of an offence against discipline the Governor or the Committee may, in addition to or instead of making any award which they are respectively empowered to make under sections 27, 28 and 29 above –

- (a) make an award for the forfeiture of remission notwithstanding that the prisoner has not (or had not at the time of the offence) been sentenced, or
- (b) make an award for the forfeiture of any privileges granted to that prisoner or any of the privileges to which that prisoner is entitled under sections 88 and 90(2) and (3) above:

PROVIDED that any award made under this section shall not affect any visit or letters required for the purposes of securing bail or preparing a defence.

**Sale, etc., of articles.**

92. The sale or transfer or attempted sale or transfer to any person by an untried prisoner of an article allowed to be introduced into the Prison for his use shall be an offence under section 25 above and upon proof of the offence section 24 above shall apply to that article as it applies to an unauthorised article.

PART IV  
APPELLANT PRISONERS

**Application of Part IV.**

93. The provisions of this Part shall apply to any prisoner who is detained in the Prison pending the determination of an appeal by him against conviction or sentence or against both conviction and sentence (hereafter referred to as "an appellant prisoner").

**Appellant prisoners absent from the Prison.**

94. An appellant prisoner who is in custody shall be taken to, kept in custody at or brought back from, any place at which he is entitled to be present for the purposes of his appeal or any place to which the Court to which he has appealed may order him to be taken for the purpose of any proceedings of that Court and shall, while absent from the Prison, be kept in the custody of an officer designated in that behalf by the Governor.

**Earnings for work done.**

95. If an appellant prisoner is ordered to be released by the Court to which he has appealed, otherwise than on bail pending the hearing of his appeal, payment at a rate to be fixed by the Governor shall be made to him in respect of any work which he has done during the time he has been treated as an appellant prisoner.

**Visits, letters and other facilities for appeal.**

96. (1) An appellant prisoner may, for the purposes of his appeal, receive a visit from an authorised medical practitioner, other than the Medical Officer, selected by him, his friends or his legal adviser, under the same conditions as apply to a visit by his legal adviser under the provisions of this Ordinance.

(2) An appellant prisoner shall be provided, if he so desires, with such writing material as the Governor considers sufficient for the purpose of preparing his appeal.

(3) An appellant prisoner may for the purpose of his appeal, write letters to his legal adviser or any other person.

(4) A confidential written communication prepared by an appellant prisoner as instructions to his legal adviser may be delivered personally to his legal adviser and shall not be treated as a letter to which section 57(3) above applies unless the Governor has reason to suppose that it contains any matter not relating to such instructions.

PART V

CONVICTED PRISONERS AWAITING SENTENCE OR  
REMANDED FOR INQUIRY

**Facilities for making representations.**

97. Any person who is committed to the Prison on remand by any Court to enable inquiries to be made or any convicted prisoner who is committed to Prison by any Court where that Court has postponed sentence until a later date shall, if he so desires, for the purposes of preparing any representations to the Court before which he is to be sentenced or otherwise dealt with, be granted any or all the facilities which are accorded to an appellant prisoner under section 96 above.

PART VI  
YOUNG OFFENDERS

**Education and training.**

98. (1) The Committee shall, so far as is reasonably practicable –
- (a) provide work training and instruction of a kind that will assist young offenders to acquire or develop personal resources, interests and skills,
  - (b) encourage young offenders to exercise self discipline and accept responsibility,
  - (c) foster links with the community and, in co-operation with the services responsible for supervision, help them return to the community.
- (2) In all such activities under subsection (1) above, due regard shall be paid to individual assessment and personal development of the young offender concerned.
- (3) A young offender shall not be required to work more than 8 hours a day nor more than 40 hours in any normal working week.
- (4) Vocational training courses, physical education and education shall be provided for young offenders.
- (5) The Governor shall ensure that steps are taken to establish and maintain relationships with suitable persons and agencies outside the Prison.

(6) From the commencement of his sentence, arrangements shall be made by or on behalf of the Committee to enable the young offender to establish contact with the Probation Service with a view towards assisting him after his return to the community.

## PART VII

### INSANE AND MENTALLY DEFECTIVE PRISONERS

#### **Application of Part VII.**

99. The provisions of this Part shall apply to any of the following persons, that is to say –

- (a) any person who has been found by any Court not guilty by reason of insanity,
- (b) any person who has been found by any Court unfit to plead by reason of insanity,
- (c) any prisoner in respect of whom an application has been made by the Law Officers of the Crown under the Mental Deficiency Law for an Order of the Royal Court ordering that person to be removed to an institution in England for the treatment of mental defectives and any prisoner who has been ordered by the Royal Court under that Law upon such application to be so removed.

