



LAWS OF KENYA

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## **THE PRESERVATION OF PUBLIC SECURITY ACT, CAP 57**

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**CHAPTER 57**

**PRESERVATION OF PUBLIC SECURITY ACT**

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**CHAPTER 57****PRESERVATION OF PUBLIC SECURITY ACT**

[Date of assent: 8th January, 1960.]

[Date of commencement: 11th January, 1960.]

**An Act of Parliament to make provision for the preservation of public security**

[L.N. 2/1964, Act No. 18 of 1966, L.N. 766/1963, Act No. 10 of 1997.]

**PART I – PRELIMINARY****1. Short title**

This Act may be cited as the Preservation of Public Security Act.

**2. Interpretation**

In this Act, “**the preservation of public security**” includes—

- (a) the defence of the territory and people of Kenya;
- (b) the securing of the fundamental rights and freedoms of the individual;
- (c) the securing of the safety of persons and property;
- (d) the prevention and suppression of rebellion, mutiny, violence, intimidation, disorder and crime, and unlawful attempts and conspiracies to overthrow the Government or the Constitution;
- (e) the maintenance of the administration of justice;
- (f) the provision of a sufficiency of the supplies and services essential to the life and well-being of the community, their equitable distribution and availability at fair prices; and
- (g) the provision of administrative and remedial measures during periods of actual or apprehensible national danger or calamity, or in consequence of any disaster or destruction arising from natural causes.

[Act No. 18 of 1966, Second Sch.]

**PART II – PUBLIC SECURITY MEASURES****3. Public security regulations**

(1) If at any time it appears to the President that it is necessary for the preservation of public security to do so, he may by notice published in the *Gazette* declare that the provisions this Part of this Act shall come into operation in Kenya or in any part thereof.

(2) Where a notice under subsection (1) of this section has been published, and so long as the notice is in force, it shall be lawful for the President, to the extent to which the provisions of this Act is brought into operation, and subject to the provisions of the Constitution, to make regulations for the preservation of public security.

(3) Subject to the provisions of this section, regulations made under this Part of this Act may make provision for any of the matters specified in section 4(2):

Provided that subject to subsection (4) of this section such regulations shall not make any provision which—

- (a) is inconsistent with or in contravention of section 16 of the Constitution (which protects the right to personal liberty), or section 26 of the Constitution (which provides protection from discrimination), or any other provision of the Constitution; or
- (b) purports to amend, modify, or suspend the operation of, any written law other than regulations made under this Act.

(4) The proviso to subsection (3) of this section shall not apply during any period when Kenya is at war or to any regulations in so far as they apply to the parts of Kenya to which section 19 of the Kenya Independence Order in Council applies.

(5) Subject to subsection (3) of this section, any notice published under this section may limit the power to make regulations to such of the matters specified in section 4(2) as the President may specify in the notice of this Act.

(6) A notice published under this section may at any time be revoked by the President by a notice published in the *Gazette*.

[Act No. 18 of 1966, Second Sch, L.N. 766/1963, s. 2.]

### PART III – SPECIAL PUBLIC SECURITY MEASURES

#### 4. Special public security regulations

(1) Where an order under section 29 of the Constitution (which relates to the bringing into operation of this Part of this Act) has been made by the President, and so long as the order is in force, it shall be lawful for the President, to the extent to which the provisions of this Part is brought into operation and subject to the provisions of Constitution, to make regulations for the preservation of public security.

(2) Regulations for the preservation of public security may make provision for—

- (a) *deleted by Act No. 10 of 1997, Third Sch;*
- (b) the registration, restriction of movement (into, out of or within Kenya), and compulsory movement of persons, including the imposition of curfews:  
Provided that no person shall be restricted on account of his political beliefs or activities;
- (c) the control of aliens, including the removal of diplomatic privileges;
- (d) the censorship, control or prohibition of the communication of any information, or of any means of communicating or of recording ideas or information, including any publication or document, and the prevention of the dissemination of false reports;
- (e) the control or prohibition of any procession, assembly, meeting, association or society;
- (f) the control or prohibition of the acquisition, possession, disposition or use of any movable or immovable property or undertaking;

- (g) the compulsory acquisition, requisitioning, control or disposition of any movable or immovable property or any undertaking;
- (h) requiring persons to do work or render services, including the direction of labour and supplies, the conscription of persons into any of the disciplined forces (including the National Youth Service) and the billeting of persons;
- (i) the control and regulation of harbours, ports and the movement of vessels;
- (j) the control and regulation of transport by land, air or water;
- (k) the control of trading and of the prices of goods and services, including the regulation of the exportation, importation, production, manufacture or use of any property or thing;
- (l) amending, applying with or without modification or suspending the operation of any law (including legislation of the East African Common Services Organization) other than this Act or the Constitution;
- (m) any matter, not being a matter specified in any of the foregoing paragraphs of this subsection, for which provision is necessary or expedient for the preservation of public security.

[Act No. 18 of 1966, Second Sch, Act No. 10 of 1997, Third Sch.]

#### PART IV – GENERAL PROVISIONS

##### 5. Interpretation and application of Part IV

In this Part of this Act “**subsidiary legislation**” means any regulations made under this Act and any rule or order made under such regulations, and this Part of this Act shall apply to any such subsidiary legislation.

[Act No. 18 of 1966, Second Sch.]

##### 6. Subsidiary legislation to be laid before Parliament

(1) All subsidiary legislation shall be laid before each House of the National Assembly as soon as may be after it is made, and, if each House of the Assembly within the period of twenty days commencing with the day on which the Assembly first sits after the subsidiary legislation is laid before that House, resolves that it be annulled, it shall cease to have effect.

(2) Subsection (1) of this section shall not apply to any subsidiary legislation of which a draft has been laid before both Houses of the National Assembly and approved by resolution of both Houses before it was made.

[Act No. 18 of 1966, Second Sch.]

##### 7. Miscellaneous provisions relating to subsidiary legislation

(1) Subsidiary legislation may—

- (a) be made to apply to Kenya generally or to any part thereof, to any ship or aircraft in or over Kenya, to any Kenyan ship or aircraft wherever it may be, and to any person on board any such ship or aircraft;
- (b) make different provisions with respect to different cases or classes of case and for different purposes of this Act, and, subject to the Constitution, may make different provisions with respect to different classes or descriptions of persons.

(2) Regulations made under this Act may—

- (a) make provision for the apprehension and punishment of persons offending against the regulations, for the imposition of penalties (including the penalty of death and the forfeiture of any property connected in any way with any offence) exceeding those otherwise permitted by law to be imposed by regulations, and for the trial of such offenders by such courts, not being courts martial, and in accordance with such procedure as may be provided for by the regulations, and for the proceedings of such courts to be subject to such review as may be provided for, so, however that provision shall be made for such proceedings being reviewed by not less than two persons who hold or have held high judicial office, in all cases in which sentence of death is passed, and in such other circumstances as may be provided by the regulations;
- (b) authorize the search of persons and the entering and search of any premises, vessel, vehicle or aircraft;
- (c) provide for the payment of compensation and remuneration to persons affected by the regulations;
- (d) provide for charging in respect of the grant or issue of any licence, permit, certificate or other document for the purposes of the regulations, such fee as may be prescribed by or under the regulations;
- (e) provide for the formation of tribunals and other bodies for the purpose of deciding such matters as may be specified in the regulations (but having no powers to inflict penalties);
- (f) provide for empowering such authorities or persons as may be specified in the regulations to make orders and rules for any of the purposes for which such regulations are authorized by this Act to be made;
- (g) contain such incidental and supplementary provisions as appear to the President to be necessary or expedient for the purposes of the regulations.

