

# PRISONS ORDINANCE 1923-1938. <sup>(1)</sup>

## An Ordinance Relating to Prisons.

**B**E it ordained by the Governor-General of the Commonwealth of Australia, with the advice of the Federal Executive Council, in pursuance of the powers conferred by the *New Guinea Act 1920*, as follows:—

### PART I.—PRELIMINARY.

1. This Ordinance may be cited as the *Prisons Ordinance 1923-1938*. <sup>(1)</sup>

Short title.  
Amended by  
No. 3 of 1934,  
s. 50.

2. This Ordinance shall commence on a date to be fixed by the Administrator by notice in the *New Guinea Gazette*. <sup>(1)</sup>

Commencement.

(1) The *Prisons Ordinance 1923-1938* comprises the *Prisons Ordinance 1923*, as amended by the other Ordinances referred to in the following Table:—

TABLE.

#### PART I.—ORDINANCES MADE BY THE GOVERNOR-GENERAL IN COUNCIL.

| Short title, number and year.                     | Date on which made by Gov.-Gen. in Council. | Date on which notified in <i>Cwlth. Gaz.</i> | Date on which took effect.                     |
|---|---|--|--|
| <i>Prisons Ordinance</i> 1923<br>(No. 10 of 1923) | 7.3.1923                                    | 15.3.1923                                    | 4.6.1923 ( <i>N.G. Gaz.</i> of 31.5.1923)      |
| <i>Prisons Ordinance</i> 1924<br>(No. 13 of 1924) | 2.4.1924                                    | 3.4.1924                                     | 3.4.1924 ( <i>Cwlth. Gaz.</i> of 3.4.1924)     |
| <i>Prisons Ordinance</i> 1925<br>(No. 6 of 1925)  | 25.2.1925                                   | 26.2.1925                                    | 26.2.1925 ( <i>Cwlth. Gaz.</i> of 26.2.1925)   |
| <i>Prisons Ordinance</i> 1928<br>(No. 30 of 1928) | 27.11.1928                                  | 29.11.1928                                   | 29.11.1928 ( <i>Cwlth. Gaz.</i> of 29.11.1928) |
| <i>Prisons Ordinance</i> 1930<br>(No. 13 of 1930) | 9.7.1930                                    | 17.7.1930                                    | 17.7.1930 ( <i>Cwlth. Gaz.</i> of 17.7.1930)   |
| <i>Prisons Ordinance</i> 1931<br>(No. 24 of 1931) | 26.8.1931                                   | 27.8.1931                                    | 27.8.1931 ( <i>Cwlth. Gaz.</i> of 27.8.1931)   |

#### PART II.—ORDINANCES OF THE LEGISLATIVE COUNCIL.

| Short title, number and year.                     | Date of assent by Administrator. | Date notified in <i>N.G. Gaz.</i> as not disallowed by Gov.-Gen. in Council. | Date on which came into operation.                     |
|---|----------------------------------|--|--|
| <i>Prisons Ordinance</i> 1934<br>(No. 11 of 1934) | 6.2.1934                         | 15.8.1934  | 6.2.1934 ( <i>Laws of T.N.G.</i> , Vol. XIII, p. 39)   |
| <i>Prisons Ordinance</i> 1935<br>(No. 15 of 1935) | 16.1.1935                        | (a)  | 16.1.1935 ( <i>Laws of T.N.G.</i> , Vol. XIII, p. 174) |
| <i>Prisons Ordinance</i> 1938<br>(No. 32 of 1938) | 24.8.1938                        | 30.11.1938   | 24.8.1938 ( <i>Laws of T.N.G.</i> , Vol. XIV, p. 154)  |

(a) No notice of non-disallowance has been published in *N.G. Gaz.*

PRISONS—

Parts.

3. This Ordinance is divided into Parts as follows:—

Part I.—Preliminary.

Part II.—Administration.

Part III.—Prisons and Penal Districts.

Part IV.—Visiting Justices.

Part V.—Custody and Removal of Prisoners.

Part VI.—Trial of Prison Offences.

