

THE PRISONERS ACT, 1900

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THE PRISONERS ACT, 1900

ACT NO. III OF 1900

[2nd February, 1900]

An Act to consolidate the law relating to Prisoners confined by order of a Court. *

WHEREAS it is expedient to consolidate the law relating to prisoners confined by order of a Court;

It is hereby enacted as follows:—

PART I

PRELIMINARY

Short title and extent

1. (1) This Act may be called the Prisoners Act, 1900.

(2) It extends to the whole of Bangladesh.

Definitions

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “Court” includes ¹[* * *] any officer lawfully exercising civil, criminal or revenue jurisdiction; and

(b) “prison” includes any place which has been declared by the Government, by general or special order, to be a subsidiary jail.

PART II

GENERAL

Officers in charge of prisons to detain persons

3. The officer in charge of a prison shall receive and detain all persons duly committed to his custody, under this Act or otherwise, by any Court, according to the exigency of any writ,

* Throughout this Act, except otherwise provided, the words “Bangladesh”, “Government” and “High Court Division” were substituted, for the words “Pakistan” or “the provinces” or “the province”, “Provincial Government” or “Central Government” and “a High Court” or “High Court” respectively by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

¹ The words “a coroner and” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

warrant or order by which such person has been committed, or until such person is discharged or removed in due course of law.

duly committed to their custody

4. The officer in charge of a prison shall forthwith, after the execution of every such writ, order or warrant as aforesaid other than a warrant of commitment for trial, or after the discharge of the person committed thereby, return such writ, order or warrant to the Court by which the same was issued or made, together with a certificate, endorsed thereon and signed by him, showing how the same has been executed, or why the person committed thereby has been discharged from custody before the execution thereof.

Officers in charge of prisons to return writs, etc., after execution or discharge

PART III. [*Omitted by the Adaptation of Central Acts and Ordinances Order, 1949.*]

PART IV

EXECUTION OF SENTENCES

14. In this Part all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools

15. (1) Officers in charge of prisons may give effect to any sentence or order or warrant for the detention of any person passed or issued—

Power for officers in charge of prisons to give effect to sentences of certain Courts

- (a) by any Court or tribunal acting ¹[* * *] under the general or special authority of the Government, ²[or of any Court or tribunal which was before the

¹ The commas and the words “, whether or without the Provinces,” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words, commas and figure "or of any Court or tribunal which was before the twenty-sixth day of March, 1971, acting under the general or special authority of any Government that functioned within the territories now comprised in Bangladesh" were substituted, for the words and commas “or of any Provincial Government, or of the Government of Burma or of any Court or tribunal which was before the twenty-third day of March, 1956, acting under the general or special authority of Her Majesty, or of the Crown Representative” by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

twenty-sixth day of March, 1971, acting under the general or special authority of any Government that functioned within the territories now comprised in Bangladesh].

¹[* * *]

(2) [Sub-section (2) of section 15 was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).]

Warrant of officer of such Court to be sufficient authority

16. A warrant under the official signature of an officer of such Court or tribunal as is referred to in section 15 shall be sufficient authority for holding any person in confinement, or for sending any person for transportation, in pursuance of the sentence passed upon him.

Procedure where officer in charge of prisons doubts the legality of warrant sent to him for execution under this Part

17. (1) Where an officer in charge of a prison doubts the legality of a warrant or order sent to him for execution under this Part, or the competency of the person whose official seal or signature is affixed thereto to pass the sentence and issue the warrant or order, he shall refer the matter to the Government, by whose order on the case he and all other public officers shall be guided as to the future disposal of the prisoner.

(2) Pending a reference made under sub-section (1), the prisoner shall be detained in such manner and with such restrictions or mitigations as may be specified in the warrant or order.