(3) Subsidiary legislation shall have effect notwithstanding anything inconsistent therewith contained in any law (including any law of the East African Services Organization) other than this Act or the Constitution, and any provision of any such law which may be inconsistent with any subsidiary legislation shall, whether that provision has or has not been amended, modified or suspended in its operation by any subsidiary legislation, to the extent of the inconsistency having no effect so long as such subsidiary legislation remains in force.

(4) The expiry or revocation of any subsidiary legislation shall be without prejudice to anything previously done thereunder or to the making of new subsidiary legislation.

[Act No. 18 of 1966, Second Sch.]

## **8. Proof of instruments**

(1) Every document purporting to be an instrument made or issued by the President or by any Minister or other authority or person in pursuance of any provision contained in, or having effect under, this Act, and purporting to be

signed by or on behalf of the President, said the Minister, authority or person, shall be received in evidence and shall, until the contrary is proved, be deemed to be an instrument made or issued by the President, or by that Minister, authority or person.

(2) *Prima facie* evidence of any such instrument as is referred to in subsection (1) may, in any legal proceedings, be given by the production of a document purporting to be certified to be a true copy of the instrument by, or on behalf of, the President, the Minister or other authority or person having power to make or issue the instrument.

[Act No. 18 of 1966, Second Sch.]

## **9. Expenses**

There shall be defrayed out of moneys provided by Parliament any expenses incurred by the Government in consequence of the passing of this Act, and any increase attributable to the passing of this Act, in any sums authorized or required by any other written law to be paid out of moneys provided by Parliament.

[Act No. 18 of 1966, Second Sch.]

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**CHAPTER 57**

**PRESERVATION OF PUBLIC SECURITY ACT**

SUBSIDIARY LEGISLATION

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*List of Subsidiary Legislation*

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**DECLARATION UNDER SECTION 3**

[L.N. 263/1966.]

In exercise of the powers conferred by section 3 of the Preservation of Public Security Act, the President hereby declares that the provisions of Part II of the Act has come into operation in Kenya.

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**PUBLIC SECURITY (ARMED FORCES) REGULATIONS, 1966**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation.
  2. Members of armed forces may be given powers of police officers.
-

[Subsidiary]

**PUBLIC SECURITY (ARMED FORCES) REGULATIONS**

[L.N. 265/1966.]

**1. Citation**

These Regulations may be cited as the Public Security (Armed Forces) Regulations, 1966.

**2. Members of armed forces may be given powers of police officers**

(1) Where the Minister is of the opinion that it is desirable for the preservation of public security to do so, he may, by order, order that every member of the military, air and naval forces of Kenya shall, while he is in any specified area, have all the powers, protections and privileges of a police officer.

(2) An order under subsection (1) of this regulation shall be published in the *Gazette* as soon as practicable after it has been made, but shall come into operation as soon as it has been made notwithstanding that it has not been so published.

**3. Continuation and revocation of L.N. 702/1963**

(1) Notwithstanding that section 3 (as originally enacted) of the Act was replaced, by the Constitution of Kenya (Amendment) (No. 3) Act 1966, by a new section which did not immediately come into operation, the Preservation of Public Security (Performance of Police Duties by King's African Rifles) Regulations 1963 shall be deemed to have continued in full force and effect from and after the date of such replacement.

(2) The Preservation of Public Security (Performance of Police Duties By King's African Rifles) Regulations 1963 are revoked.

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**PUBLIC SECURITY (ARMED FORCES) ORDER, 1966**

[L.N. 266/1966.]

ORDERS UNDER REGULATION 2(1) OF THE REGULATIONS

1. This Order may be cited as the Public Security (Armed Forces) Order, 1966.
2. It is hereby ordered that every member of the military, naval and air forces of Kenya shall, while in any of the areas specified in the Schedule to this Order, have all the powers, protections and privileges of a police officer.

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SCHEDULE

1. The North-Eastern Province.
  2. The Isiolo, Marsabit and Meru Districts.
  3. The Tana River and Lamu Districts, and so much of the Coast Province as lies north of the Galani/Sabaki River.
  4. The Samburu and Laikipia Districts.
  5. The territorial waters, not including the inland waters.
-



**PUBLIC SECURITY (CONTROL OF MOVEMENT) REGULATIONS, 1967**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation.
2. Interpretation.
3. Movement control orders.
4. Additional contents of movement control order.
5. Families.
6. Duration of movement control order.
7. Effect of movement control order.
8. Contravention of movement control order.
9. Removal of persons.
10. Obstruction.
11. Effect on other laws.
12. Penalty.
13. Offences cognizable.

SCHEDULE

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[Subsidiary]

**PUBLIC SECURITY (CONTROL OF MOVEMENT) REGULATIONS, 1967**

[L.N. 43/1967.]

## REGULATIONS UNDER SECTIONS 3 AND 4

**1. Citation**

These Regulations may be cited as the Public Security (Control of Movement) Regulations, 1967.

**2. Interpretation**

In these Regulations—

“**movement control order**” means an order made under regulation 3 of these Regulations;

“**the specified tribes**” means the tribes named in the Schedule to these Regulations.

**3. Movement control orders**

The Minister or any person authorized by him in writing to act under this regulation may, if he considers it expedient for the preservation of public security so to do, by order direct that all members of any one or more of the specified tribes living in any particular area shall do all or any of the following things, that is to say—

- (a) within a specified period move from the area in which they are living to such other area as may be specified in the order;
- (b) remain within the limits of such area as may be specified in the order;
- (c) live in such part (hereafter in these Regulations referred to as a residential part) of the area specified in the order, and remain in such part during such hours or at such times as may be specified in the order.

**4. Additional contents of movement control order**

A movement control order may—

- (a) provide for any absolute or conditional exemptions from the operation of the order or any part thereof;
- (b) contain such conditions regarding reporting to the police or otherwise as the person making the movement control order may deem expedient;
- (c) such incidental and supplementary matters as the person making the order may deem expedient.

**5. Families**

Where a movement control order applies to any person, it shall also apply to his family residing with him, unless the order otherwise expressly provides.

**6. Duration of movement control order**

A movement control order shall be effective for such period as may be specified therein or, if no period is so specified, until it is revoked.

**7. Effect of movement control order**

So long as the movement control order is effective, no person affected thereby shall—

- (a) leave or be outside the area to which he has been ordered to move, or as the case may be, in which he has been ordered to remain;

[Subsidiary]

- (b) if required thereby to live in a residential part, live elsewhere; or
- (c) if required thereby to remain in a residential part during specified hours or at specified times, leave or be outside such residential part during such hours or at any such time,

save under and in accordance with the conditions of a permit in writing issued by the Minister or any person authorized by him in writing in that behalf.

#### **8. Contravention of movement control order**

Any person to whom a movement control order applies and who—

- (a) fails to comply with the order; or
- (b) contravenes any condition contained in the order; or
- (c) contravenes regulation 7 of these Regulations,

shall be guilty of an offence.

#### **9. Removal of persons**

Any person to whom a movement control order applies and who is at any time outside any area, or is outside a residential part of any area, specified in the order, in contravention of regulation 7 of these Regulations, may be removed to such area or such residential part, as the case may be, by any administrative officer or police officer, and for the purpose of effecting such removal any such officer as aforesaid may detain such person in custody during such removal and for such period as may be necessary to make arrangements for such removal, and may use such force as may be reasonably necessary.

#### **10. Obstruction**

Any person who resists or obstructs any administrative officer or police officer in the exercise of his powers under these Regulations or evades or attempts to evade removal under regulation 9 of these Regulations shall be guilty of an offence.

