

West Bengal Act XXXII of 1992

THE WEST BENGAL CORRECTIONAL SERVICES ACT, 1992.

[Passed by the West Bengal Legislature.]

[Assent of the President of India was first published in the *Calcutta Gazette, Extraordinary*, of the 13th June, 1997.]

[13th June, 1997.]

An Act to amend and consolidate the law relating to prisons and persons detained therein in West Bengal.

WHEREAS it is expedient to amend and consolidate the law relating to prisons and persons detained therein in West Bengal and to provide for matters connected therewith or incidental thereto;

It is hereby enacted in the Forty-third Year of the Republic of India, by the Legislature of West Bengal, as follows:—

CHAPTER I

Preliminary

1. (1) This Act may be called the West Bengal Correctional Services Act, 1992.

(2) It extends to the whole of West Bengal.

(3) It shall come into force on such date as the State Government may by notification appoint, and different dates may be appointed for different provisions of this Act.

Short title,
extent and
commence-
ment.

2. In this Act, unless the context otherwise requires,—

- (a) “after-care service” means the activity aimed at financial rehabilitation of released prisoners as normal and good citizens;
- (b) “confinement” means confinement in a correctional home, and includes detention therein under any law providing for preventive detention;
- (c) “correctional home” means any place used permanently or temporarily under the orders of the State Government for detention of persons, whether under-trial or convicted, in accordance with any order for confinement under any law providing for preventive detention or any other law for the time being in force, but does not include a place for confinement of a person under the custody of the police;
- (d) “correctional services” means the services maintained by the State Government for proper management, administration and functioning of correctional homes;
- (e) “court” means a court established by any law for the time being in force, and includes any officer or authority vested with the powers of exercising civil or criminal jurisdiction under any law for the time being in force;

Definitions.

(Chapter II.—Establishment of different categories of correctional home.—Section 3.)

- (f) “habitual offender” means a prisoner who having been convicted for an offence of theft, robbery, dacoity, kidnapping, abduction, extortion or misappropriation of public money or property or for an offence punishable under the Bengal Excise Act, 1909 or the Central Excises and Salt Act, 1944 or the Bengal Suppression of Immoral Traffic Act, 1933 or on a charge of adulteration of food or medicine or carrying trade in illicit transport of goods or illicit sale of contraband goods, is again convicted on a charge of any of the aforesaid offences;
- (g) “history-ticket” means the ticket exhibiting such information as is required in respect of a prisoner by or under this Act or the rules made thereunder;
- (h) “notification” means a notification published in the *Official Gazette*;
- (i) “offence” means an act punishable under any law for the time being in force with imprisonment, whether substantive or in default of a fine or in default of furnishing security;
- (j) “prescribed” means prescribed by rules made under this Act;
- (k) “prisoner” means a person confined in a correctional home under a writ, order or warrant made by a court or authority under any law for the time being in force;
- (l) “prohibited article” means an article the introduction or removal of which into or out of a correctional home is prohibited by or under this Act or the rules thereunder;
- (m) “rehabilitation assistance” means financial or any other assistance given to a released prisoner for the purpose of his rehabilitation into the society as an ordinary citizen;
- (n) “remission” means the period to be deducted in accordance with the provisions of this Act and the rules made thereunder from the total period of sentence imposed on a prisoner;
- (o) “rule” means a rule made under this Act.

Ben. Act V
of 1909.
I of 1944.
Ben. Act VI
of 1933.

CHAPTER II

Establishment of different categories of correctional home

3. (1) The State Government shall by notification establish the following categories of correctional home:—

- (a) central correctional home;
- (b) district correctional home;

Establish-
ment of
different
categories of
correctional
home.

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(Chapter III.—Functions of correctional homes.—Section 4.)

- (c) special correctional home;
- (d) subsidiary correctional home;
- (e) correctional home for women;
- (f) open correctional home.

(2) A central correctional home shall affiliate to itself a district correctional home or special correctional home or subsidiary correctional home or correctional home for women in such manner as may be prescribed.

(3) The State Government shall by notification determine the number of any category of correctional home and the place at which correctional home shall situate.

(4) An open correctional home shall not be surrounded by any boundary wall and shall be used for confinement of such long-term prisoners and on such conditions as may be prescribed, for giving such prisoners more liberty and more opportunity of association with the social life outside a correctional home and facilitating their after-release rehabilitation.

CHAPTER III

Functions of correctional homes

4. The functions of a correctional home shall be—

- (a) to keep in custody the prisoners committed to it under any writ, warrant or a order of any court or other competent authority;
- (b) to give correctional treatment to the prisoners in custody so as to effect from their mind the evil influence of antisocial ways of life and rehabilitate them in the society as good and useful citizens;
- (c) to adopt measures whereby a prisoner confined therein may not fall prey to the depriving mental attitude which may make him believe that he is lost to the society and it is his fate to pass the rest of his life as a social outcast;
- (d) to adopt measures calculated to rouse in the mind of a prisoner a healthy social sense and a sense of abhorrence against the antisocial ways of life and an impulse for returning to normal social life as a good and useful citizen;
- (e) to provide the prisoners with food, clothing, accommodation and other necessities of life and adequate medical treatment and care in case of sickness;

Functions of
correctional
homes.

*(Chapter IV.—Administration of correctional homes.—
Section 5.)*

- (f) to adopt measures—
 - (i) to put the prisoners sentenced to rigorous imprisonment to labour in the manner prescribed;
 - (ii) to put the prisoners to vocation-oriented labour so that after release they may find themselves equipped with bread-earning vocations;
 - (iii) to provide for usual maintenance services such as cooking of food, washing of clothings, and sanitary services on roster basis enabling the maximum number of prisoners to get an opportunity of learning bread-earning avocation;
- (g) to take measures for mental and moral uplift of the prisoners and to provide them with educational and other facilities for upgrading their qualities, character and mental attitude;
- (h) to take measures for its security and the security of the prisoners with due safeguard to ensure that it does not become a place of horror instead of being an institution for correction;
- (i) to adopt measures to ensure effective after-care service of the released prisoners;
- (j) to enforce discipline among its officers and other employees and the prisoners in accordance with the provisions of this Act and the rules made thereunder;
- (k) to provide such other facilities and amenities to the prisoners as the State Government may prescribe.

CHAPTER IV

Administration of correctional homes

Chief officer
and other
officers of
correctional
services.

5. (1) The Inspector General of Prisons, Additional Inspector General of Prisons and Deputy Inspector General of Prisons under the Prisons Act, 1894, shall, on and from the date of commencement of this Act, be designated as the Inspector General of Correctional Services, Additional Inspector General of Correctional Services and Deputy Inspector General of Correctional Services respectively.

9 of 1894.

(2) The Inspector General of Correctional Services shall be the Chief Officer of correctional homes and correctional services and the control and superintendence of correctional services shall vest in him.

(3) The State Government may appoint such number of Additional Inspector General of Correctional Services and Deputy Inspector General of Correctional Homes and Correctional Services to assist the Inspector General of Correctional Services as the State Government may consider necessary.

*(Chapter IV.—Administration of correctional homes.—
Sections 6, 7.)*

(4) All officers of the below the rank of Additional Inspector General of Correctional Services, appointed under the provisions of this Act, shall be deemed to be subordinate to the Inspector General of Correctional Services, and shall be bound to obey his orders, directions and instructions.

9 of 1894.

6. (1) The Jailor, Deputy Jailor and Sub-Jailor under the Prisons Act, 1894, shall, on and from the date of commencement of this Act, be designated as the Chief Controller of Correctional Services, Controller of Correctional Services and Assistant Controller of Correctional Services respectively.

Officers and staff of central correctional homes, district correctional homes and special correctional homes.

(2) For every central correctional home, district correctional home and special correctional home, there shall be a Superintendent and such number of Medical Officer, Chief Controller of Correctional Services, Chief Welfare Officer, Welfare Officer and other officer and staff as the State Government may from time to time appoint. The Superintendent shall be the officer-in-charge of the correctional home and correctional services and shall have control and superintendence of the correctional home and all other officers and staff shall be subordinate to him and shall render due obedience to his orders, instructions and directions.

(3) The State Government may, for proper administration of any central correctional home, district correctional home or special correctional home, appoint such other officers and staff as it may consider necessary.

(4) The qualifications and the method of recruitment of the officers and staff of the correctional homes shall be such as may be prescribed.

7. (1) (a) The Sub-Divisional Officer of every sub-division shall be the *ex officio* Superintendent of the subsidiary correctional home of the sub-division and the Sub-Divisional Medical Officer of every sub-division shall be the *ex officio* Deputy Superintendent of the subsidiary correctional home of the sub-division.

Officers and staff of subsidiary correctional homes.

(b) There shall be such other officers and staff in every subsidiary correctional home as the State Government may from time to time appoint.

(2) The Sub-Divisional Officer or, in his absence, such other officer as may be authorised by him shall pay visit to the subsidiary correctional home at least twice a week.

(3) The Sub-Divisional Medical Officer shall pay visit to the subsidiary correctional home at least twice a week. He shall take necessary measures for treatment of prisoners confined in the correctional home as and when he is informed of any ailment of a prisoner by any officer of the correctional home. He may also delegate to any Medical Officer subordinate to him all his duties and functions as Deputy Superintendent of the correctional home.

*(Chapter IV.—Administration of correctional homes.—
Sections 8, 9.)*

Chief
Controller of
Correctional
Services.

8. (1) The Chief Controller of Correctional Services shall, subject to the control and supervision of the Superintendent, be in charge of the correctional home and shall be the custodian of the prisoners and the properties of the prisoners and the correctional home.

(2) The Chief Controller of Correctional Services shall—

- (i) give, on the death of a prisoner in a correctional home, immediate report of such death to the Superintendent and the Medical Officer of the correctional home, narrating in brief the circumstances under which the prisoner died;
- (ii) be responsible for the safe-custody of the records of the condemned warrants and all other documents and the money and other articles taken from the prisoners;
- (iii) perform such other duties and discharge such other functions as may be prescribed; and
- (iv) not, without previous permission of the Inspector General of Prisons and Director of Correctional Services, be concerned with any other employment.

(3) The Chief Controller of Correctional Services shall be provided with residential quarters adjacent to the correctional home and he shall not, without previous permission in writing obtained from the Superintendent, leave his quarters for any private business or reside elsewhere. If, for any unavoidable reasons, the Chief Controller of Correctional Services is required to leave his quarters temporarily without previous permission of the Superintendent, he shall, before leaving his quarters place an officer immediately subordinate to him in charge of the correctional home during his absence. The Chief Controller of Correctional Services shall, immediately on his return, inform the Superintendent giving the details of the hour at which he left his quarters and the hour at which he returned to the quarters and the circumstances under which he was compelled to leave his quarters without previous permission of the Superintendent.