Part VII.—Regulations.

Definitions.

4. In this Ordinance unless the contrary intention appears—

“Criminal Code” means the First Schedule to the *Criminal Code Act* 1899 of the State of Queensland in its application to the Territory;

“Head Gaoler” means the senior officer in charge of a prison;

“Gaoler” means any European prison officer subordinate to the head gaoler;

“Prison Officer” means any officer under this Ordinance;

“Regulations” means regulations made under this Ordinance;

“Superintendent of Police” means the person for the time being performing the duties of the Superintendent of Police of the Territory;

“Visiting Medical Officer” includes any Government Medical Officer;

“Warder” means any native prison officer.

Inserted by  
No. 11 of 1934,  
s. 3.

PART II.—ADMINISTRATION.

Control of  
prisons.

5. The Administrator shall have the chief control of all prisons in the Territory.

Delegation by  
Administrator.

6. In relation to any particular prison the Administrator may, by writing under his hand, delegate any of his powers under this Ordinance, and the regulations, so that the delegated powers may be exercised by the delegate with respect to the prison defined in the instrument of delegation.

Revocation of  
delegation.

7. Every delegation by the Administrator shall be revocable in writing at will, and no delegation shall prevent the exercise of any power by the Administrator.

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7A. The Superintendent of Police shall be the Chief Inspector of Prisons.

Chief Inspector.  
Inserted by  
No. 11 of 1934,  
s. 4.

7B. Subject to this Ordinance and the Regulations and to the control of the Administrator, the Chief Inspector of Prisons shall have the care, direction, and control of all prisons in the Territory.

Authority of  
Chief Inspector.  
Inserted by  
No. 11 of 1934,  
s. 4.

8.—(1.) Every District Officer in charge of a District shall, by virtue of his office, hold the office of head gaoler of the prisons which are situate in his District except in the town of Rabaul or any other town specified by the Administrator by notice<sup>(2)</sup> in the *New Guinea Gazette*, where the head gaoler shall be such commissioned officer of the New Guinea Police Force as the Administrator appoints.<sup>(3)</sup>

Appointment of  
officers.  
Section 8  
amended by  
No. 30 of 1928,  
s. 2 and by No.  
13 of 1930, s. 2;  
substituted by  
No. 11 of 1934,  
s. 5.  
Sub-section (1)  
amended by  
No. 15 of 1935,  
s. 2.

(2.) The Chief Inspector of Prisons may appoint commissioned officers or warrant officers of the New Guinea Police Force to be gaolers.

(3.) The head gaoler of a prison may appoint any member of the Native Constabulary Branch of the New Guinea Police Force under his charge to be a warder.

8A.—(1.) A District Officer may, by writing under his hand, delegate to an Assistant District Officer all or any of his powers or functions as head gaoler under this Ordinance or the Regulations (except this power of delegation) so that the delegated powers or functions may be exercised by the Assistant District Officer with respect to the matters specified in the instrument of delegation.

Delegation by  
District Officer.  
Section 8A  
inserted by  
No. 24 of 1931,  
s. 2.

(2.) Every delegation under this section shall be revocable in writing at will, but any delegation shall not prevent the exercise of any power or function by the District Officer.

(3.) When a District Officer has delegated his powers or functions in accordance with this section, he shall, as soon thereafter as possible, notify the Administrator in writing of the delegation.

9.—(1.) All appointments of officers, other than native officers, made prior to the commencement of this Ordinance, shall be deemed to be probationary appointments under the provisions of the *Public Service Ordinances 1922*.<sup>(4)</sup>

Appointments  
made before  
commencement  
of Ordinance  
to continue.

(2.) All appointments of native officers made prior to the commencement of this Ordinance shall be deemed to have been made under this Ordinance.

(2) Pursuant to Section 8, the Administrator, by notice dated 15.5.1935 and published in *N.G. Gaz.* of 31.5.1935 specified "the town of Wau for the purpose of Sections 8, 34, 36, and 38" of the *Prisons Ordinance 1923-1938*.