#### **11. Effect on other laws**

These Regulations and any movement control order made thereunder shall have effect notwithstanding anything to the contrary contained in any other law for the time being in force, and notwithstanding any rights or obligations under any contract to which any person affected by a movement order is a party:

Provided that, where a person affected by a movement order is employed under a subsisting contract of service and as a result of compliance with the movement order is deprived of the benefit of such contract, he shall be entitled to such compensation from the Government as the Minister or any person authorized by him in writing in that behalf may determine to be reasonable, not exceeding the amount which he would (if he had, on the date on which he was deprived of the benefit of the contract, received due notice from his employer to terminate the contract) have earned as wages in cash in such employment during the period of such notice.

#### **12. Penalty**

Any person who is guilty of an offence under these Regulations shall be liable to imprisonment for a term not exceeding two years.

#### **13. Offences cognisable**

Offences under these Regulations shall be cognizable.

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*Preservation of Public Security*

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[Subsidiary]

## SCHEDULE

Gurreh.	Adjuran.	Boran.
Murulle.	Degodia.	Sakuye.
Degodia.	Ogaden.	
Leisan.		
Ashraf.	Rendille.	Isaak.
Shebelleh.	Gabra.	Herti.
Sheikal.	Boran.	
Shermoge.	Burji.	Aulihan.
Warabeya.	Konso.	Adb Wak.
Garabeya.	Sakuye.	Abdulla.
Gurreh Murreh.		

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**PUBLIC SECURITY (MERU) REGULATIONS, 1967**

[L.N. 65/1967.]

1. These Regulations may be cited as the Public Security (Meru) Regulations, 1967.
2. Without prejudice to their present application, the North-Eastern Province and Contiguous Districts Regulations 1966 shall apply to the area described in the Schedule to these Regulations as though—
  - (a) there were substituted for the definition of “prescribed area” a new definition as follows—

**“prescribed area”** means the area described in the Schedule to the Public Security (Meru) Regulations 1967;
  - (b) Part III thereof were deleted.

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**SCHEDULE**

An area of land situated in the northernmost part of Meru District, containing approximately 84,430 acres and known as the Meru Concessional Area, the boundaries of which, commencing at a point on the common district boundary of the Isiolo District and the Meru District, at a point where the eastern boundary of the former Isiolo Township intersects the southern side of the main Isiolo-Wajir road;

runs thence northerly and westerly along that district boundary and along the eastern boundary and part of the northern boundary of the former Isiolo Township to the intersection of the latter with the Isiolo River;

thence, continuing along that district boundary, downstream by the centre course of the Isiolo River for a distance of approximately 5 1/2 miles to the old K.A.R. Wagon Camp (geographical co-ordinates approximately 37-35' E., 0-29' N.);

thence, continuing along that district boundary, north-easterly by a straight line to trigonometrical beacon Shaba (SKP. 230) on the southern of the two principal summits of Shaba Hill;

thence, approximately southerly by a straight line to a beacon Shaba Dogo on the Hill of that name and continuing approximately southerly to the main Isiolo-Wajir road at a point twenty miles from Isiolo;

thence, south-westerly along the southern side of that road to its intersection with the eastern boundary of the former Isiolo Township, the point of commencement.

The above boundaries are more particularly delineated and edged in red on Boundary Plan No. 179/86, which is signed, sealed with the seal of Survey of Kenya and deposited in Survey Records Office, Survey of Kenya, Nairobi.



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**PUBLIC SECURITY (DETAINED AND RESTRICTED PERSONS) REGULATIONS,  
1978**

ARRANGEMENT OF REGULATIONS

PART I – PRELIMINARY

*Regulation*

1. Citation.
2. Interpretation.

PART II – RESTRICTED PERSONS

3. Power to make restriction orders.
4. Conditions in restriction orders.
5. Permit to leave area of restriction.

PART III – DETAINED PERSONS

6. Power to make detention orders.
7. Permit to leave place of detention.

PART IV – REVIEW TRIBUNAL

8. Establishment of Review Tribunal.
9. Authentication of reports of Tribunal.

PART V – SUPPLEMENTAL

10. Delivery of order and of statement of grounds thereof.
  11. Responsibilities of security officer.
  12. Records of restricted persons and detained persons.
  13. Removal of orders.
  14. Removal in custody.
  15. Offences.
  16. Powers of arrest and search.
  17. Rules.
-

[Subsidiary]

**PUBLIC SECURITY (DETAINED AND RESTRICTED PERSONS)  
REGULATIONS, 1978**

[L.N. 234/1978, L.N. 206/1986.]

## PART I – PRELIMINARY

**1. Citation**

These Regulations may be cited as the Public Security (Detained and Restricted Persons) Regulations, 1978, and shall be deemed to come into operation on the 17<sup>th</sup> October, 1978.

**2. Interpretation**

In these Regulations—

“**area of restriction**” means any area specified in a restriction order as the area within which a restricted person shall reside;

“**committee of inspection**” means a committee of inspection for inspecting areas of restriction or place of detention or both established under rules made under these Regulations;

“**detained person**” means a person in respect of whom a detention order is in force;

“**detection order**” means an order made under regulation 6 of those Regulations;

“**place of detention**” means—

- (a) a part of a prison set aside by the Commissioner of Prisons as a place of detention for the purposes of these Regulations; or
- (b) such place, other than a prison or a part of a prison, as the Minister may, by notice in the *Gazette*, declare to be a place of detention for the purposes of these Regulations;

“**police officer**” includes an administration police officer;

“**prison**” means a prison within the meaning of the Prisons Act (Cap. 90);

“**removal order**” means an order for the removal of a person, made under regulation 13 of these Regulations;

“**restricted person**” means a person in respect of whom a restriction order is in force;

“**restriction order**” means an order made under regulation 3 of these Regulations;

“**security officer**” means a public officer appointed by the Minister to be the security officer for the purposes of these Regulations, and includes any public officer from time to time deputed by the Minister to exercise the functions and perform the duties of that office;

“**the Tribunal**” means the Review Tribunal established by regulation 8 of these Regulations.

## PART II – RESTRICTED PERSONS

**3. Power to make restriction orders**

(1) If the Minister is satisfied that it is necessary for the preservation of public security to exercise control over the residence and movement of any person, he may order that such person shall reside in the area therein specified, or in any place to which he may be ordered by a removal order to remove or be removed, in accordance with and subject to such conditions as may be specified in the order.

[Subsidiary]

(2) Where a restriction order has been made in respect of any person, that person shall forthwith remove or be removed to the area specified as aforesaid (if not already, at the date of the order, within such area), and shall reside in the area so specified, or in any such place as aforesaid, in accordance with and subject to the provisions of these Regulations and such conditions as aforesaid, for so long as the order continues in force.

(3) The Minister may at any time vary or revoke a restriction order.

#### 4. Conditions in restriction orders

Without prejudice to the generality of regulation 3 of these Regulations, the conditions specified in a restriction order made in respect of any person may—

- (a) prohibit, restrict or control the possession, use, acquisition or disposal by him of any specified movable property;
- (b) restrict his association or communication with other persons, and the receipt and dispatch by him of postal, telegraphic and other communications;
- (c) require him to reside in a particular house or building within the area to which he is restricted, and to remain in such house or building during such hours of darkness as may be specified in the order;
- (d) prohibit or restrict his movement or presence within or without the area to which he is restricted, or any part thereof;
- (e) require him to report at specified intervals to a specified authority.

#### 5. Permit to leave area of restriction

(1) The Minister may, at his discretion, issue to a restricted person a permit to leave temporarily the area to which he is restricted, subject to such conditions as he may think fit to impose, and such conditions shall be specified in the permit.