Controller of
Correctional
Services.

9. The State Government may appoint one or more Controllers of Correctional Services for each correctional home (other than a subsidiary correctional home) as it may consider necessary. Subject to the control of the Superintendent, the Controller of Correctional Services shall be competent to perform all or any of the duties of the Chief Controller of Correctional Services and shall perform such other duties as may be prescribed.

*(Chapter IV.—Administration of correctional homes.—
Section 10.)*

10. (1) For each central correctional home, there shall be a Chief Discipline Officer and such number of Discipline Officer who shall be subordinate to the Chief Discipline Officer, as the State Government may appoint.

Discipline of
Officers.

(2) The Chief Discipline Officer shall have the same rank and status as that of the Chief Controller of Correctional Services and the Discipline Officer shall have the same rank and status as that of the Controller of Correctional Services. The qualifications and terms and conditions of service of the Chief Discipline Officer and the Discipline Officer shall be such as may be prescribed.

(3) The Chief Discipline Officer shall supervise the performance of the Discipline Officer. It shall be the duty of the Chief Discipline Officer and the Discipline Officer—

- (a) to go on round inside the correctional home to ensure proper and effective watch by the warders and observance of rules by the prisoners and to take measures against slackening of security and discipline at the gate of the correctional home;
- (b) to assist the Chief Controller of Correctional Services in the maintenance of security and discipline in the correctional home, specially in between gates;
- (c) to receive prisoners from courts, other correctional homes and places of detention with requisite writs, warrants or orders along with the prisoners' personal cash and other properties and to pass the prisoners;
- (d) to supervise the work of the gate keepers;
- (e) to prevent smuggling of any prohibited or unauthorised article in the correctional home;
- (f) to check with reference to challans and gate passes of articles coming into or passing out of the correctional home and keep accounts thereof in the gate register of articles to be maintained for the purpose;
- (g) to search all prisoners passing into or out of or coming into or going out of, the gate of the correctional home;
- (h) to receive officials and non-official visitors with due respect at the gate;
- (i) to attend the weekly inspection by the Superintendent and the ceremonial parades;
- (j) to perform such other duties as the Superintendent may allot from time to time.

(4) In addition to the duties as aforesaid, the Chief Discipline Officer may search head warders, warders and other subordinate staff of the correctional home and all persons going into, or coming out of, the

(Chapter IV.—Administration of correctional homes.—
Sections 11-13.)

correctional home. The Chief Discipline Officer shall not search any non-official visitor without special order of the Superintendent. If the Chief Discipline Officer has reasons to believe that any person exempted from search is carrying any prohibited or unauthorised article, he may stop such person between the gates and refer the matter to the Superintendent and shall act according to his direction.

Chief
Welfare
Officer and
Welfare
Officer of
correctional
home.

11. (1) The State Government may, for each of the central correctional home, district correctional home and special correctional home, appoint such number of Chief Welfare Officers, and Welfare Officers as it may consider necessary. The Chief Welfare Officer shall have the rank and status of the Superintendent of a district correctional home and the Welfare Officer shall have the rank and status of the Chief Controller of Correctional Services. The qualifications and the terms and conditions of service of the Chief Welfare Officers and the Welfare Officers shall be such as may be prescribed.

(2) It shall be the duty of the Welfare Officer—

- (a) to look after the correctional services and to see that the prisoners are not deprived of the amenities and privileges under this Act or under any other law for the time being in force;
- (b) to organise and develop recreational, educational and cultural activities (including sports, games, physical culture and the like) amongst the prisoners;
- (c) to give incentive to literary and artistic pursuits to the prisoners;
- (d) to make efforts for betterment of educational, moral, cultural and vocational equipments of the prisoners;
- (f) to perform such other duties as may be prescribed.

Assistant
Controller of
Correctional
Services.

12. For each subsidiary correctional home, there shall be appointed an Assistant Controller of Correctional Services who shall act as the Chief Officer of administration of the correctional home, subject to the control and superintendence of the Superintendent of the correctional home, and the provisions of sub-rules (2) and (3) of rule 8 shall, *mutatis mutandis*, apply to the Assistant Controller of Correctional Services.

Subordinate
staff of
correctional
home.

13. The State Government shall appoint such number of subordinate staff with such designation as may be prescribed for efficient conduct of correctional homes. The duties and functions of such subordinate staff shall be such as may be prescribed.

*(Chapter IV.—Administration of correctional homes.—
Sections 14, 15.)*

14. (1) For proper security of correctional homes and of the staff thereof and of the prisoners confined therein, there shall be the following categories of security staff in each correctional home:—

Security staff of correctional home.

- (i) one chief head warden;
- (ii) one or more head warders as may be considered necessary having regard to the usual population of the home;
- (iii) such number of gate warders as may be considered necessary;
- (iv) such number of other warders as may be considered necessary.

(2) The gate warden shall guard the gate of the correctional home, open and close the gate according to necessity, and perform other consequential and incidental duties. He may at any time stop and search any person suspected of bringing any prohibited article into the correctional home or of carrying out any property belonging to the correctional home and shall report to the Chief Controller of Correctional Services about the discovery of such article or property.

(3) Any officer of the correctional home may, in the case of any suspicion about the entry into the correctional home of any prohibited article or about carrying out any property belonging to the correctional home, stop and search or cause to be searched any person suspected of bringing such prohibited article or of carrying out such property and shall immediately report to the Chief Controller of Correctional Services about the discovery of such article or property.

(4) The uniform of the security staff shall be such as may be prescribed.

15. (1) The Superintendent of a correctional home may deploy any convict of good conduct and unblemished record during imprisonment, who has been sentenced for the first time to imprisonment for a term exceeding one year and has served fifty *per cent.* of the term of imprisonment, as a night watchman.

Night watchman, night guard and helper.

(2) There shall be deployed at least two night watchmen in each ward. One shall be on duty from the time of evening lock-up till 12 p.m. and the other shall be on duty from 12 p.m. till the lock-up is opened in the morning. A night watchman shall be entitled to patrol inside the ward to perform his duties and shall generally be entrusted with the task of—

- (i) counting of prisoners under lock-up in the ward between the time of evening lock-up and opening the lock-up in the morning;

*(Chapter IV.—Administration of correctional homes.—
Sections 16, 17.)*

- (ii) maintaining vigilance inside the ward in which he is placed on duty during night and seeing that nothing which is punishable or prohibited under any law for the time being in force is done inside the ward;
- (iii) bringing to the notice of the warder on duty any culpable act which is likely to be committed but cannot be prevented by him.

(3) A prisoner deployed as a night watchman shall be entitled to three days' remission in a month in addition to ordinary remission but shall not be entitled to any wages for working as a night watchman. He shall get his wages for his usual work during day time.

(4) The Superintendent of a correctional home may, with the prior approval of the Inspector General of Correctional Services, deploy any convict, who has maintained good conduct throughout his imprisonment having been sentenced to rigorous imprisonment for a term exceeding three years and has served seventy-five *per cent.* of his term of imprisonment, as a night guard. The night guard shall generally assist the security staff of the correctional home during night and shall wear blue badges for identification. The night guard may, if necessary, be posted outside the wards inside the correctional home to perform security duties. The night guard shall be entitled to five days' special remission, in addition to the ordinary remission, per month. The convict deployed as a night guard shall not get any wages for performing security duties at night but shall be entitled to wages for his usual work during day time.

(5) The Superintendent of a correctional home may deploy a prisoner of good conduct whom he thinks to be trustworthy as a helper for carrying messages and doing sundry duties as may be given to him by the Superintendent. For such duty the helper shall be entitled to two days' special remission, in addition to his ordinary remission, per month.

Officers and staff not to leave station without leave.

16. No officer or other staff of a correctional home shall leave station without obtaining leave from the Superintendent of the correctional home or from any other officer subordinate to the superintendent and empowered to grant leave under the rules made under this Act.

Training of officers and staff.

17. The State Government may establish a training college for training of officers and all categories of staff of correctional homes. Until such college is established, the State Government may arrange in the prescribed manner for the training of the officers and staff of different correctional homes in any recognised institutions imparting such training.

CHAPTER V

Admission of prisoners

18. (1) No prisoner or any other person shall be admitted into a correctional home for detention unless a warrant, writ or order authorising his detention signed by a competent authority and duly sealed, is produced before the officer who, for the time being, remains in charge of the correctional home.

Admission
of prisoners.

Explanation.—For the purpose of this section, the expression “competent authority” shall mean the officer or authority duly empowered under any law for the time being in force to issue warrant, writ or order for detention of a person in the custody of a correctional home.

(2) Every prisoner or person received in a correctional home for detention shall, before admission under sub-section (1), be searched at the Gate Office and the searching officer shall take into custody such articles as are not permitted under this Act or the rules made thereunder to be taken inside the correctional home. The search shall be made in such manner as may not subject the prisoner or the person to unnecessary harassment, humiliation or ignominy. A female prisoner or person shall be searched by the matron or a female warder. When a female prisoner or person is admitted into a correctional home and there is no other female prisoner or person, a female warder shall be deputed to remain inside the ward where such female prisoner or person is accommodated.

(3) A register for recording the weight of every newly admitted prisoner or person shall be maintained in the office of the correctional home by the Medical Officer. After admission, every prisoner or person shall be weighed on a weighing machine kept in the office of the correctional home and his weight shall be recorded with date on which he is weighed in the register as aforesaid before he is sent to any cell or ward.

(4) A prisoner or person admitted into a correctional home shall be produced on the date following the date of admission before the Superintendent of the correctional home and shall be examined by the Medical Officer of the correctional home. In course of such examination, the Medical Officer shall take the weight of the prisoner or person and record the same in the register maintained in the hospital for the correctional home as well as in the history ticket of such prisoner or person.

(5) Within seven days from the date of admission of a prisoner or person in the correctional home, the Superintendent of the correctional home shall cause to be registered such descriptive roll in respect of the prisoner or person and in such form as may be prescribed.

(Chapter V.—Admission of prisoners.—Section 19.)

(6) Any officer or authority (other than the presiding officer of a court) issuing any warrant, writ or order for detention of a person in a correctional home shall clearly mention in the warrant, writ or order, as the case may be, the provisions of the law under which the said person is being detained and the provisions of the law which authorise such officer or authority to issue such warrant, writ or order.

When the committal of a person is not charged with any offence against the provisions of any law for the time being in force, the warrant, writ or order shall indicate the same.