(3) Pursuant to Section 8, the Administrator, by two notices each dated 26.6.1935 and each published in *N.G. Gaz.* of 29.6.1935, appointed the persons for the time being holding the offices of officer-in-charge of the Rabaul Police District and Wau Police District respectively to be head gaoler of the prisons situated in the town of Rabaul and the town of Wau respectively.

(4) Now the *Public Service Ordinance 1922-1940*.

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Prison officers.

10. Every prison officer while acting as such shall by virtue of his appointment be deemed to be a constable and to have all powers and privileges of a constable for the purposes of the performance of his duties as a prison officer.

Punishment of offences by prison officers.

Section 11 substituted by No. 11 of 1934, s. 6.

11.—(1.) Any prison officer who is an officer of the Public Service of the Territory and who commits any breach of the provisions of this Ordinance or the Regulations shall be deemed to have committed a breach of the provisions of the *Public Service Ordinance 1922-1933*,<sup>(4)</sup> and shall be liable to be dealt with and punished in accordance with the provisions of Part V. of that Ordinance.

(2.) Any prison officer who is a member of the European Constabulary Branch of the New Guinea Police Force and who commits any breach of the provisions of this Ordinance or the Regulations shall be deemed to have committed a breach of the provisions of the *Police Force Ordinance 1930-1933*,<sup>(5)</sup> and shall be liable to be dealt with and punished in accordance with the provisions of that Ordinance and the Regulations made under that Ordinance.

Suspension of prison warders.

12.—(1.) Any visiting justice may suspend from employment any warder and the fact shall be immediately reported to the Administrator.

(2.) The suspension shall hold good until the Administrator's decision thereon is made known.

Prison officers not surrendering accoutrements.

Sub-section (1) amended by No. 11 of 1934, s. 7.

13.—(1.) Any person formerly employed as a prison officer who does not, forthwith after he is dismissed from, or ceases to hold, office, deliver all accoutrements which have been supplied or intrusted to him, or are in his possession at the time of his dismissal or resignation, to such person and at such time and place, as the Chief Inspector of Prisons or head gaoler directs, shall be guilty of an offence against this Ordinance.

(2.) Any justice of the peace, upon information on oath before him, may issue his warrant to search for and seize to the use of the Crown wherever they are found all such accoutrements that have not been delivered up.

Punishment of offences by prison warders.

Section 14 substituted by No. 11 of 1934, s. 8.

14. A head gaoler or visiting justice may impose any of the following penalties upon a warder guilty of an offence against the Regulations:—

(a) Admonishment or reprimand;

(b) Confinement to barracks for a period not exceeding twenty-eight days;

(4) Now the *Public Service Ordinance 1922-1940*.

(5) Now the *Police Force Ordinance 1930-1940*.

- (c) Forfeiture of not more than one month's pay;
- (d) Detention not exceeding two months in barracks detention room and loss of pay during such detention; and
- (e) Fine not exceeding Twenty shillings.

15. The paying officer of a prison shall deduct from the pay of a prison officer the amount of all fines imposed upon the prison officer, and shall pay the amount into the public revenue.

Fines imposed on prison officers.

### PART III.—PRISONS AND PENAL DISTRICTS.

16.—(1.) All buildings and premises at the places specified in the First Schedule to this Ordinance and at the commencement of this Ordinance used and maintained as prisons, and all buildings and premises which after the commencement of this Ordinance are erected and declared to be prisons by the Administrator by notice<sup>(6)</sup> published in the *New Guinea Gazette* shall be prisons under this Ordinance.

Prisons.

(2.) The Administrator may, by notice in the *New Guinea Gazette*,<sup>(7)</sup> permanently or temporarily close any prison.

17.—(1.) The Administrator may, by notice in the *New Guinea Gazette*,<sup>(8)</sup> declare that a specified area surrounding any prison shall be a penal district under this Ordinance.

Penal districts.

(2.) The area so declared shall, with regard to any person quartered, relegated, confined or imprisoned as a prisoner to, at, or in, any place within the area, be deemed to be a prison under this Ordinance.