(2) Without prejudice to the generality of subparagraph (1) of this Regulation, a permit issued under this regulation may direct that the restricted person shall, during the whole or any specified part of the period of his absence from the area—

- (a) remain in police or prison custody; or
- (b) be accompanied by and comply with the directions of such person, or report himself at such times or intervals, at such places and to such persons, as may be specified in the permit.

(3) A permit issued under this regulation shall specify the purpose for which it is issued and the period during which the restricted person is thereby authorized to remain outside the said area.

(4) Particulars of every permit issued under this regulation shall be forthwith sent to the security officer.

(5) Upon a permit expiring or being revoked by the Minister, the restricted person shall forthwith become subject to all the terms of the restriction order.

### PART III – DETAINED PERSONS

#### 6. Power to make detention orders

(1) If the Minister is satisfied that it is necessary for the preservation of public security to exercise control, beyond that afforded by a restriction order, over any person, he may order that that person shall be detained.

(2) Where a detention order has been made in respect of any person, that person shall be detained in a place of detention in accordance with these Regulations, for as long as the detention order is in force, and, while so detained, shall be deemed to be in lawful custody.

**[Subsidiary]**

(3) The Minister may at any time revoke a detention order.

**7. Permit to leave place of detention**

(1) The Minister may, at his discretion, issue to a detained person a permit to leave the place of detention for a fixed period until the permit is revoked by the Minister in writing, subject to such conditions as he may think fit to impose, and such conditions shall be specified in the permit.

(2) The provisions of regulation 5 of these Regulations shall apply *mutatis mutandis* to a permit issued under this Regulation and to a detained person as they apply to a permit issued under that regulation and a restricted person.

**PART IV – REVIEW TRIBUNAL****8. Establishment of Review Tribunal**

(1) There is hereby established a tribunal, called the Review Tribunal, which shall be the tribunal for reviewing and making recommendations on the cases of restricted persons under section 81(4) and (5) and on the cases of detained persons under section 83(2) and (3) of the Constitution of Kenya.

(2) The Tribunal shall consist of the following persons appointed by the President—

- (a) one member, being a person who is qualified to be appointed as a judge of the High Court;
- (b) one member, being a person who is or has been a magistrate empowered to hold a subordinate court of the first class; and
- (c) not less than two, and not more than four, other members.

(3) The Tribunal shall be presided over by the member appointed under paragraph (2)(a) of this regulation, or in his absence, the member appointed under paragraph (2)(b) of this regulation:

Provided that in the event of any of the members referred to in this paragraph being absent from any meeting of the Tribunal, the members present at that meeting shall elect one of their number who is an advocate to be the presiding member for the purposes of that meeting.

(4) The Minister shall appoint a public officer to be secretary of the Tribunal.

(5) A quorum of the Tribunal shall be the presiding member and two other members.

(6) A decision of the Tribunal shall be made by a majority of the votes of the members present and voting, and, in the event of any equality of votes, the presiding member shall have and exercise a casting vote in addition to his original vote.

(7) Sittings of the Tribunal shall be convened by the presiding member as necessary.

(8) Subject to paragraph (5), the Tribunal shall not be disqualified for the transaction of any business by reason of any vacancy among the members thereof.

(9) Without prejudice to section 83(2)(d) and (e) of the Constitution of Kenya, a restricted person or detained person shall have the right to make written submissions to the Tribunal and, if he so desires, to be heard in person by the Tribunal when his case is under consideration; and the Tribunal may, if it so sees fit, require the attendance before it of any such person whose case is under consideration.

(10) Subject to the provisions of this regulation, the Tribunal shall determine its own procedure, and shall not be bound by the law of evidence or procedure applicable in legal proceedings, whether civil or criminal, and in particular shall not be required to admit the public to its proceedings.

[Subsidiary]

(11) Every member of the Tribunal, in and in relation to the discharge of his functions, shall be deemed to be a public officer and shall have the like privileges, protections and immunities as are by law conferred upon a judge in and in relation to the execution of his office.

(12) The members of the Tribunal shall be paid such expenses and allowances as the Minister, in consultation with the Treasury, may authorize.

[L.N. 206/1986, s. 2.]

### **9. Authentication of reports of Tribunal**

Every recommendation made by the Tribunal to the Minister under section 81(5) or 83(3) of the Constitution of Kenya shall be signed by each member of the Tribunal participating in the recommendation, and, where any such member dissents from the recommendation or any part thereof, such dissent, the extent thereof and the reasons therefore shall be recorded in the recommendation by the dissenting member.

## PART V – SUPPLEMENTAL

### **10. Delivery of order and of statement of grounds thereof**

(1) Where a restriction order or detention order is made in respect of any person, the security officer shall, as soon as reasonably practicable and in any case not more than five days after commencement of his restriction or detention, cause a copy thereof to be delivered to such person, together with a statement in writing in a language that he understands specifying in detail the grounds upon which he is restricted or detained, and of the provisions of section 81(4) and (5), or section 83(2) and (3), as the case may be, of the Constitution concerning review.

(2) Nothing in this regulation shall be construed as requiring the security officer or any other public officer, unless thereunto authorized or directed by the Minister, to disclose any fact, information or document the disclosure of which, in the opinion of the security officer or, as the case may be, of such other public officer would be likely to prejudice the preservation of public security or would otherwise be contrary to the public interest.

### **11. Responsibilities of security officer**

The security officer shall be responsible for—

- (a) the general control and administration of all areas of restriction;
- (b) the security and proper treatment of all restricted persons.

### **12. Records of restricted persons and detained persons**

(1) The security officer shall maintain or cause to be maintained a record in respect of every restricted person and every detained person, containing—

- (a) the name, photograph and fingerprints or palmprints, and such other particulars, of the person as the security officer shall determine;
- (b) a copy of the restriction order or detention order made in respect of such person, and particulars, with dates, of any variation or revocation thereof, and of any permit issued in respect thereof;
- (c) the date and result of every review of the order;
- (d) such other particulars, documents or copies, if any, as the security officer shall determine.

(2) It shall be lawful for any administrative officer, police officer or prison officer to search, and to take or cause to be taken the fingerprints, palmprints or photograph of any



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restricted person and any detained person, and to use or cause to be used such force as may be reasonably necessary for that purpose, and any prints and photographs so taken shall be recorded in such manner as the security officer may direct.

**13. Removal of orders**

(1) (a) The Minister or the security officer may at any time order the removal of a restricted person from the area of restriction to which he is for the time being restricted to another area of restriction.

(b) The Commissioner of Prisons may at any time order the removal of a detained person from the place of detention in which he is for the time being detained to another place of detention.

(2) A medical officer, if he is of opinion that a restricted person or a detained person—

(a) by reason of illness or leprosy should be removed to a hospital or leprosarium; or

(b) by reason of unsoundness of mind should be removed to a mental hospital,

may order that restricted person or detained person to be removed to a hospital, leprosarium or mental hospital, as the case may be, and thereupon such restricted person or detained person shall be removed to that hospital, leprosarium or mental hospital and detained there until another removal order is made in respect of him.

(3) Where a restricted person or detained person is detained in a hospital, leprosarium or mental hospital under paragraph (2) of this regulation, a medical officer, if of opinion that further detention in the institution is not required, may order that the person shall be removed to his area of restriction or to a place of detention as the case may be, if he is still liable to be restricted or detained, and if he is not so liable he shall be released.

(4) Where a detained person is detained in a hospital, leprosarium or mental hospital under paragraph (2) of this regulation, he shall be deemed to be in the lawful custody of the superintendent of the institution.