(7) The articles recovered from a prisoner or a person at the time of search before admission, other than those which are not permitted to be taken in the correctional home under the provisions of this Act or the rules made thereunder or any other law for the time being in force, shall be recorded in the register kept in the office of the correctional home as personal effects of such prisoner or person. If any of the prohibited articles as aforesaid is perishable, the same shall be destroyed and if it is not perishable, the same shall be seized and kept in safe custody and the details of such seizure shall be recorded in the register maintained in the office of the correctional home.

(8) All money, jewellery or other valuable articles detected from a prisoner or person on search at the time of admission into a correctional home, if there is no order from a competent court for seizure thereof, and all articles subsequently sent by any friend or relative of the prisoner or person for his use, shall be considered to be his personal property and shall, subject to the rules made under this Act, be kept in the safe custody in the manner prescribed.

(9) After a prisoner or person is admitted into a correctional home on the basis of a warrant, writ or order issued by a court or other competent authority, the Superintendent of the correctional home shall cause to be sent information about such admission through postal service to any relative or friend of the prisoner or person to whom the prisoner or person seeks to communicate information of his detention in the correctional home.

Segregation
of prisoners.

19. Subject to the rules made under this Act, the prisoners shall be segregated in the following manner:—

- (i) female prisoner shall be completely segregated from the male prisoner;
- (ii) convicted prisoner shall be segregated from under-trial prisoner;

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*(Chapter V.—Admission of prisoners.—Section 20.—
Chapter VI.—Delivery of prisoners.—Section 21.)*

45 of 1860.

- (iii) prisoner having a previous conviction for any offence coming under Chapter XVIII of the Indian Penal Code or for any offence punishable under sections 366, 366A, 376 and 420 of the Indian Penal Code or for attempt to commit any such offence or for illicit storage, trader or manufacture of any contraband article or for adulteration of food or medicine, shall be kept separate as far as practicable from other classes of prisoner, whether convicted or under-trial;
- (iv) political prisoner and political detenu shall be kept separate from all other classes of prisoner;
- (v) female prisoner convicted for any offence involving grave moral depravity or having any previous conviction for any such offence shall be kept completely separate from other female prisoners;
- (vi) prisoner suffering from any contagious or infectious disease shall be kept completely separate from other prisoners;
- (vii) civil prisoner shall be kept separate from criminal prisoner.

20. (1) No part of food, clothing, bedding or other articles belonging to a prisoner or issued to a prisoner from the correctional home for his own use shall be given, let out or sold by him to any other prisoner.

(2) The Superintendent of a correctional home may permit any civil prisoner or any under-trial or convicted political prisoner or political detenu to have his food supplied by his relative or friend from outside. When such permission is granted, the Medical Officer of the correctional home shall examine the food so supplied and shall not allow such food to be issued to the prisoner if, in his opinion, the same is likely to be injurious to the health of the prisoner and thereupon the said food shall be returned to the supplier thereof.

Transfer of food, clothing, bedding, etc. and supply of food from outside.

CHAPTER VI

Delivery of prisoners

21. (1) Where any person is sentenced by the High Court in exercise of its original, appellate or extraordinary criminal jurisdiction to imprisonment or death, the High Court shall cause such person to be delivered through any court situated in Calcutta as defined in the Calcutta Municipal Corporation Act, 1980, to the Superintendent of the correctional home having jurisdiction to receive such person together with a warrant. The Superintendent shall execute such warrant and return it after execution to the court issuing the same.

Persons committed by High Court.

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1980.

(Chapter VI.—Delivery of prisoners.—Sections 22, 23.—

Chapter VII.—Classification of prisoners.—Section 24.)

(2) Where any person is committed by the High Court in execution of a writ or order for contempt of court, the court receiving the order of the High Court shall cause such person to be delivered to such custody as it may determine.

(3) The High Court may, pending hearing under section 55 of the Code of Civil Procedure, 1908 of an application for declaration of insolvency, cause a Judgement-debtor to be delivered to the Superintendent of a correctional home having jurisdiction in Calcutta as defined in the Calcutta Municipal Corporation Act, 1980, to receive the person together with a warrant, writ or order. The Superintendent shall execute such warrant, writ or order and return it after execution to the court issuing the same.

5 of 1908.

Persons
committed
by Chief
Metropolitan
Magistrate.

22. Where any person is sentenced by the Chief Metropolitan Magistrate to any term of imprisonment or where any person is ordered by a trial court to be confined for failure to furnish security for keeping peace or being of good behaviour under the provisions of sections 107 to 110 of the Code of Criminal Procedure, 1973, the Magistrate who passed the sentence or order shall cause the person to be delivered along with the warrant to the Superintendent of the correctional home having jurisdiction to receive such person. The Superintendent shall execute the warrant and return it after execution to the Magistrate passing such order.

2 of 1974.

Detention as
civil
prisoners.

23. When a civil person is ordered by a civil court under any law for the time being in force to be detained in a correctional home under a writ, duly signed and sealed by such court, the Superintendent of the correctional home shall receive such prisoner and keep him confined in a separate cell or ward meant for civil prisoners only.

CHAPTER VII

Classification of prisoners

Classifica-
tion of
prisoners.

24. (1) The prisoners detained in correctional homes shall be classified as follows:—

- (a) civil prisoners,
- (b) criminal prisoners,
- (c) under-trial prisoners,
- (d) convicted prisoners,
- (e) habitual offenders,
- (f) non-habitual offenders.
- (g) political prisoners,
- (h) detenus,
- (i) lunatics—criminal and non-criminal.

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(Chapter VII.—Classification of prisoners.—Section 24.)

(2) The prisoners referred to in clauses (a) to (h) shall further be classified into male prisoners and female prisoners according to their sex and into Division I prisoners and Division II prisoners in terms of the provisions of section 25.

5 of 1908. (3) (i) Any person committed to a correctional home by a civil court under the provisions of the Code of Civil Procedure, 1908, or any other law for the time being in force, shall be classified as a civil prisoner.

45 of 1860. (ii) Any person committed to a correctional home by any court or authority for any offence punishable under the Indian Penal Code or any other law for the time being in force or by an order of a court-martial under a writ or order, duly sealed and signed by such court or authority, shall be classified as a criminal prisoner.

(iii) Any person committed to a correctional home having been accused of any offence shall, until he is convicted for that offence or any other offence by any court, be classified as under-trial prisoner.

(iv) Any other person committed to a correctional home in respect of whom any order of conviction has been made by any competent court and a person committed to the custody of a correctional home in default of payment of fine or furnishing security under any proceeding under sections 107 to 110 of the Indian Penal Code shall be classified as a convicted prisoner.

(v) Any prisoner coming within the meaning of clause (f) of section 2 shall be described as a habitual offender. All other prisoners shall be described as non-habitual offenders.

(vi) Any person arrested or convicted on a charge of having committed or attempting to commit or aiding or abetting the commission of any political offence, whether or not the act constituting such offence comes within the purview of any offence punishable under the Indian Penal Code or any other law for the time being in force, and any person believed to have been prosecuted out of political animosity or grudge, shall be classified as political prisoner.

Explanation.—For the purposes of this clause,—

- (a) any offence committed or alleged to have been committed in furtherance of any political or democratic movement or any offence arising out of an act done by an individual with an exclusive political objective free from personal greed or motive shall be a political offence.

Explanation.—(1) An offence coming within the purview of Chapter VI of the Indian Penal Code shall always be deemed to be a political offence.

(2) The provision of a law under which an offender is charged shall not be material. A person charged under section 302 or section 379 or

(Chapter VII.—Classification of prisoners.—Section 24.)

section 395 or section 411 of the Indian Penal Code may be classified as a political prisoner if his case satisfies the requirement of this clause;

- (b) any movement or public agitation sponsored or carried on by any political party or any group or association of persons for furtherance of any political ideology or for securing or safeguarding any political right, objective or relief with a view to obtaining common good for the people in general or any section thereof or for the remedy of any injustice of political nature done to any individual shall be interpreted as a political movement;
- (c) any movement or public agitation sponsored or carried on by any political party or any group or association of persons for securing common good for the people in general or any section thereof or for securing and safeguarding any well-recognised human right, or for undertaking activities in the field of social reform or for ameliorating the living condition of the afflicted or poorer section of the community or for securing reforms or for safeguarding public interest in social, economic, educational and cultural matters, or for securing remedy of any injustice done to any individual or body of individuals in those matters, shall be interpreted as a democratic movement;
- (d) for the removal of doubts it is hereby declared that trade union activities and collective activities sponsored or carried on for securing justice and well being of the working class and collective activities for safeguarding the interest of tillers of land or for betterment of conditions of their labour and living shall be deemed to be a democratic movement:

Provided that a movement or public agitation by any communal, regional, linguistic, religious, racial, sectional or caste group sponsored or cared on against any other like group shall not be deemed to be a political or democratic movement:

Porvided further that any movement based on religious, regional, communal, racial or caste consideration or any movement for promoting any interest, other than social or economic interest, by any religious, regional, communal or racial or caste people or any movement for placing impediment or obstruction in the matter of advancement of any section or sections of the people, shall not be treated as a political or democratic movement.

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(Chapter VII.—Classification of prisoners.—Section 25.)

(vii) Any person who has been committed to a correctional home by warrant, writ or order issued under any law providing for preventive detention or any person detained without any opportunity of trial under any law for the time being in force, shall be classified as a detenu.

(viii) Any person who has been committed to the custody of a correctional home by a warrant, writ or order made by a court for an alleged offence under any law for the time being in force or for serving a sentence for an offence punishable under any law for the time being in force shall be classified as a criminal lunatic if he—

- (a) is found to be of unsound mind on the date of his admission into a correctional home; or
- (b) is found to have developed unsoundness of mind after his admission into a correctional home but before his conviction; or
- (c) is found to have developed unsoundness of mind after his admission into a correctional home and after his conviction:

Provided that a person classified as a criminal lunatic under this clause shall cease to be so classified as soon as he is declared by a psychiatrist to have been cured of unsoundness of mind and shall, thereafter, be classified as a criminal prisoner.

(ix) Any prisoner confined in a correctional home on grounds of unsoundness of mind, who is not charged with any offence and against whom no criminal case is pending in any court, shall be classified as non-criminal lunatic.

25. (1) A prisoner, whether convicted or under-trial, who by his social status, education and habits of life is found to have been accustomed to a superior mode of living, shall be classified as a Division I prisoner unless—

Division I
and Division
II prisoners.