(3.) The Administrator may, by notice<sup>(9)</sup> in the *New Guinea Gazette*, permanently or temporarily close any penal district.

18. All prisons shall be gaol prisons, penal establishments, houses of correction, reformatories and lock-ups within the meaning of any of those terms used in any law or Ordinance, and shall be used for the reception and safe keeping of prisoners convicted and sentenced for offences, and of persons imprisoned under, or by virtue of, any order of a court of justice, or otherwise detained by legal authority.

Prisons to be gaols, &c.

### PART IV.—VISITING JUSTICES.

19. The Administrator may from time to time appoint any district officer or justice of the peace to be a visiting justice of any prison:

Justices of peace appointed visiting justices.

(6) A Table containing particulars of notices made pursuant to Section 16(1) is printed on p. 4189, and the notices are printed immediately after the Table.

(7) No notice has been published in *N.G. Gaz.*

(8) No notice has been published in *N.G. Gaz.*

(9) No notice has been published in *N.G. Gaz.*

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Provided that a District Officer shall not be appointed a visiting justice of any prison of which he is the head gaoler.

*Ex officio*  
visiting justices.  
Sub-section (1)  
amended by  
No. 11 of 1934,  
s. 2.

20.—(1.) The Judges of the Supreme Court and the Director of District Services and Native Affairs shall be *ex officio* visiting justices for all prisons in the Territory, and any one of them may, when he thinks fit, visit any prison as a visiting justice or exercise any of the powers and authorities of a visiting justice.

(2.) Every Government medical officer shall be a visiting medical officer of any prison—

- (a) within the District in which he is stationed; and
- (b) in any other District in which he is temporarily stationed and in which there is no Government medical officer stationed,

and shall visit any prison within any such District as often as the Administrator directs, and, in the absence of directions, as often as is necessary and practicable.

Duties of  
visiting justice.

21. A visiting justice shall—

- (a) inquire into the conduct of prison officers and the treatment and conduct of the prisoners;
- (b) inquire into all abuses and irregularities within the prison;
- (c) hear any complaints which are made to him by prisoners;
- (d) make any inquiry into any matter as he thinks fit or as the Administrator directs, and shall report thereon to the Administrator; and
- (e) perform such other duties as are prescribed.

PART V.—CUSTODY AND REMOVAL OF PRISONERS.

Place at which  
sentences to be  
served.  
Inserted by  
No. 6 of 1925,  
s. 2.

21A. Every sentence of imprisonment shall, subject to this Ordinance, be served in the prison nearest to the place at which the sentence was imposed, or in such other prison as the Judge who imposed the sentence directs.

When prisoner  
deemed in custody  
of head gaoler.

22. Every prisoner confined in a prison shall be deemed to be in the lawful custody of the head gaoler thereof.

Lawful custody  
of prisoner.

23.—(1.) A prisoner shall be deemed to be in lawful custody whenever—

- (a) he is being taken to or from, or is confined in, any prison in which he is lawfully confined; or

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(b) he is working outside or is otherwise beyond the precincts of any such prison in the custody, or under the control, of a prison officer or other person thereto authorized by the head gaoler.

(2.) Any officer of police acting under the order of any justice of the peace having power to commit a prisoner to prison may convey a prisoner to or from a prison.

24. A prisoner awaiting trial for an indictable offence may, for the purpose of being tried, be removed from one prison to another upon the order of a Judge of the Supreme Court, the Chief Inspector of Prisons, or the head gaoler of the prison where the prisoner is confined.

Removal of prisoners from one prison to another for purpose of trial.

Amended by No. 11 of 1934, ss. 2 and 9.

25. If the presence of any prisoner should be required in or before a court of justice or at any inquiry, examination or investigation, a Judge of the Supreme Court, the Chief Inspector of Prisons or a District Officer may issue a warrant in accordance with Form A in the Second Schedule to this Ordinance to the head gaoler of the prison in which the prisoner is confined, empowering the head gaoler to cause him to be brought before the court or person in which or before whom his presence is required at such time and place as is necessary.