Execution in Bangladesh, etc., of certain capital sentences not ordinary executable there

18. (1) Where a court established by the authority of the Government exercising, in or with respect to territory beyond the limits of Bangladesh jurisdiction which the Government has in such territory, –

(a) has sentenced any person to death, and,

¹ Clauses (b), (c) and the proviso to sub-section (1) of section 15 were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

- (b) being of opinion that such sentence should, by reason of there being in such territory no secure place for the confinement of such person or no suitable appliances for his execution in a decent and humane manner, be executed in Bangladesh has issued its warrant for the execution of such sentence to the officer in charge of a prison in Bangladesh,

such officer shall, on receipt of the warrant, cause the execution to be carried out at such place as may be prescribed therein in the same manner and subject to the same conditions in all respects as if it were a warrant duly issued under the provisions of section 381 of the Code of Criminal Procedure, 1898.

(2) The prisons of which the officers in charge are to execute sentences under any such warrants as aforesaid shall ¹[* * *] be such as the Government may, by general or special order, direct.

(3) A Court shall be deemed, for the purposes of this section, to be a court established by the Government if the presiding Judge, or if the Court consist of two or more Judges, at least one of the Judges, is an officer of the Government authorized to act as such Judge by ²[* * *] the Government:

Provided that every warrant issued under this sub-section by any such tribunal shall, if the tribunal consists of more than one Judge, be signed by a Judge who is an officer of the Government authorized as aforesaid.

PART V. – *[Omitted by the Criminal Law (Extinction of Discriminatory Privileges Act, 1949 (Act No. II of 1950).]*

¹ The words “in each Province” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

² The words “any Acceding State or the Ruler thereof or” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

PART VI

REMOVAL OF PRISONERS

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools

28. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

Removal of prisoners

29. (1) The Government may, by general or special order, provide for the removal of any prisoner confined in a prison—

- (a) under sentence of death, or
- (b) under, or in lieu of, a sentence of imprisonment or transportation, or
- (c) in default of payment of a fine, or
- (d) in default of giving security for keeping the peace or for maintaining good behaviour,

to any other prison in Bangladesh ¹[* * *].

(2) Subject to the orders, and under the control, of the Government the Inspector-General of Prisons may, in like manner, provide for the removal of any prisoner confined as aforesaid in a prison in Bangladesh to any other prison in Bangladesh.

(3) *[Sub-section (3) of section 29 was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).²]*

Lunatic prisoners how to be dealt with

30. (1) Where it appears to the Government that any person detained or imprisoned under any order or sentence of any Court is of unsound mind, the Government may, by a warrant setting

¹ The commas and words “, or, with the consent of the Provincial Government concerned, to any prison in the other Province or, with the consent of the Central Government to any prison maintained by it or under its authority in any part of Pakistan” were omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

²

forth the grounds of belief that the person is of unsound mind, order his removal to a lunatic asylum or other place of safe custody within Bangladesh there to be kept and treated as the Government directs during the remainder of the term for which he has been ordered or sentenced to be detained or imprisoned, or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the prisoner or others that he should be further detained under medical care or treatment, then until he is discharged according to law.

(2) Where it appears to the Government that the prisoner has become of sound mind, the Government shall, by a warrant directed to the person having charge of the prisoner, if still liable to be kept in custody, remand him to the prison from which he was removed, or to another prison within Bangladesh, or, if the prisoner is no longer liable to be kept in custody, order him to be discharged.

(3) The provisions of ¹[the Lunacy Act, 1912,] shall apply to every person confined in a lunatic asylum under sub-section (1) after the expiration of the term for which he was ordered or sentenced to be detained or imprisoned; and the time during which a prisoner is confined in a lunatic asylum under that sub-section shall be reckoned as part of the term of detention or imprisonment which he may have been ordered or sentenced by the Court to undergo.

(4) [*Sub-section (4) of section 30 was omitted by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).*]

31. [*Repealed by the Amending Act, 1903 (Act No. I of 1903).*]

¹ The words, commas and figure "the Lunacy Act, 1912," were substituted for the words, commas and figures "section 9 of the Lunatic Asylums Act, 1858," by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

PART VII

PERSONS UNDER SENTENCE OF TRANSPORTATION

Appointment of places for confinement of persons under a sentence of transportation and removal thereto

32. (1) The Government may appoint places within Bangladesh to which persons under sentence of transportation shall be sent; and the Government, or some officer duly authorized in this behalf by the Government, shall give orders for the removal of such persons to the places so appointed, except when sentence of transportation is passed on a person already undergoing transportation under a sentence previously passed for another offence.