- (a) he is found to be a habitual offender; or
- (b) he is convicted of—
 - (i) an offence involving grave cruelty or grave moral turpitude, or
 - (ii) an offence involving illegal hoarding, storage, movement or disposal of any essential commodity, or
 - (iii) an economic offence of grave social consequences, or
 - (iv) an offence of cheating, forgery, outraging modesty of any female, rape or sodomy.

(2) All political prisoners and political detenus referred to in sub-section (2) of section 27 shall be entitled to all the privileges and amenities of Division I prisoners and also to such other privileges and amenities as may be prescribed in addition to the amenities referred to in sub-section (4) of section 35 and section 105.

(Chapter VII.—Classification of prisoners.—Sections 26, 27.)

(3) All prisoners, other than political prisoners or political detainee or those classified as Division I prisoners, shall be classified as Division II prisoners.

Power to
classify
prisoners.

26. (1) The power to classify a prisoner or a detainee as a Division I prisoner or political prisoner or a detainee as a political detainee initially shall lie with the court to which such prisoner is produced or the authority which remands of detainee to a correctional home. Such prisoner or detainee shall also be entitled to apply for such classification. If such court or authority refuses to make the classification, a petition shall lie in case of a prisoner other than detainee before the Sessions Judge to whom the court of the first instance is subordinate. In the case of a detainee, such petition shall lie before the Sessions Judge of the district of his residence.

(2) Pending classification of a prisoner by a competent court or authority, the Inspector General of Correctional Services may after considering the relevant criteria, classify a prisoner temporarily as Division I prisoner or a political prisoner or a political detainee.

Classifica-
tion of
detenus.

27. (1) The detenus shall be classified as political detenus and general detenus.

(2) A detainee shall be classified as a political detainee if—

- (a) the charges or any of the charges mentioned in the warrant or order of his arrest or in the memorandum of charges accompanying such warrant or order, indicate activities of a political nature, or
- (b) his arrest or order of detention has any connection with any political or democratic movement or any of the charges reveals his association with any such movement, or
- (c) he is a person usually associated with political activities and there is reason to believe that he has been arrested principally on political consideration.

(3) All detenus, other than those classified as political detenus under sub-section (2), shall be classified as general detenus.

(4) (i) All unsocial elements, professional goondas and economic offenders remanded to correctional homes by way of preventive detention under any law for the time being in force, shall be classified as general detenus.

(ii) Any person in respect of whom an order of preventive detention has been made for his involvement in an act which incites or tends to bitterness of feeling between different communities or is any act or movement which may lead to the secession of any part of the territory of India, shall also be classified as a general detainee.

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(Chapter VIII.—Advisory Boards.—Section 28.)

CHAPTER VIII

Advisory Boards

28. (1) The State Government shall by notification constitute a State Advisory Board for Correctional Services (hereinafter referred to as the State Advisory Board) with the following members:—

State
Advisory
Board for
Correctional
Services.

(a) *ex officio members*

- (i) the Secretary, Home (Jails) Department, Government of West Bengal, or his nominee not below the rank of Joint Secretary to the Government of West Bengal;
- (ii) the Inspector General of Correctional Services;
- (iii) the Secretary, Judicial Department, Government of West Bengal, or his nominee not below the rank of Joint Secretary to the Government of West Bengal;
- (iv) the Deputy Inspector General of Police, Special Cell, Criminal Investigation Department;
- (v) the Deputy Director of Social Education, Government of West Bengal;
- (vi) the Head of the Department of Experimental Psychology, University of Calcutta;
- (vii) the Headmaster, Borstal School, Berhampore;
- (viii) the Superintendent, Correctional Home for Women, if any;

(b) *non-official members*

- (ix) five members of the West Bengal Legislative Assembly, nominated by the State Government, of whom one shall be a woman and at least one shall belong to the Opposition in the West Bengal Legislative Assembly;
- (x) two members of Parliament elected from West Bengal to be nominated by the State Government;
- (ix) four persons considered to be persons of public importance in West Bengal or persons taking interest in social reform, nominated by the State Government, of whom one shall be a woman.

(2) The State Government shall appoint one of the non-official members to be the Chairman of the State Advisory Board. The Inspector General of Correctional Services shall be the *ex officio* Member-Secretary of the State Advisory Board.

(3) The State Advisory Board shall advise the State Government—

- (a) on the matters concerning prevention, control and treatment of delinquency and crime;

(Chapter VIII.—Advisory Boards.—Section 28.)

- (b) on the devising of ways and means for establishing greater co-ordination between the Departments of—
 - (i) Home (excluding Jails Branch),
 - (ii) Home (Jails),
 - (iii) Judicial,
 - (iv) Social Welfare,
 - (v) Education, and
 - (vi) Health and Family Welfare,of the State Government;
- (c) on the measures for eradication of vices of corruption, smuggling, sexual depravity, and ill-treatment of prisoners (including extraction of money from the prisoners' relatives);
- (d) on the tackling of disturbances and riots in correctional homes, escape from correctional homes, concerted actions like strike or hunger-strike by prisoners or members of the staff and other emergent situation;
- (e) on any other matter of public interest.

(4) The State Advisory Board shall hold at least four meetings in a year. In the case of outbreak of serious disturbance anywhere in the State, the Member-Secretary shall convene special meetings of the State Advisory Board and apprise the members of the details of the situation. The minutes of the proceedings of the meetings shall be recorded in the minute book.

(5) The members of the State Advisory Board shall have right to visit any correctional home and talk to or interrogate any prisoner. The officers of the correctional home concerned shall furnish any information as may be required by any member of the State Advisory Board during such visit. If any prisoner desires to speak privately to any member of the State Advisory Board during his visit so that no official may hear him, the Superintendent of the correctional home shall allow him such facility and the prisoner shall not be subjected to any rigor or victimization even if the prisoner gives any information which transpires to be incorrect.

(6) Six members of the State Advisory Board shall form a quorum.

(7) The non-official members of the State Advisory Board shall hold office for a term of three years from the date of the first meeting of the State Advisory Board after it is constituted and shall be eligible to be reappointed.

(8) The non-official members of the State Advisory Board shall receive such allowances as may be prescribed.

(9) The appointment of a member in a casual vacancy caused by death, resignation or otherwise, shall be notified in the *Official Gazette*.

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(Chapter VIII.—Advisory Boards.—Section 29.)

29. (1) The State Government shall by notification constitute a District Advisory Board for Correctional Services for each district (hereinafter referred to as the District Advisory Board) with the following members:—

District
Advisory
Boards for
Correctional
Services.

(a) *ex officio members*

- (i) the District and Sessions Judge;
- (ii) the Superintendent of the district correctional home;
- (iii) the District Medical Officer of Health;
- (iv) the District Probation Officer;
- (v) the Chief Medical Officer of Health of the district;
- (vi) the Chief Judicial Magistrate of the district;

(b) *non-official members*

- (vii) one serving or retired Headmaster of a Higher Secondary School nominated by the State Government;
- (viii) five members of the West Bengal Legislative Assembly from the district, nominated by the State Government, of whom one shall be a woman and one shall belong to the Opposition in the West Bengal Legislative Assembly;
- (ix) two social workers of the district, of whom one shall be a male and the other shall be a female, nominated by the State Government.

(2) The District and Sessions Judge shall be the *ex officio* Chairman and the Superintendent of the district correctional home shall be the *ex officio* Member-Secretary of the District Advisory Board.

(3) The District Advisory Board shall advise the District Magistrate—

- (a) on the matters concerning prevention, control and treatment of delinquency and crime within the district;
- (b) on the devising of ways and means for establishing greater co-ordination between the different offices of Government within the district;
- (c) on the measures for eradication of vices of corruption, smuggling, sexual depravity, and ill treatment of prisoners (including extraction of money from the prisoners' relatives);
- (d) on the tackling of disturbances and riots in the correctional homes in the district, escape of prisoners from the correctional homes, concerted actions like strike or hunger-strike by prisoners or members of the staff and other emergent situation;
- (e) on any other matter of public interest.

(Chapter IX.—Visitors.—Section 30.)

(4) The District Advisory Board shall hold at least six meetings in a year. In the case of outbreak of serious disturbances in any correctional home or elsewhere within the district, the Member-Secretary shall convene special meetings of the District Advisory Board and shall apprise the members of the details of the situation. The minutes of the proceedings of the meetings shall be recorded in the minute book.

(5) The members of the District Advisory Board shall have right to visit any correctional home within the district and talk to or interrogate any prisoner. The officers of the correctional home concerned shall furnish any information as may be required by any member of the District Advisory Board during such visit. If any prisoner desires to speak privately to any member of the District Advisory Board during his visit so that no official may hear him, the Superintendent of the correctional home shall allow him such facility and the prisoner shall not be subjected to any rigor or victimization even if the prisoner gives any information which transpires to be incorrect.

(6) Five members of the District Advisory Board shall form a quorum.

(7) The non-official members of the District Advisory Board shall hold office for a term of three years from the date of the first meeting of the District Advisory Board after it is constituted and shall be eligible to be reappointed.

(8) The non-official members of the District Advisory Board shall receive such allowances as may be prescribed.

(9) The appointment of a member in a casual vacancy caused by death, resignation or otherwise, shall be notified in the *Official Gazette*.

CHAPTER IX

Visitors

30. (1) The State Government shall by notification prepare a panel of such member of official and non-official visitors for each correctional home as it may deem fit. The panel shall include at least one woman as non-official visitor.

(2) During their visit to a correctional home the visitors—

- (a) may call for any book, paper or other record of the correctional home,
- (b) may inspect any ward, workshop or cell and, in every case of complaint, shall ensure that the rules in force are duly complied with,

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(Chapter IX.—Visitors.—Section 31.—Chapter X.—Care and treatment of prisoners.—Section 32.)

- (c) may examine if the punishments are being properly imposed on the prisoners,
- (d) shall record their presence and observations in the Visitors' Book maintained by the correctional home in the prescribed form,
- (e) shall perform such other functions as may be prescribed.

(3) If any visitor is of the opinion that any irregularity noticed by him during any visit should be reported to the Inspector General of Correctional Homes and Correctional Services, he shall make such report together with his comments.

(4) The qualifications and the term of office of a non-official visitor and the allowances payable to him for attending meetings, if any, shall be such as may be prescribed.

31. Notwithstanding anything contained in section 30,—

- (i) the Members of Parliament from West Bengal shall have the right to visit any correctional home within the State after giving twenty-four hours' notice to the Superintendent of the correctional home;
- (ii) the Members of the West Bengal Legislative Assembly from a district shall have the right to visit the district correctional home and the central correctional home or any other correctional home situated within the district after giving twelve hours' notice to the Superintendent of the concerned correctional home:

Visit to correctional homes by Members of Parliament and Members of West Bengal Legislative Assembly.