Prisoners to be brought before court, &c., on warrant.

Amended by No. 11 of 1934, ss. 2 and 10.

26. The Administrator or the Chief Inspector of Prisons, and any District Officer on the written authority of the Administrator, may, by order in writing in accordance with Form B in the Second Schedule to this Ordinance addressed to the head gaoler of a prison, direct the removal of all or any of the prisoners confined in the prison to any other prison, and the head gaoler shall cause the prisoners to be removed accordingly.

Removal of prisoners from prison to prison.

Amended by No. 11 of 1934, s. 11.

27.—(1.) In the case of illness a prisoner may be removed from any prison to any hospital by order of the visiting justice, the medical officer or the head gaoler.

Sick prisoners may be removed to hospital.

(2.) Any prisoner so removed shall, during his treatment in the hospital, be deemed to be in the lawful custody of the Government medical officer or other officer in charge of the hospital, and the head gaoler may if he think fit appoint any prison officer to take charge of any prisoner while he is under treatment in hospital.

(3.) If upon discharge from hospital the sentence of imprisonment against him has not expired the prisoner shall be returned to the prison to undergo the remainder of the sentence.

28. The Administrator, or, in the case of a prisoner confined in any prison other than the Rabaul prison, the visiting justice of the prison, may, by writing under his hand in accordance with Form C in the Second Schedule to this Ordinance, direct and authorize the

Certain prisoners may be removed from prison for employment.

## PRISONS—

removal of any prisoner under sentence of hard labour from any prison to any place to be named in the directions for the purpose of carrying out the labour portion of any sentence.

### PART VI.—TRIAL OF PRISON OFFENCES.

Visting justice  
may try prisoner.  
Sub-section (1)  
amended by  
No. 13 of 1924,  
s. 2.

29.—(1.) A visting justice may take evidence and examine any prisoner touching anything committed, or done, or not done by him, which is declared, by this Ordinance or by the regulations, to constitute a prison offence, and if satisfied that the prisoner is guilty of the offence may order him to undergo either of the following punishments:—

(a) Reduced diet for any period not exceeding fourteen days and for not more than four days in any one week; or

Paragraph (b)  
substituted by  
No. 13 of 1924,  
s. 2.

(b) Pack drill for any period not exceeding three weeks, and for not more than two hours in the morning and two hours in the afternoon of any one day, and with an interval of ten minutes between any two consecutive half-hours of that drill;

Provided that a prisoner undergoing imprisonment with hard labour shall not be ordered, in pursuance of this section, to undergo pack drill on any day on which he undergoes pack drill as hard labour.

Sub-section (2)  
added by  
No. 15 of 1935,  
s. 3.

(2.) A visting justice may order that any male prisoner convicted of a prison offence specified by the Administrator by notice<sup>(10)</sup> in the *New Guinea Gazette* shall be once privately whipped in lieu of any punishment or imprisonment which may be lawfully awarded for that offence.

Sub-section (3)  
added by  
No. 15 of 1935,  
s. 3.

(3.) A sentence of whipping ordered under the last preceding sub-section to be inflicted on a person other than a native shall not be carried into execution unless confirmed by the Administrator.

Sub-section (4)  
added by  
No. 15 of 1935,  
s. 3.

(4.) A sentence of whipping ordered under sub-section (2.) of this section by any person other than a visting justice who is a Judge or Stipendiary Magistrate to be inflicted on a native shall not be carried into execution unless confirmed by the Chief Inspector of Prisons.

Sub-section (5)  
added by  
No. 15 of 1935,  
s. 3.

(5.) The number of strokes which may be ordered under sub-section (2.) of this section shall not exceed ten.

Sub-section (6)  
added by  
No. 15 of 1935,  
s. 3.

(6.) A sentence of whipping under sub-section (2.) of this section shall be inflicted with a cane or birch rod.

(10) Pursuant to Section 29, the Administrator, by notice dated 7.6.1935 and published in *N.G. Gaz.* of 15.6.1935, specified "the prison offence of Insubordination (Regulation 169(d) of the *Prisons Regulations*) for the purposes of sub-section (2) of section 29 of the *Prisons Ordinance 1923-1935*".