**14. Removal in custody**

Where any person is, by or under these Regulations, ordered to remove or be removed or to remain or be detained in any place or area, then, if at any time while that order remains effective that person is outside that place or area otherwise than under and in accordance with the terms and conditions of a permit issued under these Regulations, he shall forthwith remove to that place or area, and may be removed thereto in custody by any administrative officer, police officer or prison officer, and, for the purpose of effecting such removal, any such officer as aforesaid may keep such person in custody in such place and for such period as may be necessary to make arrangements for such removal, and may use such force as may be reasonably necessary; and any such person while so kept in custody shall be deemed to be in lawful custody.

**15. Offences**

Any person who—

(a) evades or attempts to evade, or forcibly resists, removal to any place or area in pursuance of these Regulations or of any order thereunder, or attempts to leave or escape from lawful custody during the course of such removal; or

(b) otherwise than under and in accordance with the terms and conditions of permit issued under these Regulations, at any time leaves or attempts to leave or is outside any place or area in which he is for the time being required, by these regulations or by any order or direction thereunder, to remain; or

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- (c) wilfully contravenes or fails or neglects to comply with any of the provisions, terms or conditions of any order, direction or permit made, given or issued under these Regulations; or
- (d) wilfully shows disrespect, in speech or manner, to the Tribunal or to any committee of inspection, or to any member of the Tribunal or of any such committee; or
- (e) being the holder of any permit issued under these Regulations, wilfully fails or neglects to produce it on demand to any administrative officer, police officer or prison officer; or
- (f) wilfully obstructs or resists, or knowingly misleads or impedes, any person lawfully acting in the execution of any duty imposed, or in the exercise of any power conferred, by or under these Regulations; or
- (g) conceals or harbours any person whom he knows or has reason to believe to be unlawfully outside any place or area which such person is, by or under these Regulations, prohibited from leaving or in which he is required to remain; or
- (h) knowingly does any act calculated to prejudice the maintenance of peace and good order in any area of restriction;
- (i) conceals or harbours any person whom he knows or has reason to believe to be unlawfully outside any place or area which such person is, by or under these Regulations, prohibited from leaving or in which he is required to remain,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years, or to both such fine and such imprisonment.

#### **16. Powers of arrest and search**

Any administrative officer, police officer or prison officer may, without warrant, arrest any person whom he suspects on reasonable grounds of having committed an offence under these Regulations or any rules made thereunder, or search any person on whom or any place or thing in or on which he suspects on reasonable grounds that any evidence of the commission of an offence under these Regulations or any rules made thereunder may be found.

#### **17. Rules**

The Minister may make rules—

- (a) for the regulation and administration of, and for good order in places of detention, including in particular (but without prejudice to the generality of the foregoing)—
  - (i) matters affecting health, hygiene and sanitation therein;
  - (ii) the discipline of detained persons, including the provisions of discipline, not exceeding those prescribed by the Prison Rules;
  - (iii) visits and letters to detained persons, where not prejudicial to the preservation of public security;
  - (iv) the possession of articles by detained persons;
  - (v) requiring detained persons to perform work, where reasonably necessary in the interests of hygiene or for the maintenance of the place of detention;
  - (vi) the rations and diet of detained persons;

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- (b) for the good administration of areas of restriction or of any area of restriction, the well-being of persons residing therein and the preservation of peace and good order therein;
  - (c) establishing a committee of inspection for inspection of areas of restriction and places of detention and defining the committee's powers, duties and remuneration.
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**PUBLIC SECURITY (DETAINED AND RESTRICTED PERSONS) RULES, 1978**

ARRANGEMENT OF RULES

PART I – PRELIMINARY

*Rule*

1. Citation.
2. Interpretation.

PART II – APPOINTMENT AND DUTIES OF CAMP STAFF

3. Responsibility of Commissioner.
4. Appointment and general duties of officers in charge.
5. Particular duties of officer in charge.
6. Detention officers.

PART III – GENERAL PROVISIONS RESPECTING PLACES OF DETENTION

7. Work.
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9. Visit by ministers of religion.
10. Visits by police officers.
11. Access to camps.
12. Visitors.
13. Penalty for possession by visitor of certain things.
14. Articles for personal use.
15. Books and papers.
16. Prohibited articles.
17. Letters.
18. Censorship and withholding of letters.
19. Classes and library.
20. Rules for management of places of detention.
21. Communication with detained persons.
22. Use of force.
23. Use of weapons.
24. Rations.
25. Rights of a detained person.

PART IV – PUNISHMENT FOR OFFENCES

26. Punishment for minor offences.
27. Punishment for major offences.
28. Record of inquiries and punishments.
29. Punishments for second and subsequent major offences.

SCHEDULE

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[Subsidiary]

**PUBLIC SECURITY (DETAINED AND RESTRICTED PERSONS) RULES, 1978**

[L.N. 235/1978]

## RULES UNDER REGULATION 17

## PART I – PRELIMINARY

**1. Citation**

These Rules may be cited as the Public Security (Detained and Restricted Persons) Rules, 1978, and shall be deemed to have come into operation on the 17th October, 1978.

**2. Interpretation**

(1) In these Rules, unless the context otherwise requires—

“**Commissioner**” means the Commissioner of Prisons;

“**detention officer**” means an officer in charge, or any member of the Kenya Prisons Service of whatever rank;

“**major offence**” means any of the acts specified in Part II of the Schedule to these Rules;

“**minor offence**” means any of the acts specified in Part I of the Schedule to these Rules;

“**officer in charge**” means a person appointed under rule 4(1) to be in charge of a place of detention;

“**the Regulations**” means the Public Security (Detained and Restricted Persons) Regulations, 1978.

(2) Expressions used in these Rules have the same respective meanings as the same expressions have in the Regulations, except where the context otherwise requires.

## PART II – APPOINTMENT AND DUTIES OF CAMP STAFF

**3. Responsibility of Commissioner**

The Commissioner shall be responsible for the general control and administration of all places of detention and for ensuring that these Rules are complied with in regard thereto.

**4. Appointment and general duties of officers in charge**

(1) The Minister shall, in respect of every place of detention, appoint a person to be the officer in charge thereof.

(2) The officer in charge shall detain and keep in custody every detained person lawfully detained in the place of detention of which he is in charge and every detained person duly conveyed to the place of detention under the authority of a detention order or transferred to the place of detention under the authority of a removal order, until such person is lawfully discharged or removed from his custody.

(3) The officer in charge shall, subject to the control of the Commissioner, have and be responsible for the control and administration of the place of detention in respect of which he is appointed, and shall be responsible to the Commissioner for the treatment of detained persons in his custody and the conduct of detention officers under his control, and for the due observance by them of these Rules.

(4) In the case of the incapacity or absence from a place of detention of the officer in charge thereof, his powers and duties shall, unless the Commissioner in any particular case otherwise directs, be performed by the most senior detention officer present in the place of detention.