Provided that a Member of Parliament or a Member of the West Bengal Legislative Assembly shall not visit a correctional home earlier than 11 a.m. or later than 4 p.m. on any day.

CHAPTER X

Care and treatment of prisoners

32. (1) The prisoners shall generally be accommodated in cells and wards. In every correctional home there shall be adequate number of cells for segregation of prisoners. In no case more than one prisoner shall be accommodated in one cell. The floor area and the cubical air area of a cell and the floor area to be allotted for every prisoner accommodated in a ward shall be such as may be prescribed.

Accommodation of prisoners.

(2) The female prisoners shall be accommodated in the correctional home for female prisoners or in the female ward of a correctional home.

(Chapter X.—Care and treatment of prisoners.—Section 33.)

(3) (a) The political prisoner and political detenus shall ordinarily be accommodated in the same ward separately from other prisoners.

(b) The political prisoners, political detenus and other prisoners, who intend to undergo studies and acquire educational qualifications through the examinations of, or researches under, any university recognised as such under any law for the time being in force, shall be accommodated in the superior types of cells:

Provided that the prisoners or the detenus have the basic qualifications and aptitude for study and research.

(4) In every correctional home there shall be cells for condemned prisoners separately walled up and enclosed on all sides and the provisions of sub-sections (1), (5) and (6) shall apply to such cells. Such cells shall have sufficient space inside the enclosure so that a condemned prisoner may have opportunity of taking daily walks outside his cell under proper guard.

(5) In each subsidiary correctional home there shall be at least three segregated cells for accommodation of confessing accused persons or of other prisoners where segregation is deemed necessary for their safety or for any other reasons.

(6) The cells and wards shall be well ventilated and the doors and windows thereof shall be fitted with iron bars and iron netting, and adequate anti-mosquito measures should be taken in such cells or wards.

(7) In each cell or ward the residential portion shall be separated from the portion to be used as lavatory or urinal by brick walls or thick and durable screens.

(8) Every ward shall be provided with suitable number of ceiling fans during the months of May to August so that there shall be one ceiling fan for six prisoners operating from 10 p.m. to 6 a.m. on every day except Sundays and holidays. On Sundays and holidays, it shall operate from 12 noon to 3 p.m. and from 10 p.m. to 6 a.m.

Prisoners' food.

33. (1) Every prisoner shall be served breakfast, midday meal and evening meal. The items and quality of articles to be issued for these meals and the mode of catering of the meals shall be such as may be prescribed.

(2) The Superintendent of a correctional home shall depute one or more officers as he may consider necessary to supervise the weighing of the articles of food immediately before such articles are put in the cooking pot and to ensure that the articles are of good quality.

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(Chapter X.—Care and treatment of prisoners.—Section 34.)

(3) In every correctional home (other than a subsidiary correctional home), the Medical Officer shall inspect the quality of the articles of food before they are put in the cooking pot. If it appears to the Medical Officer that any article of food is sub-standard or defective in quality or is likely to be injurious to the health of the prisoners, he shall send a note to the Chief Controller of Correctional Services for replacement of that article by an article of good quality. In every subsidiary correctional home, such function of inspection of food shall be performed by the pharmacist of the correctional home and replacement of any food, if necessary shall be made by the Assistant Controller of Correctional Services.

(4) The Chief Controller of Correctional Services may, with the consent of the prisoners' *panchayat*, take out such quantity of rice and *dal* from the quantity of daily allotment thereof, and for such number of days, as may be prescribed. The value of the quantity so taken out shall be allowed to accumulate for supply to the prisoners on a particular day with superior quality of diet which may comprise articles not included in the diet table.

(5) In every correctional home there shall be a dining shed for the prisoners.

(6) The Superintendent of a correctional home may permit a political prisoner or political detainee or civil prisoner or under-trial criminal prisoner to be supplied with food at his own cost or with food supplied by his friends or relatives subject to inspection by the Superintendent. The Superintendent may disallow any item of food supplied to such prisoner in the aforesaid manner if he is of the opinion that such item of food should not be permitted to be brought inside the correctional home or shall not be supplied to the prisoner on grounds of health.

(7) The State Government may provide such other amenities or privileges to the prisoners as may be prescribed.

34. (1) Every prisoner shall be supplied with clothings of such quality, type and quantity as may be prescribed. The Superintendent may permit a political prisoner or political detainee or civil prisoner or under-trial criminal prisoner to be supplied with traditional items of clothings at his own cost or with clothings supplied by his friends or relatives but such clothings shall not be used by any other prisoner except with the permission of the Superintendent.

Clothing,
bedding and
dressing
material of
prisoners.

(2) Every prisoner shall be supplied with such bedding and dressing materials as may be prescribed. A blanket or other item of bedding used

(Chapter XI.—Educational facilities.—Section 35.)

by a prisoner shall not be supplied to another prisoner unless the same has been disinfected with disinfectants. The Superintendent may permit a civil prisoner or an under-trial criminal prisoner to be supplied with beddings by his friends or relatives but no item of such beddings shall be used by other prisoner except with the express permission of the Superintendent.

(3) If and undertrial prisoner is found unable to provide himself with necessary clothing and bedding, he shall be supplied with the same from the stock of the correctional home at the request of such prisoner.

(4) Where a civil prisoner is committed to the correctional home in execution of a decree, the decree-holder shall, immediately before the admission of such prisoner into the correctional home, deposit with the Superintendent such sum as has been fixed by the court to be the subsistence allowance of such prisoner for a week and if the court has ordered such detention for a period of more than a week, the decree-holder shall make further deposit of such subsistence allowance subsequently but before the sum already deposited by him is expended. In case of failure by the decree-holder to deposit the aforesaid payment, the civil prisoner concerned shall be released by the Superintendent without reference to the court. Whenever clothing or bedding is to be supplied to a civil prisoner, who has been committed to a correctional home in execution of a decree in favour of a decree-holder, such decree-holder or his representative shall, after admission of such prisoner and within 24 hours of the receipt by him of a demand in writing from the Superintendent, pay to the Superintendent the cost of clothing and bedding to be supplied to him; and in default of such payment by the decree-holder, the prisoner shall be released by the Superintendent.

(5) In each correctional home there shall be arrangements for washing of clothings and bed-sheets in such manner as may be prescribed.

CHAPTER XI

Educational facilities

Educational facilities.

35. (1) In every correctional home there shall be adequate facilities for development of educational qualifications and various recreations such as indoor and outdoor games, newspaper reading and cultural activities for the prisoners. The Welfare Officer shall encourage the prisoners for developing their educational qualifications.

(2) If a prisoner, who was prosecuting studies before his imprisonment, expresses his intention to continue his studies and appear in any examination of any University or similar institution, he shall be

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(Chapter XI.—Educational facilities.—Section 36.)

given due facilities for receiving books and writing materials supplied by his friends or relatives from outside and for purchasing books and such materials out of his personal cash kept in the custody of the correctional home.

(3) If a prisoner, who had given up his studies before his imprisonment, expresses his intention to proceed with his studies with a view to appear in any examination conducted by any University or other statutory body or recognised institution, he shall, in addition to the facilities mentioned in sub-section (2), be given such other facilities as may be prescribed.

(4) If any detainee confined in a correctional home has dependent children, brothers or sisters who are prosecuting studies in schools or colleges, the State Government shall make provision for educational allowance for such children, brothers or sisters at such rate as may be prescribed.

36. (1) In every central correctional home and district correctional home, there shall be established a library for the use of the prisoners of different education standards for satisfaction of intellectual hunger or development of knowledge, as the case may be. The library shall be equipped with such books, magazines and newspapers and they shall be issued to the prisoners in such manner as may be prescribed.

Library.

(2) The Superintendent may allow the prisoners to purchase newspapers and magazines from their personal cash or to receive newspapers and magazines supplied by their friends or relatives from outside, provided that no such newspapers or magazines shall contain any matter encouraging unsocial activity or tending to make readers victims of moral depravation.

Explanation.—For the purposes of this sub-section, criticism of Government or Governmental measures shall not be deemed to encourage unsocial activity.

(3) The State Government shall appoint a Selection Committee consisting of the following persons for selection of books, magazines and newspapers to be purchased by different correctional homes:—

- | | | |
|--|---|-------------------|
| (i) the Inspector General of Correctional Services | — | Chairman; |
| (ii) the Joint Secretary to the Government of West Bengal, Home (Jails) Department | — | Member-Secretary; |
| (ii) the Chief Officer of South 24-Parganas. District Library | — | Member; |
| (iv) two persons conversant with selection of books, to be nominated by the State Government | — | Members. |

(Chapter XII.—Hygienic and sanitary arrangements.—Section 37.)

CHAPTER XII

Hygienic and sanitary arrangements

Hygienic
and sanitary
measures.

37. (1) Subject to overall control of the Superintendent, the Medical Officer of a correctional home shall be in charge of maintaining proper sanitary services and introducing hygienic measures as may be deemed necessary. The Medical Officer shall inspect daily all wards, barracks, sheds, cells, or rooms, hospitals, places of cooking, lavatories and the surroundings thereof to ensure that the inside and outside of those places and the surroundings are kept clean and no garbage or filth are accumulated anywhere. If, at any time due to rain, storm or any other cause, there is sudden accumulation of garbage or filth or dust, the Medical Officer shall take speedy action for removal of such garbage, filth or dust.

(2) The cells or rooms and wards and the places where the prisoners work shall be kept clean by such sweeping and washing measures as the Medical Officer may consider necessary.

(3) In areas where there is prevalence of mosquitoes, the Medical Officer shall arrange for spraying disinfectants and anti-mosquito liquid or powder in the surroundings of the correctional home and at such places which are likely to facilitate breeding of mosquitoes. The State Government shall supply mosquito nets for Division I prisoners and for prisoners in hospitals.

(4) The Superintendent, the Medical Officer, the Chief Controller of Correctional Services and other officers of the correctional home shall be responsible for paying due attention to conservancy and taking adequate measures for quick removal of night soil and refuse.

(5) There shall be constructed in each correctional home adequate number of sanitary privies and latrines to meet the needs of the prisoners. Any service privy or latrine existing in any correctional home on the date immediately before the date of commencement of this Act shall be replaced by sanitary privy or latrine, as the case may be, within the shortest possible time.

(6) The Superintendent, the Medical Officer, the Chief Controller of Correctional Services and other officers shall ensure cleanliness in the correctional home in such manner as may be prescribed.

(7) There shall be provision for adequate and continuous supply of pure water in correctional homes. Where water supply is dependent on electrically operated mechanism, adequate number of tubewells shall be sunk to meet the requirement of continuous supply of water.