(7.) Where a sentence of whipping ordered under sub-section (2.) of this section is not confirmed the visiting justice may order the prisoner in lieu of the whipping such other punishment or such imprisonment as may be lawfully awarded for the offence.

Sub-section (7)  
added by  
No. 15 of 1935,  
s. 3.

30. If the commission of any prison offence has been, in the opinion of the visiting justice, attended with circumstances of aggravation owing either to its repetition or otherwise, the visiting justice may sentence the offender to be imprisoned with or without hard labour for any period not exceeding two months, which sentence shall be cumulative with any sentence the prisoner is at the time serving.

Aggravated  
prison offences.

31.—(1.) In every inquiry held to examine into a charge of a prison offence the witnesses called shall be sworn or affirmed in the manner usual in courts of justice.

Trials of  
prison offences.

(2.) The visiting justice shall make, in a book to be kept for that purpose at the prison, a note of the charge and the result of the inquiry.

(3.) If the charge be for an offence attended with circumstances of aggravation, the visiting justice shall enter, or cause to be entered, in full in the book, the evidence taken at the inquiry, and, unless the evidence has been so entered, the visiting justice shall not find the prisoner guilty of an offence attended with circumstances of aggravation.

32. A visiting justice may, at any time before passing sentence, alter a charge and rehear the case and take evidence in writing and convict of an offence attended with circumstances of aggravation, no matter how the charge may have been laid or made in the first instance.

Rehearing.

33.—(1.) Any prisoner who is deemed by the head gaoler to be guilty of a prison offence may be handcuffed or otherwise secured until he can be dealt with by the visiting justice.

Prisoner may  
be secured  
until dealt with.

(2.) Every such case must be immediately reported to the visiting justice, and the prisoner shall not be secured in pursuance of this section for a longer period than twenty-four hours.

34. In the case of a prisoner confined in any prison except a prison in the town of Rabaul or any other town specified by the Administrator by notice<sup>(2)</sup> in the *New Guinea Gazette*, the head gaoler of the prison shall, unless the Administrator otherwise directs, have the jurisdiction and powers of a visiting justice under this Part.

Head gaoler of  
certain prisons  
to have powers of  
visiting justice  
under this Part.  
Substituted by  
No. 15 of 1935,  
s. 4.

(2) See footnote (2) printed on p. 4141.

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Escape from custody.

35.—(1.) Any person who being a prisoner in lawful custody escapes or attempts to escape from custody shall be guilty of an offence against this Ordinance.

(2.) Whenever the offender is punishable under the provisions of this section and also under the provisions of the Criminal Code, he may be prosecuted and convicted under the provisions either of this section or of the Criminal Code, but he shall not be punished under both for the same offence.

Prison officers allowing prisoners to escape.

36.—(1.) Any European prison officer in charge of a prison or having the care and charge of prisoners, who, through carelessness, neglect or inattention to duty or proper control, permits a prisoner to escape, shall be guilty of an offence against this Ordinance.

(2.) Any warder placed in charge of any prisoner at any time or in any place, who, through carelessness, neglect or inattention to duty, permits the prisoner to escape, shall be guilty of an offence against this Ordinance, and shall, on conviction before a visiting justice be liable to a fine not exceeding Three pounds, and, in default of payment of the fine, to imprisonment for any period not exceeding six months with or without hard labour, or to imprisonment in the first instance for any period not exceeding six months with or without hard labour.

Sub-section (3) amended by No. 15 of 1935, s. 5.

(3.) If the prisoner at the time of his escape was confined in any prison except a prison in the town of Rabaul or any other town specified by the Administrator by notice<sup>(2)</sup> in the *New Guinea Gazette* the warder may be dealt with summarily by the head gaoler of the prison, and shall on conviction be liable to the penalty as provided by this section.

Assaults by prisoners.