**5. Particular duties of officer in charge**

It shall be the particular duty of the officer in charge—

- (a) to inspect or cause to be inspected daily all wards, cells, yards, workshops, kitchens, latrines and other parts of the place of detention, to visit or cause to be visited daily all detained persons employed at work while so employed and as far as possible to see every detained person every day; and to record in his journal the extent (if any) to which such inspections and visits have not, on any particular day, been performed;
- (b) to ensure that there is at all times a duty officer on duty at the place of detention, who shall not leave the place of detention until properly relieved;
- (c) to take every precaution to prevent the escape of detained persons, and to ensure that all detention officers are familiar with and efficient in performing their duties in regard to preventing escapes;
- (d) to require reports to be made to him accounting for all detained persons in his custody at the daily unlock and lock-up in the place of detention, at such hours as they go to and return from work and at such other times as may be necessary;
- (e) to ensure that the cells and wards are unlocked and locked up at the proper times and that detained persons go to and return from their work in an orderly manner under proper escorts;
- (f) at least twice a week to visit every part of the place of detention at some hour of the night between the hours of 11 p.m. and 5 a.m., and record the visits in his journal and the hour thereof and the condition of the place of detention;
- (g) without delay, to call the attention of the medical officer to any detained person whose state of mind or body appears to require attention, and carry into effect any written directions of the medical officer requiring the alteration of the discipline, treatment, diet or work of the detained person;
- (h) to supply the medical officer daily with a list of the detained persons under punishment for offences under these Rules;
- (i) without delay to notify the medical officer in writing of the illness of any detention officer or detained person and to supply him daily with a list of the detained persons who have reported sick;
- (j) to visit the hospital or sick bay in the place of detention daily and see all detained persons therein, and to ensure that proper arrangements exist for the safe custody of the sick detained persons and those persons employed on hospital duties;
- (k) upon the death of any detained person immediately to give notice in writing to the Commissioner and to the nearest magistrate empowered to hold inquests, and to report to the Commissioner the finding and other facts and circumstances which may be disclosed at any inquest held on a detained person;
- (l) to cause all his orders respecting the administration, discipline and security of the place of detention to be communicated to the detention officers concerned therewith, and to record all such orders in the officer in charge's order book;
- (m) to hear application from detained persons daily at such hour as may be most convenient;

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- (n) to ensure that a detained person having a complaint or request to make shall have adequate facilities for doing so, and to redress any legitimate grievance or to take such steps in relation thereto as may be requisite; and to enter particulars of every such complaint or request, together with his decision thereon, in the complaints and requests book;
- (o) to forward to the Commissioner any complaint against a detention officer which he is not competent or willing to deal with, together with any explanation which the officer may have made;
- (p) to ensure that every detained person undergoing cellular punishment for an offence is under constant supervision of a detention officer;
- (q) to attend every infliction of corporal punishment in the place of detention, to ensure that such punishment has been awarded and is administered in accordance with the law and to record the same and any special circumstances connected with it in his journal;
- (r) to report to the Commissioner every occasion on which he punishes a detention officer, stating the nature of the offence and the punishment awarded;
- (s) to ensure that all detention officers under him maintain proper discipline among themselves and in relation to the detained persons, and that they maintain and wear their clothing in a clean and proper manner and condition;
- (t) to keep a journal, to enter therein the number of detained persons daily unlocked and locked up, and matters of importance which have occurred during the day, and any omission of duty and the reason for such omission;
- (u) to keep safely and look after all stores, furniture, tools, clothing, arms and ammunition kept in his place of detention; and to keep proper records and accounts in relation thereto;
- (v) to keep the following records, unless the Commissioner otherwise direct—
  - (i) admission register;
  - (ii) ration register;
  - (iii) lock-up register;
  - (iv) discharge register;
  - (v) working party register;
  - (vi) equipment register;
  - (vii) staff duty rosters;
  - (viii) detained persons and staff punishment books;
  - (ix) weight book;
  - (x) medical officer's day book;
  - (xi) register of deaths;
  - (xii) cash book;
  - (xiii) visitor's book;
  - (xiv) inventory of detained persons' effects;
  - (xv) withheld letters book;
  - (xvi) journal of officer in charge;
  - (xvii) officer in charge's order book;
  - (xviii) complaints and requests book;
  - (xix) record of inquiries and punishments;

- (xx) alarm and riot orders;
- (xxi) fire orders;
- (xxii) search book;
- (xxiii) detained persons record;
- (w) to be responsible for the safe custody of all records, orders and other documents committed to his care and of all money, clothing and other property taken from detained persons;
- (x) to take every precaution to ensure the maximum security of detained persons, with particular reference to the physical condition of the place of detention, adequacy of guards and staff on duty, lighting, alarm system and orders, riot drill and other relevant matters;
- (y) to take such steps as he may consider necessary or desirable with respect to the segregation of the various classes of detained persons in the place of detention;
- (z) on his discovering any deficiency in regard to the quality, quantity or kind of food, to take such steps in the matter as may be necessary.

**6. Detention officers**

(1) The Commissioner shall make available such number of detention officers as he thinks necessary to ensure the safe custody of detained persons in places of detention and for the control and proper governance and administration of places of detention.

(2) It shall be the duty of detention officers to do all things that are necessary for preventing detained persons from escaping and for maintaining good order in the place of detention, and for ensuring that these Rules are observed as far as it is within their competence to do so.

PART III – GENERAL PROVISIONS RESPECTING PLACES OF DETENTION

**7. Work**

(1) The officer in charge may require detained persons to do such work as he considers necessary for the purpose of keeping their accommodation, furniture and utensils clean and of maintaining the place of detention in good order and in a clean condition.

(2) (a) Every detained person in a place of detention may volunteer to work on work approved by the Commissioner.

(b) The total hours of work in such cases shall not exceed eight in any one day.

(c) A detained person who volunteers to work shall be eligible to participate in an earnings scheme as provided for in rule 19 of the Prisons Rules (Cap. 90, Sub. Leg) and shall be placed in a progressive stage system of privileges as authorized by the Commissioner.

(3) A detained person shall not be required to do work before he has eaten his morning meal, nor if he is on a penal diet.

**8. Prevention of disease**

A medical officer may take, or order the taking of, such steps, including the compulsory inoculation or vaccination of detained persons, as he considers necessary to avoid the spread of any disease or infection in or from any place of detention.



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**9. Visit by ministers of religion**

Ministers of religion shall be admitted to the place of detention at proper and reasonable times to visit detained persons who wish to see them, at such hours and at such places as the officer in charge may allow, in the sight and hearing of a detention officer.

**10. Visits by police officers**

A police officer may, with the approval of the officer in charge and on production of an order in writing from a police officer not below the rank of Sub-Inspector, visit a detained person in the sight and hearing of a detention officer.

**11. Access to camps**

Subject to rules 9 and 10 of these Rules no person shall be permitted to enter or be within the limits of any place of detention except detained persons, detention officers and those persons (hereinafter referred to as visitors) who have been authorized in writing by the Commissioner or by the officer in charge to enter.

**12. Visitors**

(1) No visitor shall converse or hold any intercourse with a detained person in a place of detention unless his written authority expressly permits him to visit that particular detained person.

(2) Every visitor shall, unless the officer in charge in writing exempts him wholly or in part from this requirements, during the whole of his visit be kept within the sight and hearing of the officer in charge or a detention officer appointed by him for the purpose, and where such officer does not understand the language spoken, of an interpreter.

**13. Penalty for possession by visitor of certain things**

(1) If anything is found as a result of a search under rule 12 of these Rules which is prohibited or which, in the opinion of the officer in charge, is likely to be dangerous to the life or health of any detained person or to facilitate escape from the place of detention, he may impound such thing, and the person in whose possession it is found shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and such imprisonment.

(2) Where any person is convicted of an offence under paragraph (1) of this rule, the court may, in addition to imposing any of the penalties therein provided, direct that the thing so impounded be forfeited.

(3) The officer in charge shall cause to be entered in the visitor's book the name and address of every person presenting himself for admission to the place of detention as a visitor, and he, and any detention officer, may at any time demand the name and address of a visitor or intending visitor.

(4) Where a detention officer has reason to suspect that a visitor or person presenting himself for admission to the place of detention as a visitor is carrying or has about his person anything the possession of which in a place of detention is prohibited, or which is likely to be dangerous to the life or health of any person in the place of detention or to facilitate escape from the place of detention, he may search such visitor or cause him to be searched, but no detained person or other visitors shall be present during the search, nor shall any more force be used than is necessary for the purpose; and if any intended visitor refuses to permit himself to be searched he shall be denied admission and the grounds of such denial and the particulars thereof shall be entered in the visitor's book.