(2) [*Omitted by the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973), section 3 and 2nd Schedule.*]

PART VIII

DISCHARGE OF PRISONERS

Release on recognizance, by order of High Court Division of prisoner recommended for pardon

33. The High Court Division may, in any case in which it has recommended to the President the granting of a free pardon to any prisoner, permit him to be at liberty on his own recognizance.

PART IX

PROVISIONS FOR REQUIRING THE ATTENDANCE OF PRISONERS AND OBTAINING THEIR EVIDENCE

Attendance of Prisoners in Court

References in this Part to prisons, etc., to be construed as referring also to Reformatory Schools

34. In this Part, all references to prisons or to imprisonment or confinement shall be construed as referring also to Reformatory Schools or to detention therein.

Power for Civil Courts to require appearance of

35. Subject to the provisions of section 39, any Civil Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is

High Court Division, or, if it is not High Court Division, then within the local limits of the appellate jurisdiction of the High Court Division to which it is subordinate, is material in any matter pending before it, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

Prisoner to give evidence

36. (1) Where an order under section 35 is made in any civil matter pending,—

District Judge in certain cases to countersign orders made under section 35

- (a) in a Court subordinate to the District Judge, or
- (b) in a Court of Small Causes,

it shall not be forwarded to the officer to whom it is directed, or acted upon by him, until it has been submitted to, and countersigned by,—

- (i) the District Judge to which the Court is subordinate, or
- (ii) the District Judge within the local limits of whose jurisdiction the Court of Small Causes is situate.

(2) Every order submitted to the District Judge under sub-section (1) shall be accompanied by a statement, under the hand of the Judge of the subordinate Court or Court of Small Causes, as the case may be, of the facts which in his opinion render the order necessary, and the District Judge may, after considering such statement, decline to countersign the order.

37. Subject to the provisions of section 39, any Criminal Court may, if it thinks that the evidence of any person confined in any prison within the local limits of its appellate jurisdiction, if it is High Court Division, or, if it is not High Court Division, then within the local limits of the appellate jurisdiction of the High Court Division to which it is subordinate, is material in any matter pending before it, or if a charge of an offence against such person is made or pending, make an order in the form set forth in the first or second schedule, as the case may be, directed to the officer in charge of the prison:

Power for certain Criminal Courts to require attendance of prisoner to give evidence or answer to charge

Provided that if such Criminal Court is inferior to the Court of a Magistrate of the first class, the order shall be submitted to,

and countersigned by, the District Magistrate to whose Court such Criminal Court is subordinate or within the local limits of whose jurisdiction such Criminal Court is situated.

Order to be transmitted through Magistrate of the district or sub-division in which person is confined

38. Where any person, for whose attendance an order as in this Part provided is made, is confined in any district other than that in which the Court making or countersigning the order is situate, the order shall be sent by the Court by which it is made or countersigned to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person is confined, and that Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Procedure where removal is desired of person confined more than one hundred miles from place where evidence is required

39. (1) Where a person is confined in a prison more than one hundred miles distant from the place where any Court, subordinate to High Court Division, in which his evidence is required, is held, the Judge or presiding officer of the Court in which the evidence is so required shall, if he thinks that such person should be removed under this Part for the purpose of giving evidence in such Court, and if the prison is within the local limits of the appellate jurisdiction of the High Court Division to which such Court is subordinate, apply in writing to the High Court Division, and the High Court Division may, if it thinks fit, make an order in the form set forth in the first schedule, directed to the officer in charge of the prison.

(2) The High Court Division making an order under subsection (1) shall send it to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the person named therein is confined, and such Magistrate shall cause it to be delivered to the officer in charge of the prison in which the person is confined.