37. If a prisoner assaults any person authorized by any law or regulation to visit the prison, or any constable or prison officer or person lawfully placed in charge of prisoners, or any servant employed in the prison, he shall be guilty of an offence and be liable on conviction thereof before the District Court to imprisonment for any term not exceeding two years.

Assault by prisoner may be dealt with as a prison offence. Amended by No. 15 of 1935, s. 6.

38. Any charge against a prisoner under the last preceding section may, if a visiting justice thinks fit, be dealt with and punished under this Ordinance as a prison offence attended with circumstances of aggravation, or, in the case of a prisoner confined in any prison except a prison in the town of Rabaul or any other town specified by the Administrator by notice<sup>(2)</sup> in the *New Guinea Gazette*, may be dealt with by the head gaoler of the prison.

(2) See footnote (2) printed on p. 4141.

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39.—(1.) If any prisoner under sentence of hard labour, in order to evade labour, wilfully disables himself, or designedly prevents, or protracts, the cure of any disease or complaint which he has contracted, he shall, upon conviction before a visiting justice, in addition to being liable to punishment for a prison offence, have the period of his sentence extended for such further time as, in the opinion of the visiting justice, he has evaded labour.

Prisoner disabling himself to avoid labour.

(2.) In any inquiry under this section the visiting justice shall take the evidence of the visiting medical officer (if any) who is in attendance on the prisoner.

40. Any person who delivers, or attempts to deliver, or causes to be delivered, or loiters about any prison or lands adjacent thereto for the purpose of delivering, to any prisoner, any money, article of clothing, letter, intoxicating liquor, tobacco or any other thing, or delivers, or causes to be delivered, to any other person any such money, article of clothing, intoxicating liquor, tobacco or any other thing for the purpose of being conveyed or delivered to a prisoner, or who secretes, or leaves upon or about any place where any prisoner is employed, any such money, article of clothing, intoxicating liquor, tobacco or other thing for the purpose of being found or received by the prisoner, shall be guilty of an offence against this Ordinance.

Delivering or attempting to deliver things to prisoners.

41. Any person loitering about any prison or lands adjacent thereto, who refuses or neglects to depart therefrom upon being warned so to do by any prison officer, shall be guilty of an offence against this Ordinance.

Loitering about prison premises or adjacent lands.

42. Any prison officer may arrest without a warrant any offender against the provisions of the last two preceding sections and take him before a District Court to be dealt with.

Arrest without warrant of offender.

Amended by No. 11 of 1934, s. 12.

43. Any person (except those in charge or duly authorized) communicating in any manner with any prisoner sentenced to imprisonment with hard labour, or endeavouring to communicate with any such prisoner while employed, shall be guilty of an offence against this Ordinance.

Communicating with prisoners.

44. In all cases in which a court awards imprisonment for periods not exceeding fourteen days, it may, if it thinks fit, in the absence of directions from the Administrator to the contrary, direct that the imprisonment shall be in such place as it considers expedient in lieu of in any prison.

In slight offences the offender need not be sent to a prison.

Amended by No. 11 of 1934, s. 13.

45. If physically able to do so, prisoners, when so ordered by the officer in charge, shall proceed on foot from any place to any other place.

Prisoners obliged to walk.

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Writs, &c., valid.

46. Writs, warrants, orders or other legal instruments addressed to the head gaoler of a particular prison describing the prison by its situation or other definite description shall be valid by whatever title the prison is usually known.

Inquest on death of prisoners.

47. If a prisoner dies in a prison, and his death is not certified by a visiting medical officer as having been due to natural causes, an inquest shall be held into the cause of his death.

Punishments cumulative unless otherwise directed.

48. Unless otherwise directed at the time of the imposition thereof every sentence imposed under this Ordinance or the regulations upon a prisoner shall be cumulative upon any sentence under which the prisoner is detained and upon any previous uncompleted punishment to which the prisoner has been sentenced under this Ordinance or the regulations.

Penalty for offences where none specified.

49. Any person who is guilty of an offence against this Ordinance for which no specified punishment is provided shall be liable to a penalty not exceeding Fifty pounds, and, in default of payment of that penalty, to imprisonment for a period not exceeding six months, or to imprisonment in the first instance for a period not exceeding six months.