(5) The officer in charge may require a visitor whose continued presence in the place of detention is considered to be prejudicial to the good governance of the place of

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detention or whose visit he considers to have been of sufficient duration to leave the place of detention, and may cause any visitor who refuses or fails to comply with such a requirement to be removed from the place of detention.

#### **14. Articles for personal use**

(1) So far as may be reasonably practicable and subject to the directions of the officer in charge as regards quantity, a detained person may secure such articles for his personal use as are consistent with good order and discipline.

(2) The officer in charge shall impound anything found in the place of detention the possession of which is prohibited or which, in his opinion, is likely to be dangerous to health or life, or to facilitate escape.

#### **15. Books and papers**

(1) The officer in charge may, so far as is consistent with the proper discipline of the place of detention and the preservation of public security, allow a detained person the use of books and papers received or procured through him or with his consent.

(2) The officer in charge may impound any book or paper which in his opinion contains any objectionable matter, and any person aggrieved by such action may appeal to the Commissioner.

#### **16. Prohibited articles**

Save as is otherwise provided by these Rules, no detained person shall at any time be in possession of any weapon, spirituous liquor, or intoxicating or poisonous drug, or any unauthorized letter, food, clothing or other article.

#### **17. Letters**

Subject to rule 24 of these Rules, detained persons may receive and send letters at the discretion of the officer in charge.

#### **18. Censorship and withholding of letters**

(1) Every letter addressed to or written by a detained person shall be read by the officer in charge of the place of detention or by a detention officer deputed by him, and if such officer considers the contents objectionable the letter shall not be forwarded, or the objectionable part thereof shall be erased, at the discretion of the officer.

(2) Where a letter written by a detained person is withheld under paragraph (1) of this regulation, the detained person shall be informed, and he may be given the opportunity of rewriting the letter, omitting the objectionable matter.

(3) A letter addressed to a detained person whose contents are considered objectionable shall be returned to the writer with an invitation to write another letter which does not contain the objectionable matter.

(4) The Minister may prohibit a particular detained person from receiving or writing letters, where he is of the opinion that it is desirable to do so in the interests of the preservation of public security, and where he does so he shall notify the Commissioner who shall cause that person to be informed thereof; and all letters which that person is prohibited from receiving shall be returned to the writer with a notification of the prohibition.

(5) The officer in charge shall keep a register of letters to and from detained persons, and shall record therein any prohibition under paragraph (4) of this rule, and any action taken in withholding letters or returning letters to the writer.

(6) No detained person shall be allowed to communicate with the Press.

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**19. Classes and library**

Every detained person who is not undergoing punishment shall be entitled to attend such school classes as may be organized by the officer in charge for the place of detention in which he is, and to make use of any library established in the place of detention by the officer in charge in accordance with such library rules as the officer in charge may make.

**20. Rules for management of places of detention**

The following rules shall apply for the regulation of the management of places of detention—

- (a) unlock—cells and wards shall be unlocked at 6 a.m. each morning or at such later hour as the Commissioner may direct;
- (b) morning meal—the morning meal shall be taken between 6.30 a.m. and 7 a.m.;
- (c) working parties—working parties shall be formed and put to work at 7 a.m.; if a working party is to work more than three miles away from the places of detention it shall be transported to and from work;
- (d) mid-day meal—there shall be a rest period of one hour from 12 noon until 1 p.m. each day, and the midday meal shall be served during that period; a working party which is working more than half a mile away from the place of detention shall be sent its mid-day meal;
- (e) hour when work ceases—work inside the places of detention shall cease at 4 p.m. on weekdays other than Saturdays and at 12 noon on Saturdays; work outside the place of detention shall cease in time for the workers to reach the place of detention by 4 p.m. on weekdays other than Saturdays and by 12 noon on Saturdays;
- (f) weather—a detained person shall not be sent outside the place of detention in wet or inclement weather;
- (g) bathing—where bathing facilities exist, detained persons shall bathe daily after work and before the evening meal is served;
- (h) lock-up—lock-up shall take place under the supervision of the officer in charge or the next most senior detention officer;
- (i) washing of clothes—on Saturday afternoons all detained persons shall be given the opportunity to wash their clothes;
- (j) medical inspection—every detained person shall be medically inspected once a month by a medical officer;
- (k) weighing of detained persons—every detained person shall be weighed once a month and his weight entered in a weight book kept for the purpose, and the weight book shall be produced to the medical officer when he makes his monthly inspection;
- (l) haircutting—a male detained person may be required by a detention officer to have his hair cut short;
- (m) sanitation—every ward and every cell shall be disinfected and cleaned every morning; the walls and ceilings shall be swept and white washed as often as occasion demands and thorough ventilation shall be effected by leaving the doors open where practicable; the night soil buckets shall be removed and emptied every morning after the working parties have been put to work; the buckets shall remain in the open during the day and shall be brought in in the afternoon in a clean condition; clean drinking water in suitable receptacles shall be placed in every ward and every cell before

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lock-up; in fine weather the sleeping mats and blankets of the detained persons shall every morning be shaken and placed in the sun and adequately aired, and shall then be neatly folded and returned to the wards and cells before noon;

- (n) exercise—every detained person who is not employed on voluntary work and every detained person confined in a punishment cell shall be permitted to take exercise in the open air for one hour daily;
- (o) days of rest—save in exceptional circumstances, which shall be reported to the Commissioner, Sundays and public holidays shall be observed as days of rest; and on such days facilities may be afforded to detained persons for taking exercise, for washing and for attending church services;
- (p) cellular confinement—no cell shall be used for cellular confinement unless it is provided with a means whereby the detained person may at any time communicate with a detention officer;
- (q) entry of cells or wards by night—except in the case of sickness or emergency, no detention officer shall enter a detained person's cell or ward at night unless he is accompanied by another detention officer;
- (r) segregation—male and female detained persons shall at all times be kept separate, and female detained persons shall be attended by female detention officers;
- (s) entry of female detained person's cell or ward—no male detention officer shall enter a cell or ward in which a female detained person is confined unless he is accompanied by a female detention officer;
- (t) every detained person shall be supplied with and shall wear clothing approved by the Commissioner.

**21. Communication with detained persons**

(1) No detention officer shall allow any undue familiarity between a detained person, nor shall he discuss his duties or any matters of discipline or administration within the hearing of a detained person.

(2) No detention officer shall communicate with a detained person except in accordance with these Rules or the instructions of the Minister.

**22. Use of force**

(1) A detention officer may use such force against a detained person as is reasonably necessary in order to make him obey lawful orders which he refuses to obey or in order to maintain discipline in a place of detention, but he shall not use any more force than is necessary.

(2) A detention officer shall not deliberately act in a manner calculated to provoke a detained person.

**23. Use of weapons**

A detention officer may use any weapons which have been issued to him, including firearms, against a detained person if the detained person—

- (a) is escaping or attempting to escape and refuses, when called upon, to return; or
- (b) is engaged with other persons in breaking out or attempting to break out of any part of a place of detention and continues to break out or attempts to break out when called upon to desist; or

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- (c) is engaged with others in riotous behaviour in a place of detention and when called upon refuses to desist; or
- (d) is endangering the life of, or is likely to inflict grave injury to the detention officer or to any other detention officer or person, and the use of weapons, including firearms, is the only way of controlling the detained person:

Provided that—

- (i) weapons shall not be used as authorized in paragraphs (a), (b) and (c) of this rule unless the detention officer has reasonable cause to believe he cannot otherwise prevent the escape, breaking out or riotous behaviour as the case may be; and
- (ii) the use of weapons under this rule shall as far as possible be to disable and not to kill.

**24. Rations**

The officer in charge shall issue rations to detained persons in his place of detention in accordance with the scales for the time being in force under the Prisons Rules (Cap. 90, Sub. Leg).