(8) The State Government may, in the manner prescribed, provide for such other hygienic and sanitary measures as it may deem fit.

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*(Chapter XIII.—Medical administration and medical care.—
Sections 38-41.)*

CHAPTER XIII

Medical administration and medical care

38. Every prisoner shall have a right to medical care in case of sickness as well as for maintaining good health.

Prisoners' right to medical care.
Chief Medical Officer of correctional homes.

39. (1) The State Government shall appoint a senior member of the West Bengal Health Service to be Chief Medical Officer of Correctional Homes. The Chief Medical Officer shall be an officer of the Prisons Directorate directly under the Inspector General of Correctional Services and shall be superior to all Medical Officers appointed in correctional homes.

(2) The Chief Medical Officer shall supervise and inspect the performances of the Medical Officers and shall periodically visit the correctional homes and check the measures taken by the Medical Officers in regard to medical care of the prisoners including allotment of special diets to them. The Chief Medical Officer may, if he thinks fit so to do, cancel or modify any measure taken or allotment of diet made by the Medical Officer of any correctional home.

(3) If the Superintendent is of opinion that any of the measures taken by the Medical Officer should be checked and verified by the Chief Medical Officer, he may request the Chief Medical Officer to do so and thereupon the Chief Medical Officer shall check and verify such measure as he deems fit.

40. (1) In each correctional home (other than a subsidiary correctional home) there shall be a Medical Officer. The Medical Officers for the central correctional homes shall be appointed by the State Government and the Medical Officers of the district correctional homes and special correctional homes shall be appointed by the Inspector General of Correctional Services in consultation with the Chief Medical Officer. The number of Medical Officers shall be such as may be determined by the State Government in consideration of the number of prisoners in a correctional home. Where there are more than one Medical Officer, the Medical Officer in charge of medical administration shall be designated as the Senior Medical Officer and the other Medical Officers shall be subordinate to him shall be designated as Junior Medical Officers.

Medical Officers.

(2) In each correctional home there shall be a separate wing for female prisoners ordinarily under the medical supervision of a female medical officer.

41. (1) Hospital assistants, compounders, pharmacists and other subordinate staff attached to the medical administration shall be called medical subordinates.

Medical subordinates.

(2) The Inspector General of Correctional Services shall, in consultation with the Chief Medical Officer, appoint the medical subordinates for the central correctional homes.

*(Chapter XIII.—Medical administration and medical care.—
Sections 42-44.)*

(3) The Superintendent of district correctional homes and special correctional homes shall, in consultation with the Senior Medical Officers of the correctional homes and subject to confirmation by the Inspector General of Correctional Services, appoint the medical subordinates.

Medical
administra-
tion of
subsidiary
correctional
homes.

42. The Sub-Divisional Medical Officer, who is also the *ex officio* Deputy Superintendent of a subsidiary correctional home, shall be in charge of the medical administration of the subsidiary correctional home and may delegate his duties and functions to any Medical Officer subordinate to him and entrust the day to day medical care and treatment of prisoners to the compounders or pharmacists thereof.

Treatment of
lunatics.

43. (1) If any criminal or non-criminal lunatic is confined in any correctional home otherwise than for transmission to some medical hospital shortly, the correctional home shall obtain the services of such whole time or part time psychiatrists as may be considered necessary to look after the lunatics and to give them proper treatment.

(2) In a central correctional home, there shall be a separate wing in hospital where a prisoner, whether an undertrial or a convict or prisoner under preventive detention, being a psychiatric patient or declared by the Medical Officer to be of unsound mind, shall be segregated and admitted for treatment and, in each such wing, a qualified psychiatrist shall be appointed and he shall be duly assisted by the Medical Officer and the medical subordinates.

(3) If any prisoner as aforesaid is admitted in a district correctional home or a subsidiary correctional home, he shall be segregated from other prisoners and kept in a separate sick room and be removed by the Superintendent of the correctional home concerned to a central correctional home in accordance with the provisions of sub-section (5) of section 44.

Segregation
of sick
prisoners.

44. (1) Quick measures shall be taken for segregation of sick prisoners from other prisoners and in no case shall a sick prisoner be allowed to mix or live with other prisoners.

(2) In every correctional home (other than a subsidiary correctional home), there shall be a hospital and in every subsidiary correctional home, there shall be sick room with at least four beds for segregation of sick prisoners. The hospital and the sick room shall be provided with such equipments as may be prescribed.

(3) As soon as a prisoner becomes sick or a sick prisoner is admitted in a correctional home, he shall be removed to the hospital or the sick room, as the case may be.

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*(Chapter XIII.—Medical administration and medical care.—
Section 45.)*

(4) If a prisoner confined in a district correctional home or subsidiary correctional home, is attacked with any infectious or contagious disease or if a person suffering from any such disease is admitted in a correctional home as aforesaid and is certified as such by the Medical Officer, such prisoner or person, as the case may be, shall be removed to the hospital of a central correctional home for proper medical care and treatment. Pending such removal, such prisoner or person, as the case may be, may be segregated from other prisoners.

(5) Before the removal of a prisoner or person from a district correctional home or subsidiary correctional home under sub-section (4), the Superintendent shall move through trunk call the Inspector General of Correctional Services for orders and thereupon the Inspector General of Correctional Services shall, after consultation with the Chief Medical Officer, give orders for such removal through trunk call and, in all such cases, substance of the messages shall be recorded in relevant registers at both ends.

45. (1) If a prisoner is attacked with a disease which, in the opinion of the Medical Officer, is of a serious type or if, at any stage of illness of a prisoner, the Medical Officer is of the opinion that he should be transferred to another hospital in any correctional home or to an outside Government Hospital, the Medical Officer shall report to the Superintendent accordingly. On receipt of such report, the Superintendent shall move the Inspector General of Correctional Services for order for such transfer, and the Inspector General of Correctional Services shall pass necessary orders. In very urgent case, orders for transfer may be sought for and given through telegrams or telephone calls. When such orders for transfer are sought for and given through telephone calls, substance of the messages shall be recorded in the relevant Registers at both ends.

Transfer of
sick
prisoners.

(2) In exceptional cases where a sick prisoner is required to be transferred to an outside Government Hospital immediately to avoid the risk of the prisoner's life, the Superintendent may, on the advice of the Medical Officer and subject to ratification by the Inspector General of Correctional Services in due course, transfer the said prisoner to an outside Government Hospital and move the Inspector General of Correctional Services for ratification of the action taken by him.

(3) Immediately after the transfer of a sick prisoner under sub-section (1) or sub-section (2), as the case may be, the Superintendent shall write to the Commissioner of Police where the prisoner is transferred to a Government Hospital in Calcutta as defined in the Calcutta Municipal Corporation Act, 1980, or to the Superintendent of Police of the district where such prisoner is transferred to a Government Hospital situated in

*(Chapter XIII.—Medical administration and medical care.—
Sections 46-48.)*

that district, to make arrangements for adequate vigilance on such prisoner at the hospital, and shall, until such arrangements are made, appoint requisite number of warders for the purpose.

(4) The District Medical Officers, the Sub-Divisional Medical Officers, and the Chief Medical Officers of Government Hospitals, the Superintendent of Police, and the Commissioner of Police, Calcutta, shall render due assistance for transfer of a sick prisoner under the provisions of this section.

Death of a
prisoner to
be
communi-
cated.

46. (1) If a prisoner confined in a correctional home or a prisoner sent to an outside Government Hospital for treatment dies, the Medical Officer or the Chief Medical Officer of the Government Hospital, as the case may be, shall communicate the fact of such death to the Superintendent and the Superintendent shall send intimation of such death to the relatives of such prisoner if the name of any such relatives is known from the records of the correctional home.

(2) On the occurrence of death of a prisoner as aforesaid, the Medical Officer or the Chief Medical Officer of the Government Hospital, as the case may be, shall record in the Death Register to be maintained by him in the prescribed form such particulars about the dead prisoner as may be prescribed.

Service of
specialists.

47. (1) If the Medical Officer is of opinion that a specialist should be engaged for proper treatment of a sick prisoner, he shall report to the Superintendent accordingly and the Superintendent shall refer the matter to the Inspector General of Correctional Services who shall, after consulting the Chief Medical Officer, take necessary steps for making the services of such specialist available for the treatment of the prisoner.

(2) The State Government may, if it thinks fit, prepare a panel of specialists for treatment of different kinds of ailments in correctional homes on the requisition of the Inspector General of Correctional Services.

Dentists and
eye
specialists.

48. There shall be a team of such number of dentists and eye specialists under the Chief Medical Officer as the State Government may deem fit. The team of dentists and eye specialists shall visit every correctional home for such period and at such interval for examining prisoners suffering from dental and eye troubles and providing proper remedies as may be prescribed. The cost of treatment including false teeth and spectacles as may be advised by the dentists or the eye specialists, as the case may be, shall be borne by the correctional home.

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(Chapter XIV.—Recreations.—Section 49.)

CHAPTER XIV

Recreations

49. (1) Every prisoner shall be given facilities of having rest and recreation for such period as may be prescribed. The types of recreation shall be as follows:— Recreations.

- (a) educative recreations, namely reading of books, newspapers and periodicals, hearing of radio broadcasts, participation in or attending cultural performances, paintings and the like;
- (b) recreation for mental exercise, namely participation in or witnessing of indoor and outdoor games;
- (c) recreation pertaining to physical health, namely participation in outdoor games and different types of physical culture including yoga;
- (d) recreation for entertainments, namely,
 - (i) community song with musical instruments such as madal and kartal in respective wards or outside the wards with the approval of the Superintendent,
 - (ii) folk dances and songs and other community entertainment on festival days and holidays,
 - (iii) play of simple musical instruments by individual prisoner without disturbing others,
 - (iv) dramatic performances in the form of *jatra* and theatre and variety entertainment programmes by prisoners on festival days and holidays, and
 - (v) display of educative and entertaining films on different occasions with the assistance of the Information and Cultural Affairs Department of the State Government.

(2) The State Government may appoint one or more physical instructors to look after the recreational facilities referred to in clause (c) of sub-section (1). The recreational facilities referred to in clauses (a), (b) and (d) shall be looked after by the Welfare Officer.

(3) In every correctional home, there shall be a playground for outdoor games and a community hall for cultural programmes.

(4) The implements for indoor and outdoor games and other recreations referred to in sub-section (1) shall be issued to and taken back from the prisoners in such manner as may be prescribed. The other recreations referred to in sub-section (1) shall be provided in such manner, as may be prescribed.