PART VII.—REGULATIONS.

Regulations.  
Sub-section (1) amended by No. 32 of 1938, s. 2.

50.—(1.) The Administrator in Council may make regulations,<sup>(11)</sup> not inconsistent with this Ordinance, prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Ordinance, and in particular for providing for—

Paragraph (b) amended by No. 13 of 1924, s. 3.

- (a) the number of prisoners to be confined in any prison ;
- (b) the safe custody, dieting, discipline, management, classification, individual separation, hours of labour, mode of employment of any prisoners confined in any prison and, in the case of prisoners sentenced to imprisonment with hard labour, the performance of pack drill :

Provided that the regulations shall not authorize the imposition of pack drill for a longer period than six months nor require its performance daily for more than two hours in the morning and two hours in the afternoon ; and the regulations shall provide for an interval of ten minutes between any two consecutive half-hours of such drill ;

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(11) See the *Prisons Regulations*, printed on p. 4153.

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- (c) the remission of any part of the sentence of any prisoner upon certain conditions;
- (d) the constitution of prison offences;
- (e) the wearing of handcuffs by prisoners in certain cases;
- (f) pack drill and reduced diet and other legalized prison punishments;
- (g) the duties of visiting justices and visiting medical officers;
- (h) religious ministrations and divine service in prisons; and
- (i) the general management and good government of prisons and the prisoners confined therein, and the duties and conduct of the gaolers and other prison officers attached thereto.

\* \* \* \* \*

Sub-sections (2) & (3) omitted by No. 32 of 1938, s. 2.

THE SCHEDULES.

THE FIRST SCHEDULE.

PRISONS.

|            |              |                    |             |
|------------|--------------|--------------------|-------------|
| Rabaul.    | Kieta        | } Solomon Islands. | Madang.     |
| Gasmatta.  | Buka Passage |                    | Eitape.     |
| Talasea.   | Buin         |                    | Marienberg. |
| Kawieng.   | Morobe.      |                    | Wiwiak.     |
| Namatanai. | Lei.         |                    | Wonimo.     |
| Manus.     |              |                    |             |

THE SECOND SCHEDULE.

FORM A.

Territory of New Guinea.

Prisons Ordinance 1923.

To the Head Gaoler of Prison.

These are to command you to have \_\_\_\_\_ now under your custody in \_\_\_\_\_ Prison brought under safe and secure conduct before \_\_\_\_\_ at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by \_\_\_\_\_ of the clock in the \_\_\_\_\_ noon of the same day. And on such further days and at such further times as the said orders And when the said \_\_\_\_\_ intimates that the presence of the said \_\_\_\_\_ before \_\_\_\_\_ is no longer required that you return him the said \_\_\_\_\_ to the Prison whence he was brought under safe and secure conduct.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

PRISONS—

FORM B.

*Territory of New Guinea.*

*Prisons Ordinance 1923.*

To the Head Gaoler of \_\_\_\_\_ Prison.

These are to command you that you cause \_\_\_\_\_ now under your custody in the \_\_\_\_\_ Prison to be conveyed under safe and secure conduct by all available ways and means and delivered at the Prison at \_\_\_\_\_ into the hands of the officer who then happens to be in charge of such prison and for so doing this shall be your warrant.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 .

FORM C.

*Territory of New Guinea.*

*Prisons Ordinance 1923.*

To the Head Gaoler of \_\_\_\_\_ Prison.

These are to command you to have the undermentioned prisoners undergoing sentence of hard labour and now in your custody in \_\_\_\_\_ Prison taken under safe and secure conduct by all available ways and means to \_\_\_\_\_ and there deliver him [or them] to \_\_\_\_\_ for the purpose of carrying out the labour portion of his [or their] sentence. The said prisoners to be employed at \_\_\_\_\_ at the aforesaid place.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 19 .

| Prison. | No. of Prisoner. | Prisoner's Name. |
|---------|------------------|------------------|
|         |                  |                  |