**25. Rights of a detained person**

(1) A detained person who is not employed on voluntary work shall be entitled to the basic diet; a detained person who is employed on voluntary work shall be entitled to the full diet unless he is employed on heavy work when he shall be entitled to the heavy worker's diet (such diets being the diets of those names set out in the First Schedule to the Prisons Rules).

(2) In the event of there being any question as to which scale of diet is appropriate to a particular detained person, the question shall be decided by the medical officer in consultation with the officer in charge.

(3) The food shall be wholesome in quality and prepared and cooked in clean containers.

(4) The quality and quantity of the food shall be tested as often as is practicable by a detention officer and by the medical officer or, in the absence of the medical officer, by a medical subordinate.

(5) The prescribed weights in the daily scales are the weight of the food before it is cooked.

(6) The daily scales shall not be departed from except with the consent of the Commissioner, or, in the case of a particular detained person, on the written recommendation of the medical officer where that officer considers it advisable in the interests of the detained person's health; and every such alteration shall be entered daily in the hospital diet sheet of the place of detention, and recorded daily in the ration register.

**PART IV – PUNISHMENT FOR OFFENCES****26. Punishment for minor offences**

The officer in charge of a place of detention may punish any detained person therein who is found after due inquiry by him to be guilty of a minor offence by ordering such person to undergo one or more of the following punishments—

- (a) confinement in a cell or other place set aside for such punishment with or without penal diet (as described in the First Schedule to the Prisons Rules, Cap. 90 Sub. Leg), for a period not exceeding forty-eight hours;

[Subsidiary]

- (b) deprivation, for such period as the officer in charge may think fit, of any privilege relating to food, books, clothing, letters or any other matter or thing whatever of which such person may be in enjoyment;
- (c) where the offence is that of having in his possession any prohibited article, the forfeiture thereof;
- (d) where, in the course or as a result of the commission of the offence, any article of Government property or any article belonging to any other person is lost, destroyed or damaged, payment to the Government or to such other person, as the case may be, out of any moneys held or accrued or accruing to the credit of such person, of the cost, or any part of the cost, of the replacement or repair of that article.

**27. Punishment for major offences**

The officer in charge of a place of detention may punish any detained person therein who is found after due inquiry by him to be guilty of a major offence by ordering such person to undergo one or more of the following punishments—

- (a) confinement in a cell or other place set aside for such punishment, with or without penal diet (as described in the First Schedule to the Prisons Rules Cap. 90, Sub-Leg), for a period not exceeding sixteen days;
- (b) corporal punishment in the cases, and in the manner, prescribed by the Prisons Act (Cap. 90) and the Prisons Rules (Cap. 90, Sub. Leg);
- (c) where, in the course or as a result of the commission of the offence, any article of Government property or any article belonging to any other person is lost, destroyed or damaged, payment to the Government or to such other person, as the case may be, out of any moneys held or accrued or accruing to the credit of such person, of the cost, or any part of the cost, of the replacement or repair of such article:

Provided that—

- (i) an offender shall not be confined under paragraph (a) of this regulation for more than seven days at a time, and an interval of seven days shall elapse before a further period of such confinement;
- (ii) an offender shall not be held on penal diet for more than three days at a time, and an interval of one day shall elapse before a further period of penal diet.

**28. Record of inquiries and punishments**

The officer in charge shall keep a record of all inquiries made by him, and of all punishments ordered by him, under this Part.

**29. Punishments for second and subsequent major offences**

Any detained person who, having been punished for a major offence, commits another major offence, shall be guilty of an offence and liable, on conviction by a court, to imprisonment for a term not exceeding two years.

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SCHEDULE

## PART I – MINOR OFFENCES

The following acts committed by a detained person in a place of detention are minor offences—

- (1) assaulting, fighting or quarrelling with any other detained person in the place of detention;

**[Subsidiary]**

- (2) making a groundless complaint;
- (3) wilfully making a false accusation against a detention officer;
- (4) holding any communication in writing, or by word of mouth or otherwise, with any person in disobedience of regulations or orders in force in the place of detention;
- (5) doing any act calculated to cause unnecessary alarm among detained persons in the place of detention or among detention officers;
- (6) omitting or refusing to march as ordered, when moving about the place of detention or when proceeding to or returning from work;
- (7) refusing, without a proper reason, to eat the food provided;
- (8) eating or appropriating any food not assigned to him, or taking from or adding to the portions of food assigned to another person;
- (9) without the permission of a detention officer, removing food from a cookhouse or place where meals are served, or disobeying any order as to the issue or distribution of food or drink;
- (10) wilfully destroying food, or throwing it away without orders;
- (11) introducing into food or drink anything calculated to render it unpalatable or unwholesome;
- (12) omitting or refusing to wear the clothing issued to him, or exchanging any portion of it for the clothing of another person, or losing, discarding, damaging or altering any part of it;
- (13) removing, defacing or altering any distinctive number, mark or badge attached to or worn on such clothing;
- (14) omitting or refusing to keep his person clean, or disobeying an order as to cutting hair or as to shaving the face;
- (15) omitting or refusing to keep clothing, blankets or bedding clean, or disobeying an order as to the arrangement or disposition of any such articles;
- (16) tampering in any way with any locks, lamps or lights or other public property without authority;
- (17) stealing clothing, or any part of the equipment of any other person;
- (18) committing a nuisance in any part of the place of detention;
- (19) defacing or injuring the walls, furniture or other property belonging to the place of detention;
- (20) spitting on or otherwise soiling any floor, door, wall or other part of the buildings of, or any article in, the place of detention;
- (21) wilfully fouling any latrine or washing or bathing place;
- (22) omitting or refusing to take due care of, or injuring, destroying, or misappropriating, any tools or any clothing or other articles, being public property;
- (23) wilfully causing to himself any illness, injury or disability;
- (24) causing, or omitting to assist the suppressing of, violence or insubordination of any kind;
- (25) disobeying any regulation or order in force in the place of detention or any lawful order of a detention officer, or omitting or refusing to perform duties in the manner required;



**[Subsidiary]**

- (26) treating with disrespect or insolence any detention officer, or any visitor to the place of detention, or any person employed in or in connexion with the place of detention;
- (27) being idle, careless or negligent at work, or refusing to work when lawfully required to do so;
- (28) leaving his cell, or other place in which he is required to be, or his place of work, without permission;
- (29) having in his possession any articles which he is not allowed to have in his possession;
- (30) shouting or making unnecessary noise;
- (31) malingering;
- (32) wilfully making a false accusation against any other detained person in the place of detention;
- (33) failing to report for or refusing to undergo medical treatment;
- (34) insulting, threatening or using indecent language, or immoral, disorderly or indecent behaviour;
- (35) any minor assault or act of violence;
- (36) any other act, conduct, disorder or neglect to the prejudice of good order or discipline;
- (37) attempting to commit, or aiding, abetting, counselling or procuring the commission of, any of the minor offences aforementioned.

**PART II – MAJOR OFFENCES**

The following acts committed by a detained person in a place of detention are major offences—

- (1) assaulting or attacking, or taking part in any assault or attack upon, a detention officer, any visitor to the place of detention or any person employed in or in connexion with the place of detention;
  - (2) any aggravated or repeated assault on another detained person in the place of detention;
  - (3) conspiring or attempting to escape or assisting an escape;
  - (4) mutiny or incitement to mutiny;
  - (5) bringing or attempting to bribe a detention officer, any visitor to the place of detention or any person employed in or in connexion with the place of detention;
  - (6) committing any act of gross misconduct or gross insubordination;
  - (7) attempting to commit, or aiding, abetting, counselling or procuring the commission of, any of the major offences aforementioned.
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