Persons confined beyond limits of appellate jurisdiction

40. Where a person is confined in a prison beyond the local limits of the appellate jurisdiction of High Court Division, any Judge of such Court may, if he thinks that such person should be removed under this Part for the purpose of answering a charge

of an offence or of giving evidence in any criminal matter in such Court or in any Court subordinate thereto, apply in writing to the Government of the territories within which the prison is situate, and the Government may, if it thinks fit, direct that the person be so removed, subject to such rules regulating the escort of prisoners as the Government may prescribe.

of High Court
Division

41. Upon delivery of any order under this Part to the officer in charge of the prison in which the person named therein is confined, that officer shall cause him to be taken to the Court in which his attendance is required, so as to be present in the Court at the time in such order mentioned, and shall cause him to be detained in custody in or near the Court until he has been examined or until the Judge or presiding officer of the Court authorizes him to be taken back to the prison in which he was confined.

Prisoner to be
brought up

42. The Government may by notification in the official Gazette, direct that any person or any class of persons shall not be removed from the prison in which he or they may be confined; and thereupon, and so long as such notification remains in force, the provisions of this Part, other than those contained in sections 44 to 46, shall not apply to such person or class of persons.

Power to
Government to
exempt certain
prisoners from
operation of
this Part

43. In any of the following cases, that is to say,—

- (a) where the person named in any order made under section 35, section 37 or section 39 appears to be, from sickness or other infirmity, unfit to be removed, the officer in charge of the prison in which he is confined, shall apply to the District or Sub-divisional Magistrate within the local limits of whose jurisdiction the prison is situate, and if such Magistrate, by writing under his hand, declares himself to be of opinion that the person named in the order is, from sickness or other infirmity, unfit to be removed; or
- (b) where the person named in any such order is under committal for trial; or

Officer in
charge of
prison when to
abstain from
carrying out
order

- (c) where the person named in any such order is under a remand pending trial or pending a preliminary investigation; or
- (d) where the person named in any such order is in custody for a period which would expire before the expiration of the time required for removing him under this Part and for taking him back to the prison in which he is confined;

the officer in charge of the prison shall abstain from carrying out the order, and shall send to the Court from which the order has been issued a statement of the reason for so abstaining:

Provided that such officer as aforesaid shall not so abstain where,—

- (i) the order has been made under section 37; and
- (ii) the person named in the order is confined under committal for trial, or under a remand pending trial or pending a preliminary investigation, and does not appear to be, from sickness or other infirmity unfit to be removed; and
- (iii) the place, where the evidence of the person named in the order is required, is not more than five miles distant from the prison in which he is confined.

Commissions for Examination of Prisoners

Commissions
for
examination
of prisoners

44. In any of the following cases, that is to say,—

- (a) where it appears to any Civil Court that the evidence of a person confined in any prison within the local limits of the appellate jurisdiction of such Court, if it is High Court Division, or if it is not High Court Division, then within the local limits of the appellate jurisdiction of the High Court Division to which it is subordinate, who, for any of the causes mentioned in section 42 or section 43, cannot be removed, is material in any matter pending before it; or
- (b) where it appears to any such Court as aforesaid that the evidence of a person confined in any prison so

situate and more than ten miles distant from the place at which such Court is held, is material in any such matter; or

- (c) where the District Judge declines, under section 36, to countersign an order for removal;

the Court may, if it thinks fit, issue a commission, under the provisions of the ¹[Code of Civil Procedure, 1908,] for the examination of the person in the prison in which he is confined.

45. Where it appears to High Court Division that the evidence of a person confined in a prison beyond the local limits of its appellate jurisdiction is material in any civil matter pending before it or before any Court subordinate to it, the High Court Division may, if it thinks fit, issue a commission, under the provisions of the ¹[Code of Civil Procedure, 1908,] for the examination of the person in the prison in which he is confined.

