

BASUTOLAND.

No. 77 OF 1947.

(Promulgated 9th January, 1948.)

PROCLAMATION

By His Excellency the High Commissioner
Entitled the Basutoland Prisons Proclamation, 1947.

Whereas it is expedient to amend and consolidate the law relating to prisons in Basutoland:

Now therefore under and by virtue of the powers in me vested I do hereby declare, proclaim and make known as follows:—

1. The laws mentioned in the Schedule Repeal hereto are hereby repealed.

2. In this Proclamation, unless the context ^{Inter-}otherwise requires—_{pretation.}

„ Superintendent ” means the Superintendent of Prisons appointed under section *four*;

„ Medical Officer ” means any medical practitioner in the employment of the Basutoland Administration;

„ Gaoler ” means the keeper or officer for the time being in charge of any prison;

„ Prisoner ” means any person, whether convicted or not, under detention in a prison.

3. Every prison shall be a place for the ^{Prisons.} safe custody of persons liable to be detained in custody and also a place for the detention of convicted persons, and any person sentenced to imprisonment with or without hard labour shall be imprisoned in a prison and shall perform such labour and discharge such duty as may be imposed upon him by the gaoler or officer in whose charge he shall be.

4. (1) The High Commissioner may, by ^{Superintendent of Prisons.} Notice in the *Gazette*, appoint an officer to be styled the Superintendent of Prisons, and such officer shall be vested with the administration of all prisons subject to the directions of the Resident Commissioner.

(2) District Officers shall, subject to the ^{District Officers.} directions of the Superintendent, be vested with the administration of prisons in the districts in which they are stationed.

Other
Officers.

(3) The Resident Commissioner may, in the absence of a District Officer, appoint any other officer to take charge of a local prison, and any officer so appointed shall be vested with, and be responsible for, the administration of the prison concerned in all respects as if he had been a District Officer duly appointed.

Gaoler and
Officers
under the
authority
of District
Officer.

(4) The gaoler, warders and other employees of every prison shall, subject to the provisions of sub-section (2), be under the immediate authority and superintendence of the District Officer of the District in which the prison in question is situate.

Prison
Board of
Visitors.

5. The Government Secretary, District Officers and any other persons whom the Resident Commissioner shall by writing under his hand appoint, shall constitute a Prison Board of Visitors.

Prison
journal.

6. The gaoler of every prison shall keep a journal in which he shall record all occurrences of importance affecting the prisoners under his charge.

Prisoners
confined
before trial.

7. Prisoners confined before trial for any alleged crime or offence shall be allowed to procure for themselves and receive at proper hours any food, bedding, clothing or other necessaries subject to a strict examination thereof under limitations and restrictions to be prescribed by regulation.

Prisoners—
when to be
placed in
irons.

8. No gaoler shall, except by order of the District Officer, punish any prisoner for any offence under any pretext whatsoever; Provided that when and as often as it shall be urgently and absolutely necessary to secure any refractory prisoner or any prisoner attempting to escape pending the arrival of the District Officer, the gaoler may by his own authority place such prisoner in irons; and such gaoler shall in every such case make an entry in his journal recording the particulars thereof and shall without loss of time send notice to the District Officer of what has taken place.

District
Officer's
sanction
for placing
in irons.

9. Except for the causes and under the circumstances aforesaid no prisoner confined in prison before trial shall be put in irons or be fastened or fettered in any manner whatsoever, whether by way of security against escape or otherwise, unless the District Officer shall authorise in writing in the gaoler's journal a departure from this rule.

10. Any prisoner who is guilty of insubordination or conduct to the prejudice of good order and prison discipline shall upon conviction before a Subordinate Court be liable to be placed in solitary confinement for a period not exceeding fourteen days with or without spare diet for a period not exceeding five days or to be kept in irons for any period not exceeding seven days or to be kept at hard labour for any period not exceeding three months in addition to any punishment which he is undergoing at the time of the offence; provided, however, that there shall be an interval of two clear days on ordinary diet between each day on spare diet. Where such prisoner is guilty of any act of violence, or mutinies or incites other prisoners to mutiny, he shall be liable on conviction as aforesaid, and in addition to the punishments herein provided, to be kept at hard labour for a period not exceeding two years, and, subject to the provisions of Proclamations Nos. 58 and 59 of 1938, to receive corporal punishment not exceeding fifteen lashes: Provided that the District Officer may deal with all such offences either in his own Court or within the precincts of the prison as may be the more convenient.