#### **Duties of the Medical Officer in relation to insane and mentally defective prisoners.**

**100.** Any person to whom the provisions of this Part apply shall, while detained at the Prison, receive the special attention of the Medical Officer and the Medical Officer shall take such steps as he may think necessary for the care and accommodation of that person until that person is removed from the Prison.

PART VIII  
CIVIL PRISONERS

**Application of Part VIII.**

**101.** The provisions of this Part apply to any person detained in the Prison who is not serving a sentence, is not imprisoned in default of payment of a sum adjudged to be paid on conviction and is not the subject of special treatment under any of the provisions of Parts III to VII of this Ordinance (hereafter referred to as "**a civil prisoner**").

**Association and separation.**

**102.** (1) A civil prisoner shall not be allowed to associate with any prisoners other than civil prisoners except in accordance with the provisions of subsection (2) below.

(2) Where, owing to the small number of civil prisoners or otherwise, suitable arrangements for association between prisoners are not practicable, a civil prisoner may, if he so desires and with the approval of the Governor, associate with such other prisoners, at such times and in such manner as the Committee may determine.

**Private clothing.**

**103.** The provisions of section 85 above shall apply in relation to civil prisoners as those provisions apply to untried prisoners.

**Remission.**

**104.** The provisions of section 22 above shall not apply to civil prisoners.

**Visits and letters.**

**105.** (1) Subject to the provisions of subsection (2) below, a civil prisoner may be visited during such hours and under such restrictions as the Governor may determine, and may write and receive one letter during any week.

(2) The Committee or the Governor may, in special circumstances, allow such additional number of letters to be written or received by a civil prisoner as the Committee or the Governor, as the case may be, shall deem advisable.

(3) Where a civil prisoner is guilty of an offence against discipline the Governor or the Committee may, in addition to or instead of making any award under sections 27, 28 or 29 above, make an award for the forfeiture of any privileges granted to that prisoner, or any of the privileges to which he is entitled, under this section:

PROVIDED that notwithstanding any award made under this subsection a civil prisoner shall be allowed to write and to receive one letter and receive one visit in any period of four weeks.

PART IX

PRISONERS SENTENCED FOR CONTEMPT OF COURT

**Application of sections 102, 103 and 105.**

**106.** The provisions of sections 102, 103 and 105 above shall apply in relation to any prisoner undergoing a stated term of imprisonment by reason of being committed for contempt of court as those provisions apply to a civil prisoner.

PART X  
PRISON STAFF

**Powers of officers.**

107. An officer while acting as such shall have all the powers, authority, protection and privileges of a police officer.

**General obligations.**

108. Every officer shall –

- (a) comply with the provisions of this Ordinance and with the rules and standing orders of the prison and shall support the Governor in the maintenance of discipline and order in the Prison,
- (b) obey the lawful instructions of the Governor,
- (c) immediately report to the Governor any abuse or impropriety which may come to his knowledge.

**Duty of officers to report sick prisoners.**

109. Every officer shall notify the Governor of the case of any prisoner who, whether he complains or not, appears to be out of health or whose state of mind appears to be deserving of special notice and care and the Governor shall forthwith notify any such case to the Medical Officer.

**Business transactions on behalf of prisoners prohibited.**

110. (1) An officer shall not, without the authority of the Committee, carry out any pecuniary or business transaction with or on behalf of a prisoner.

(2) An officer shall not, without the authority of the Committee or the Governor, bring in or carry out, or knowingly allow to be brought in or carried out, to or for any prisoner, or deposit in any place with intent that it shall come into the possession of a prisoner, any article whatsoever.

**Receipt of gratuities by officers prohibited.**

111. An officer shall not without the authority of the Committee, receive any fee, gratuity or other consideration in connection with his duties as an officer.

**Restrictions on communications with relatives or friends of prisoners.**

112. Except with the consent of the Governor, an officer shall not communicate with any person known to him to be a relative or friend of a prisoner.

**Search.**

113. Every officer shall submit himself to be searched in the Prison if called upon to do so by the Governor.

**Communications to Press, etc.**

114. Except with the authority of the Committee, an officer shall not –

- (a) directly or indirectly, make any communication to representatives of the press or any other persons with reference to any matter which has become known to him in the course of his duty as an officer,
- (b) publish any matter or make public pronouncement relating to the administration or to any of the inmates of the Prison.

**Code of discipline.**

115. The Committee may by order prescribe a code of discipline for officers setting out the offences against discipline, the procedure for dealing therewith and the awards therefor.

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**NOTE**

*The following Order has been made under section 115:*

*Prison Administration (Code of Discipline for Prison Officers) Order, 2006.*

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PART XI  
THE PANEL OF VISITORS

**Visits to the Prison.**

116. Members of the Panel shall pay frequent visits to the Prison and at least two members of the Panel shall visit the Prison once in every month.