Commissions for examination of prisoners beyond limits of appellate Jurisdiction of High Court Division

46. Every commission for the examination of a person issued under section 44 or section 45 shall be directed to the District Judge within the local limits of whose jurisdiction the prison in which the person is confined is situate, and the District Judge shall commit the execution of the commission to the officer in charge of the prison, or to such other person as he may think fit.

Commission how to be directed

Service of Process on Prisoners

47. When any process directed to any person confined in any prison is issued from any Criminal or Revenue Court, it may be served by exhibiting to the officer in charge of the prison the original of the process and depositing with him a copy thereof.

Process how served on prisoners

¹ The words, commas and figure "Code of Civil Procedure, 1908," were substituted for the words "Code of Civil Procedure" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

Process served
to be
transmitted at
prisoner's
request

48. (1) Every officer in charge of a prison upon whom service is made under section 47 shall, as soon as may be, cause the copy of the process deposited with him to be shown and explained to the person to whom it is directed, and shall thereupon endorse upon the process and sign a certificate to the effect that such person as aforesaid is confined in the prison under his charge and has been shown and had explained to him a copy of the process.

(2) Such certificate as aforesaid shall be *prima facie* evidence of the service of the process, and, if the person to whom the process is directed requests that the copy shown and explained to him be sent to any other person and provides the cost of sending it by post, the officer in charge of the prison shall cause it to be so sent.

Miscellaneous

49. [Omitted by the Adaptation of Central Acts and Ordinances Order, 1949, Schedule.]

Deposit of
costs

50. No order in any civil matter shall be made by a Court under any of the provisions of this Part until the amount of the costs and charges of the execution of such order (to be determined by the Court) is deposited in such Court:

Provided that, if upon any application for such order it appears to the Court to which the application is made, that the applicant has not sufficient means to meet the said costs and charges, the Court may pay the same out of any fund applicable to the contingent expenses of such Court, and every sum so expended may be recovered by the Government from any person ordered by the Court to pay the same, as if it were costs in a suit recoverable under the ¹[Code of Civil Procedure, 1908].

¹ The words, comma and figure "Code of Civil Procedure, 1908" were substituted for the words "Code of Civil Procedure" by section 3 and 2nd Schedule of the Bangladesh Laws (Revision and Declaration) Act, 1973 (Act No. VIII of 1973).

51. (1) The Government may make rules—

Power to make rules under this Part

- (a) for regulating the escort of prisoners to and from Courts in which their attendance is required and for their custody during the period of such attendance;
- (b) for regulating the amount to be allowed for the costs and charges of such escort; and
- (c) for the guidance of officers in all other matters connected with the enforcement of this Part.

(2) All rules made under sub-section (1) shall be published in the official Gazette, and shall, from the date of such publication, have the same force as if enacted by this Act.

52. The Government may declare what officer shall, for the purposes of this Part, be deemed to be the officer in charge of a prison.

Power to declare who shall be deemed officer in charge of prison

53. [*Repealed by the Repealing and Amending Act, 1914 (Act No. X of 1914).*]

THE FIRST SCHEDULE

(See sections 35 and 37)

Court of

To the officer in charge of the..... (*state name of prison*). You are hereby required to produce, now a prisoner in....., under safe and sure conduct before the Court of aton theday ofnext by of the clock in the forenoon of the same day, there to give evidence in a matter now pending before the said Court, and after the saidhas then and there given his evidence before the said Court or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the prison.

The day of

A. B.
(Countersigned) C.D.

THE SECOND SCHEDULE

(See section 37)

Court of

To the officer in charge of the (*state name of prison*). You are hereby required to produce , now a prisoner in , under safe and sure conduct before the Court of at on the day of next by of the clock in the forenoon of the same day, there to answer a charge now pending before the said Court, and after such charge has been disposed of or the said Court has dispensed with his further attendance, cause him to be conveyed under safe and sure conduct back to the said prison.

The day of

A. B.
(Countersigned) C.D.

THE THIRD SCHEDULE. [*Repealed by the Repealing and Amending Act, 1914 (Act No. X of 1914), Section 3 and Schedule II.*]