11. (1) Any prisoner who—

(a) escapes or conspires with any person to procure the escape of any prisoner, or who assists or incites any other prisoner to escape from the prison in which he is placed, or from any post place or conveyance where or wherein he may be for the purpose of labour or detention, or from hospital, or while in course of removal in custody from one place to another, or otherwise; or

(b) makes any attempt to escape from custody whether inside or outside any building or enclosure or conveyance; or

(c) is in possession of any instrument or other thing which might be used for the purpose of escaping with intent to use such instrument or thing to procure his own escape or that of another prisoner,

shall be liable on conviction before a Subordinate Court to imprisonment with hard labour for a period not exceeding twelve months, and in addition, where the escape was accompanied by any act of violence, to receive corporal punishment not exceeding ten strokes with a cane, subject to such confirmation as is required by Proclamations

Solitary
confinement.

Punishment
for
escaping.

Nos. 58 and 59 of 1938 aforesaid. Any such imprisonment shall commence after the expiry of any sentence which the prisoner was then undergoing.

(2) A District Officer may try any prisoner for an offence under this section either in his own Court or within the precincts of the prison as may be the more convenient.

(3) Nothing in this section contained shall be construed as exempting the prisoner from prosecution or punishment for an offence under the common law or the provisions of this Proclamation or any other law or any regulation.

Offences. 12. All offences against discipline committed by any prisoner while outside the precincts of the prison shall be dealt with in like manner in all respects as if they had been committed within the precincts of the prison.

Aiding prisoner to escape. 13. Every person who aids a prisoner in escaping or in attempting to escape from prison, or who for the purpose of facilitating the escape of any such prisoner supplies or attempts to supply or incites or attempts to incite others to supply him with any article or thing which might be used for the purpose of escaping, shall upon conviction before a Subordinate Court be liable to imprisonment with or without hard labour for any period not exceeding two years.

Supplying intoxicating liquor. 14. Every person who shall without lawful authority supply or cause to be supplied to any prisoner any intoxicating liquor or any article in contravention of regulations issued under this Proclamation or in contravention of any other law shall be liable upon conviction before a Subordinate Court to imprisonment with or without hard labour for any period not exceeding six months or to a fine not exceeding forty pounds, and every officer of such prison or person employed in such prison who contravenes the provisions of this section shall in addition to any other punishment forfeit his office and all salary due to him.

Discharge of prisoners. 15. Any prisoner whose term of imprisonment shall expire on a Sunday or public holiday shall be entitled to his discharge on the preceding Saturday or day immediately preceding the public holiday and shall be discharged accordingly. Every prisoner

shall be released as soon as possible on the day upon which his term of imprisonment expires.

16. It shall be lawful for guards who shall be in charge of any party of prisoners within or without the precincts of the prison to be armed with loaded firearms or such other weapons as may be prescribed by regulation, and if any prisoner shall attempt to escape or shall attack or threaten to attack any person or commit any act of violence and it shall be absolutely necessary in order to prevent such attempted escape or for the defence of himself or of any other person that such guard should fire upon such prisoner or use any other weapon with which he may be lawfully armed, it shall be lawful for him to do so and if in doing so he shall kill or wound such prisoner he shall not be deemed to be guilty of any offence in so doing.

17. The Resident Commissioner may, with the approval of the High Commissioner, make regulations under this Proclamation and may provide penalties for the breach of any regulation so made and may prescribe the method of trial of any breach of any regulation—

(a) for the general government and management of prisons;

(b) for the regulation of the duties and conduct of the gaoler, warders, and other employees at such prisons and the prisoners under their charge;

(c) for the mode of supplying food, the scales of diet, and the clothing and necessities supplied to such officers and the prisoners under their charge;

(d) for the safe custody of prisoners when at labour or otherwise;

(e) for the granting or withdrawing of indulgences to prisoners;

(f) for the regulation of the duties of medical officers;

(g) for the duties of the Superintendent or District Officers and other officers in connection with prisons;

(h) for regulating and prohibiting the supply to prisoners of any articles;

(i) for determining and regulating the mitigation to be earned by prisoners under section *nineteen*;

(j) for regulating the enlistment, discipline, discharge, training, arms, accoutrements, clothing and equipment of gaolers, warders and other prison employees, and relative to all such matters as may be necessary for promoting discipline and efficiency;

(k) for regulating the issue of licences granted to prisoners to be at large in the Territory.

Various offences.