**Visitors' Register.**

117. A member of the Panel shall, after visiting the Prison, make a note of his visit in a register kept for that purpose (hereinafter referred to as "**the Visitors' Register**") together with any comment he may wish to make.

**Duty to make enquiries and to make reports.**

118. The Panel shall co-operate with the Committee and with the Governor in promoting the efficiency of the Prison and shall enquire into and report on any matter specially referred to it by the Committee.

**Duty to report abuses.**

119. A member of the Panel shall bring to the notice of the Committee

any abuse in connection with the Prison which comes to his knowledge.

**Access to the Prison.**

120. (1) Members of the Panel shall have access at all times to any part of the Prison and to any prisoner and may see such prisoners as they desire either in their cells or in a room out of the sight and hearing of officers.

(2) A member of the panel shall hear and investigate any application which a prisoner desires to make to him and, if necessary, shall report the matter, with his opinion to the Committee.

(3) A member of the Panel shall visit any prisoner who at the time of his visit is confined pursuant to section 32 or 33 above or pursuant to the instructions of the Medical Officer.

PART XII  
OFFENCES

**Assisting a prisoner to escape.**

121. Any person who aids any prisoner in escaping or attempting to escape from the Prison or who, with intent to facilitate the escape of any prisoner, conveys any thing into the Prison or to a prisoner, or places any thing anywhere outside the Prison with a view to its coming into the possession of a prisoner, shall be guilty of an offence and, on conviction thereof, liable to imprisonment for a term of not exceeding five years or an unlimited fine or to both.

**Unlawful conveyance of liquor or tobacco into the Prison.**

122. Any person who, contrary to the provisions of this Ordinance, brings into the Prison or to a prisoner any intoxicating liquor or tobacco, or places any such liquor or any tobacco outside the Prison with intent that it shall come into the

possession of a prisoner, shall be guilty of an offence and on conviction thereof liable to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 of the standard scale or to both.

**Officers and the sale or use of liquor or tobacco.**

**123.** Any officer who, contrary to the provisions of this Ordinance allows any intoxicating liquor or tobacco to be sold or used in the Prison, shall be guilty of an offence and on conviction thereof, liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding the maximum of level 5 of the standard scale or to both.

**Unlawful introduction of other articles.**

**124.** Any person who, contrary to the provisions of this Ordinance, conveys any letter or any other thing into or out of the Prison or to a prisoner, or places it anywhere outside the Prison with intent that it shall come into the possession of a prisoner, shall, where he is not guilty of an offence under section 121, 122 or 123 above, be guilty of an offence and liable, on conviction to a fine not exceeding level 4 of the standard scale.

**Attempts.**

**125.** (1) Every person who attempts to commit an offence punishable under sections 121, 122, 123 or 124 above shall be guilty of an offence and shall be liable to such term of imprisonment or to such fine or to such term of imprisonment and such fine as the Court may deem just:

PROVIDED that as respects any attempt to commit such offence the Court may not impose any punishment exceeding that which the Court might have imposed if the offence had been completed.

(2) If, on the trial of any person charged with an offence contrary

to sections 121, 122, 123 or 124 above, it appears to the Court upon the evidence that the person so charged did not complete the offence charged but that he was guilty of an attempt to commit the offence, such a person shall by reason thereof be entitled to be acquitted, and the Court may find that person not guilty of the offence charged but guilty of the attempt to commit the offence and thereupon he shall be liable to be punished accordingly.

### PART XIII

#### REPEALS, CITATION AND COMMENCEMENT

##### **Repeals.**

**126.** The Ordinances set out in the Schedule to this Ordinance are hereby repealed.

##### **Citation and commencement.**

**127.** This Ordinance may be cited as the Prison Administration (Guernsey) Ordinance, 1998, and shall come into force on the first day of October 1998.

SCHEDULE

The Prison Administration (Guernsey) Ordinance, 1959<sup>g</sup>.

The Prison Administration (Amendment) (Guernsey) Ordinance, 1981<sup>h</sup>.

The Prison Administration (Amendment) (Guernsey) Ordinance, 1986<sup>i</sup>.

The Prison Administration (Amendment) (Guernsey) Ordinance, 1988<sup>j</sup>.

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- <sup>g</sup> Recueil d'Ordonnances Tome XII, p. 232.  
<sup>h</sup> Recueil d'Ordonnances Tome XXII, p. 2.  
<sup>i</sup> Recueil d'Ordonnances Tome XXIII, p. 457.  
<sup>j</sup> Recueil d'Ordonnances Tome XXIII, p. 457.