*(Chapter XV.—Letters, interviews and interrogations.—
Sections 50, 51.)*

CHAPTER XV

Letters, interviews and interrogations

Letters.

50. (1) Every Division I prisoner shall have the facility of writing such number of letters, being not less than one letter in a week, to his relatives and friends as may be prescribed. Every Division II prisoner shall have the facility of writing such number of letters, being not less than one letter in a month, to his relatives and friends as may be prescribed. Every prisoner under death sentence shall be entitled to write such number of letters to his friends and relatives as may be prescribed. Ordinary inland letter forms shall be supplied to Division I prisoners, political prisoners and detenus and plain paper and envelopes shall be supplied to Division II prisoners at Government cost.

(2) Every political prisoner and every detinue may be allowed to write at his own cost letters in excess of the number fixed by rules made under this Act.

(3) All letters shall be written in Bengali or Hindi or English or mother tongue of concerned prisoner.

(4) The Superintendent shall examine every letter written by a prisoner and may ask the prisoner concerned to delete any portion of the letter which, in his opinion, is likely to endanger the security of the correctional home or contains false information about the affairs of the correctional home.

(5) The Superintendent shall examine every letter sent to any prisoner from outside and delete any portion thereof which, in his opinion, is likely to endanger the security of the correctional home or contains false information about the affairs of the correctional home, before it is delivered to the prisoner.

(6) Notwithstanding anything contained in the foregoing provisions of this section the Superintendent shall not censor any letter written by any prisoner to the Inspector General of Correctional Services or to any Minister of the State Government or to a Member of Parliament or of the State Legislature or to the Speaker of the Loke Sabha or to the Chairman of the Rajya Sabha or to the Speaker of the State Legislature, and such letters shall not be taken into account while computing the number of letters admissible under the rules made under this Act.

Interviews.

51. (1) Every prisoner shall have the right to have such number of interviews with his friends and relatives, not being less than one in a month; as may be prescribed. The State Government shall prescribe by rules the procedure of such interviews, having due regard to the question of security measures and safeguards against smuggling of contraband articles.

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*(Chapter XV.—Letters, interviews and interrogations.—Section 52.—
Chapter XVI.—Labour and wages in correctional home.—Section 53.)*

25 of 1961.

(2) Any legal practitioner as defined in clause (i) of section 2 of the Advocates Act, 1961, may interview any prisoner in connection with his defence in the presence of the Superintendent or any other officer of the correctional home duly authorised by the Superintendent and such interviews shall not be taken into account while computing the number of interviews admissible under the rules made under this Act.

(3) The subject-matter of an interview shall not include any matter in the nature of consultation for commission of any offence punishable under this Act or under any other law for the time being in force. The officer attending an interview may terminate the interview after giving due warning if he considers that the subject-matter of the interview is punishable as aforesaid, and shall note the fact of such termination together with the reasons thereof in the history ticket of the prisoner concerned.

(4) There shall be erected a suitable interview shed inside the correctional home equipped with sitting arrangement for the interviewers and the prisoners.

West Ben.
Act LIX of
1980.

(5) Notwithstanding anything contained elsewhere in this section, in the case of a correctional home in any district the Chief Judicial Magistrate of that district and, in the case of a correctional home in Calcutta as defined in the Calcutta Municipal Corporation Act, 1980, the Chief Metropolitan Magistrate, may, at his discretion and subject to such conditions as he may deem fit to impose, allow any person to interview any prisoner confined in a correctional home in that district or in Calcutta, as the case may be.

1 of 1878.
2 of 1930.
Ben. Act V
of 1909.

52. A police-officer may interrogate a prisoner in a room of the officer of the correctional home in the presence of the Chief Controller of Correctional Services who shall, if so desired by the police-officer, keep himself beyond the hearing distance. For the purpose of investigation of a case under the Opium Act, 1878 or the Dangerous Drugs Act, 1930 or the Bengal Excise Act, 1909, a police-officer, or Excise officer, not below the rank of Sub-Inspector of Police, may interrogate a prisoner with the written permission of a court having jurisdiction, subject to such condition as the court may impose.

Interrogation
by Police.

CHAPTER XVI

Labour and wages in correctional home

53. (1) Labour in a correctional home shall be classified into hard, medium and light and each such labour shall be divided into skilled, semi-skilled and unskilled labour.

Classifica-
tion of
labour.

*(Chapter XVI.—Labour and wages in correctional home.—
Section 54.)*

(2) For the purposes of this section,—

- (a) (i) hard labour shall mean the type of labour the performance of which involves a high degree of physical exertion or application of bodily force, and includes the work of spading, ploughing of land, chopping of wood, coir-pounding, carrying of water on shoulders or head, cooking on the oven and the like;
- (ii) light labour shall mean the type of labour the performance of which involves physical exertion or application of bodily force of a very small degree, and includes work of shifting of foreign materials or waste products from rice or *dal*, sweeping the floor or wall and the like;
- (iii) medium labour shall mean the type of labour which is neither hard nor light;
- (b) (i) skilled labour shall mean the labour done through intricate mechanical process or through skill of hands and mind requiring long time to acquire efficiency or the labour which involves special technical knowledge or training or which is gifted with such artistic or aesthetic qualities as cannot ordinarily be achieved without some prior training or experience;
- (ii) semi-skilled labour shall mean the type of labour which can be learnt on training for a period of one month or so;
- (iii) unskilled labour shall mean the type of labour which is neither skilled nor semi-skilled and which does not require any special knowledge or prior training.

Fitness of
prisoners.

54. (1) The Medical Officer shall, after conviction of a prisoner, examine him and endorse on his history ticket whether he is fit for hard labour, medium labour or light labour. The Superintendent shall, on the recommendation of the Medical Officer as aforesaid, fix the work to be done by such prisoner, keeping in view his physical condition, personal taste and aptitude, and shall determine whether the prisoner should be employed in skilled, semi-skilled or unskilled labour. In case of a female prisoner, the work to be done by her shall not exceed two-thirds of the work involving hard labour, medium labour or light labour as the case may be, to be done by a male prisoner.

(2) No prisoner shall be put to hard labour continuously for a period exceeding four months without a break for at least one month.

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*(Chapter XVI.—Labour and wages in correctional home.—
Sections 55, 56.)*

(3) If, on a subsequent examination of a prisoner recommended earlier for hard labour, the Medical Officer is of opinion that his health does not permit him to undergo such hard labour, the Medical Officer may recommend him for medium labour or light labour.

(4) If, at any time, the Medical Officer is of opinion that a prisoner is or has been suffering from a contagious or infectious disease, he shall at once send the prisoner to the segregation cell or room, as the case may be, and arrange for his proper treatment till his recovery.

55. (1) The rate of wages payable to skilled, semi-skilled or unskilled prisoners put to hard labour, medium labour or light labour, as the case may be, shall be such as may be prescribed:

Wages.

Provided that—

(a) that rate of wages payable to skilled, semi-skilled or unskilled prisoners put to hard labour, medium labour and light labour, shall be different; and

(b) the minimum wage for one full day's labour of any type shall not be less than one rupee.

(2) Every prisoner shall be entitled to spend to the extent of 50% of the wages earned by him per month and the remaining 50% of such wages shall be kept reserved for payment to the prisoner at the time of release as deferred wages. The Superintendent shall open individual savings bank account in any branch of the State Bank of India or of any nationalised bank or Postal Savings Account wherein deferred wages earned by such prisoner shall be deposited.

(3) If any under-trial prisoner or civil prisoner sentenced to simple imprisonment opts to undergo any type of labour, he shall be entitled to wages for such labour at such rate as may be prescribed, provided the rate so prescribed shall not be less than the rate prescribed for other prisoners under sub-section (1).

(4) The Superintendent shall maintain, in such form as may be prescribed, a Register of Labour where in the particulars of the wages earned by every prisoner, the portion of the wages spent by the prisoner, the particulars of the deferred wages and the incidental matters shall be recorded.

56. (1) The working hour of a prisoner put to any type of labour shall not be more than seven hours a day. Besides, there shall be break for at least one hour for lunch, bath and rest. The time-table of the period of labour shall be such as may be prescribed.

Working
hour.

(2) The State Government shall, in every calendar year, prepare a list of holidays in correctional homes. No prisoner, other than a prisoner engaged in essential services declared as such by the State Government, shall be put to work on Sundays and in other holidays.

*(Chapter XVI.—Labour and wages in correctional home.—Section 57.
—Chapter XVII.—Remission, Release and Parole.—Section 58.)*

Industrial
undertak-
ings.

57. The State Government may provide for such industrial undertakings in correctional homes as may be considered necessary in imparting training to prisoners in general and female prisoners in particular, in bread-earning avocations such as handicrafts and works having aesthetic value as may help them in after-release life, and may, for that purpose, appoint such number of trainers or instructors as it may deem fit.

CHAPTER XVII

Remission, Release and Parole

Remission.

58. (1) All criminal prisoners sentenced to rigorous imprisonment for any period exceeding three months shall be entitled to remission at the rate of four days per month. If a part of a month exceeds fifteen days it shall be reckoned as a month.

(2) In addition to the remission admissible under sub-section (1), the Superintendent may grant special remission to a criminal prisoner at such rate as may be prescribed in consideration of meritorious service, arduousness of labour, extra labour, consistency in work and strict adherence to discipline and proficiency in educational and cultural affairs of the prisoner.

(3) If any civil prisoner, under-trial prisoner or criminal prisoner sentenced to simple imprisonment for a term exceeding three months, opts for, and engages himself in, labour, he shall be entitled to remission under sub-section (1).

(4) If any criminal prisoner referred to in sub-section (1) withdraws from, or refuses to perform, any sort of work, he shall not be entitled to remission under sub-section (1) until he resumes work and, on such resumption, he shall be entitled to remission under that sub-section.

(5) Notwithstanding anything contained in the foregoing provisions of this section, if a person serving a sentence in a correctional home, being convicted for any offence affecting human body or property, commits an offence punishable under sections 148, 224, 302, 304, 307, 308, 326, 354, or 377 of the Indian Penal Code, and is convicted for the same by a competent court, he shall not be entitled to remission under sub-section (1) during the remaining period of the sentence for the first conviction or during the period of the sentence for the second conviction.

45 of 1860.

(6) The Inspector General of Correctional Services may grant special remission to a prisoner on such grounds and to such extent as may be prescribed.

(7) The State Government may by order grant remission to all prisoners on any festive or memorable occasion.