18. Any person who—

(a) is found loitering within one hundred yards of any prison or other place where prisoners may be for the purpose of imprisonment or labour and fails to depart therefrom upon being warned so to do by any prison official or by a police officer; or

(b) holds or attempts to hold without authority any communication with any prisoner; or

(c) wilfully rides, drives or leads any animal or vehicle through any gang of prisoners going to or returning from any work outside a prison; or

(d) in any manner wilfully interferes with any prisoner or gang of prisoners,

shall be guilty of an offence and liable on conviction before a Subordinate Court to a fine not exceeding ten pounds, or in default of payment to imprisonment with or without hard labour for a period not exceeding one month, or to such imprisonment without the option of a fine.

Remission of sentences.

19. (1) Every prisoner who is sentenced to imprisonment, whether by one sentence or by consecutive sentences, for a period exceeding one month shall, according to his conduct and industry and subject to the regulations, be allowed an ordinary or earned remission not exceeding one-third of his sentence.

(2) Nothing in the preceding sub-section shall authorise the reduction of any period of imprisonment to be served to less than thirty days.

(3) Provided that every conviction for a breach of discipline or other irregularity while undergoing sentence shall, in addition to such punishment as may be inflicted, cause a loss of as many days towards remission as the District Officer who deals with the offence may determine.

Provided further that the decision of the District Officer shall be subject to review by the Deputy Resident Commissioner, who shall have power to confirm, increase or reduce the period of loss of earned remission ordered by the District Officer.

(4) In cases where a special remission is sought or recommended in respect of any sentence whatever, representation shall be made to the High Commissioner.

20. (1) The Resident Commissioner may subject to the approval of the High Commissioner grant to any prisoner under sentence of imprisonment for a term of two years or upwards who has completed two-thirds of any such sentence a licence to be at large in the Territory or in such part thereof as in such licence shall be expressed and it shall be lawful for the Resident Commissioner to revoke or alter such licence. ^{Licences to be at large.}

(2) So long as a licence to be at large shall continue in force such prisoner shall not be liable to imprisonment by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such licence.

(3) If the holder of a licence to be at large wilfully neglects or refuses to comply with any of the conditions of such licence he shall be guilty of an offence, and in addition to any other penalty which he may have incurred in respect of the act, constituting such breach, shall be liable on conviction to imprisonment with or without hard labour for a term not exceeding three months and the Subordinate Court by whom such person is convicted may order the licence to be forfeited.

(4) Where any licence to be at large is forfeited or revoked under any of the provisions hereinbefore contained, the person whose licence is forfeited or revoked shall, after undergoing any other punishment (if any) to which he may be sentenced for the offence in consequence of which his licence is forfeited or revoked, further undergo a term of imprisonment with hard labour equal to the portion of the term without remission that remained unexpired at the time of his release under such licence.

(5) (a) Whenever a licence is revoked by the Resident Commissioner, any District Officer shall, on production to him of a certificate of

such revocation, issue a warrant which may be executed in any part of the Territory for the apprehension of the person to whom such licence was granted; and such person being apprehended shall be brought before the District Officer who shall make out his warrant for the recommitment of such person to prison to undergo the residue of his sentence as if no such licence had been granted.

(b) Whenever a licence is forfeited by the order of the District Officer under sub-section (4) of this section such District Officer shall make out a warrant for the recommitment of such person to prison to undergo the residue of his sentence as if no such licence has been granted.

Short title. 21. This Proclamation may be cited as the Basutoland Prisons Proclamation, 1947.

GOD SAVE THE KING.

Given under my Hand and Seal at Pretoria this Thirty-first day of December, One thousand Nine hundred and Forty-seven.

E. BARING,
High Commissioner.

By Command of His Excellency
the High Commissioner.

H. E. PRIESTMAN,
Administrative Secretary.

SCHEDULE.

The Basutoland Prisons Proclamation, 1917 (No. 21 of 1917).

The Basutoland Prisons Amendment Proclamation, 1921 (No. 19 of 1921).

The Basutoland Prisons (Further Amendment) Proclamation, 1937 (No. 63 of 1937).

The Basutoland Prisons (Amendment) Proclamation, 1939 (No. 12 of 1939).

The Basutoland Prisons (Further Amendment) Proclamation, 1939 (No. 48 of 1939).

The Basutoland Prisons (Amendment) Proclamation, 1940 (No. 10 of 1940).

The Basutoland Prisons (Amendment) Proclamation, 1941 (No. 39 of 1941).