*(Chapter XVII.—Remission, Release and Parole.—
Sections 59, 60.)*

(8) A male criminal prisoner who has attained the age of 75 years, or a female criminal prisoner who has attained the age of 45 years, while serving sentence in a correctional home, or a criminal prisoner who has completed seven years' imprisonment, shall be entitled to ordinary remission at the rate of six days per month commencing from the date of attaining the age of 75 years in the case of a male criminal prisoner or 45 years in the case of a female criminal prisoner or from the date of completion of 7 years' imprisonment, as the case may be, and if his conduct during imprisonment is unblemished, the Superintendent may grant him special remission for any period which shall not exceed three months during the entire period of his conviction.

(9) A prisoner shall not be deprived of remission admissible under sub-section (1) if, in the opinion of the Superintendent he is incapacitated to perform any labour for reasons beyond his control.

45 of 1860. (10) If a prisoner released on parole under sub-section (1) of section 62 commits an offence punishable under any of the provisions of the Indian Penal Code or any other law for the time being in force and is committed by any court or other competent authority to rigorous imprisonment for any term, the period of imprisonment of such prisoner shall not entitle him to any remission admissible under this section.

59. (1) A prisoner, who intends to appear in any examination conducted by any University or other statutory body or recognised institution while serving a sentence, shall be entitled to special remission on each such occasion at the following rates:—

Special
remission to
examinees.

- (a) for Madhyamik or equivalent examination . . . ten days;
- (b) for Higher Secondary or equivalent examination . . . twenty days;
- (c) for any Degree examination . . . thirty days.

(2) For the purposes of sub-section (1), the Superintendent of a correctional home shall, with the approval of the Inspector General of Correctional Services, decide where a particular examination is equivalent to Madhyamik, Higher Secondary or Degree examination.

60. The Superintendent shall cause to be maintained a Remission Register in such form as may be prescribed, and shall check the Remission Register at least twice in every month.

Remission
Register.

*(Chapter XVII.—Remission, Release and Parole.—
Section 61.)*

Release.

61. (1) Every prisoner shall be released from the correctional home on the particular date on which his release becomes due. Such date of release shall be calculated by making deduction of the following periods from the total period of imprisonment of the prisoner:—

- (i) the period of remission earned or granted under section 58 or section 59;
- (ii) the period of set off under section 428 of the Code of Criminal Procedure, 1973; 2 of 1974.
- (iii) the period of remission, if any, granted by the State Government under section 432 of the Code of Criminal Procedure, 1973;
- (iv) the period, if any, commuted by the State Government under section 433 of the Code of Criminal Procedure, 1973.

(2) A prisoner shall also be released on receipt by the Superintendent of any order of release made by any competent court, or any order of premature release made by the State Government, on consideration of such matters as may be prescribed, in the following cases:—

- (i) when a convicted prisoner, other than a prisoner referred to in sub-section (4), has undergone continuous imprisonment in the correctional home for a period of 14 years including the period of release on parole and the period of remission earned or granted to him;
 - (ii) when a convicted prisoner is in danger on account of sickness or is suffering from complete blindness or infirmity caused by old age or leprosy or tuberculosis;
 - (iii) when the Superintendent recommends to the State Government the early release of such reformed prisoner on completion of a part of the period of imprisonment as shall not cause any danger to the community;
 - (iv) when the provisions of clause (i) or clause (ii) or clause (iii) do not apply to a prisoner who is about to complete a period of 20 years of continuous detention including the period of release on parole and the period of remission, if any, earned or granted to him, and has to his credit a satisfactory record during the last 3 years of detention.
- (4) (a) Notwithstanding anything contained in the foregoing provisions of this section, where a sentence of imprisonment for life is imposed on conviction of a person for an offence for which death is one of the punishments provided by law or where the sentence of death imposed on a person is

*(Chapter XVII.—Remission, Release and Parole.—
Section 62.)*

2 of 1974.

commuted to imprisonment for life under section 433 of the Code of Criminal Procedure, 1973, such person shall not be released except on parole, unless he has served at least 14 years of imprisonment.

- (b) The provisions of this sub-section shall apply only in the case of conviction or commutation as aforesaid made after the 18th day of December, 1978 but shall not apply in the case of conviction by way of imprisonment for life, though made after the 18th day of December, 1978, is such conviction arises out of an appeal against the order of acquittal passed before the 18th day of December, 1978, by any trial court.

(5) When an under-trial prisoner has been confined in a correctional home for a period of three months under orders of a court, the Superintendent shall, before the expiry of the said period of three months, make a reference to that court or to the court before which his trial is pending seeking instructions for his confinement beyond the period of three months. If the Superintendent is of opinion that the prisoner has been confined beyond the maximum period of imprisonment which may be inflicted for the offence disclosed in the custody warrant, he may invite the attention of the court which remanded the prisoner into custody, or the court before which the trial of the prisoner is pending, to the said fact and seek orders for the release of the prisoner.

(6) The manner in which a prisoner, and especially a female or lunatic or sick or infirm prisoner whose relative or friend does not come to receive the prisoner, shall be released and the rate at which the diet charge and travelling allowance shall be paid to the different classes of prisoners shall be such as may be prescribed.

Explanation.—For the purpose of calculation of the total period of imprisonment under this section, the period of imprisonment for life shall be taken to be equivalent to the period of imprisonment for 20 years.

62. (1) A prisoner sentenced to imprisonment for a period of two years or more may be released by the Inspector General of Correctional Services on parole for such period, not exceeding one month excluding the period required for journeys from and to the correctional home, as may be prescribed on the execution by the prisoner of a bond for a sum, not exceeding one thousand rupees, and on giving an undertaking of good behaviour during the period of his release on parole without any surety or with surety for such amount of security as the State Government may determine and subject to such other conditions as may be imposed by the State Government, and no prior permission or approval of the police shall be necessary before such release:

Release on
parole.

*(Chapter XVII.—Remission, Release and Parole.—
Section 62.)*

Provided that if the prisoner owns immovable property sufficient to cover the amount of security, he shall be released on parole without surety on execution of the bond describing the particulars of the immovable property:

Provided further that where the immovable property owned by the prisoner is not sufficient to cover the amount of security, the Superintendent may accept a bond executed by a relative of the prisoner possessing immovable property sufficient to cover the amount of security and release the prisoner on parole.

(2) No prisoner shall be released on parole under sub-section (1) unless,

- (a) he has served imprisonment for one year, if he has been sentenced to imprisonment for a period of two years but not exceeding five years; or
- (b) he has served imprisonment for two years, if he has been sentenced to imprisonment for a period of more than five years;

and no such prisoner shall be released on parole during the remaining period of imprisonment.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Inspector General of Correctional Services may grant release of any prisoner for a period not exceeding five days in case of any emergency, such as serious illness of his near relative or friend or marriage of his son, daughter, brother or sister or funeral of his near relative or friend or son or daughter or brother or sister or any ceremony in which his participation according to the prevalent custom is essential:

Provided that if the release of a prisoner is immediately necessary on parole in case of any emergency as aforesaid, the Superintendent may, subject to ratification by the Inspector General of Correctional Services, release such prisoner for a period not exceeding five days as may be considered necessary, and may requisition police escort for the prisoner during the period of such release and, in such case, the execution of any bond or the furnishing of any surety shall not be necessary.

(4) No prisoner shall be released on parole under sub-section (1) if—

- (a) he is habitual offender, or
- (b) his release in the ordinary course is due within six months from the date on which he applies for release on parole, or
- (c) he has been convicted for an offence punishable under chapter XII or chapter XVII (excluding the offence of criminal breach of trust and mischief), or for an offence of forgery punishable under section 465, of the

XXXII of 1992.]

*(Chapter XVII.—Remission, Release and Parole.—
Section 63.)*

45 of 1860.
18 of 1947.

Indian Penal Code or for an offence involving violation of the provisions of the Imports and Exports (Control) Act, 1947, or of any other law regulating or controlling the essential services and supplies or regulating or prohibiting the adulteration of food and medicine.

(5) If during his confinement in a correctional home, a prisoner is elected a member of the Legislature of a State or a member of Parliament or a member of a local authority and is required to take his oath as such member before any authority under the provisions of any law for the time being in force, the Inspector General of Correctional Services shall grant him release on parole for such period as may be necessary for the purpose.

(6) Notwithstanding anything contained in the foregoing provisions of this section, the State Government may make rules to provide that a prisoner may enjoy the privilege of release on parole for different terms in a year on such conditions as may be specified therein.

(7) Except in the case of a prisoner referred to in sub-sections (2) and (3) of section 63, the period for which a prisoner is released on parole together with the period required for journeys from and to the correctional home shall be deemed to be the period for which the prisoner has served the sentence.

(8) (a) When a prisoner is released on parole under sub-section (1) or sub-section (3) or sub-section (5), he shall be furnished with a certificate signed by the Superintendent showing the name of the prisoner, the name of the father of the prisoner, the period of release on parole and the place of staying during the said period. A duplicate copy of the certificate shall be retained by the correctional home.

(b) The prisoner shall report to the police-station of the place of his staying during the period of release on parole to enable the local police to keep a watch on his activities.

(9) After the prisoner has returned to the correctional home on the expiry of the period of parole granted under sub-section (1), the amount of security deposited by him or by any relative or friend of his on his behalf shall be refunded. If the prisoner fails to return to the correctional home on the due date, the amount of security shall, unless satisfactory reasons are shown, be forfeited.

63. (1) A prisoner released on parole under section 62 shall, on the expiry of the period of his release excluding the period required for journeys from and to the correctional home, surrender to the correctional home from which he was released.

Surrender of
prisoner
released on
parole.

(Chapter XVIII.—Transfer of prisoners.—Section 64.)

(2) If any prisoner released on parole under section 62 does not surrender to the correctional home from which he was released as required under sub-section (1), he shall, on the basis of necessary requisition made by the Superintendent, be arrested by the police without warrant and delivered to the correctional home whereupon he shall be produced for trial before a Metropolitan Magistrate if the correctional home is situated in Calcutta as defined in the Calcutta Municipal Corporation Act, 1980, or the Chief Judicial Magistrate of the district in which the correctional home is situated, and shall be punished with such further imprisonment for a term not exceeding three years as the court may decide. The offence shall be cognizable and non-bailable. Such prisoner shall be released on his serving such further period of imprisonment as may be imposed on him.

West Ben.
Act LIX of
1980.

CHAPTER XVIII

Transfer of prisoners

Transfer of
prisoners.

64. (1) Notwithstanding anything contained in section 45, the Inspector General of Correctional Services may, in his discretion or on an application made to him, transfer any prisoner from one correctional home to another within West Bengal or from a correctional home in West Bengal to a correctional home or prison in any other State with the consent of the Inspector General of Prisons of that State. Such prisoner shall be given the facility of writing letters to his relatives and friends intimating his transfer to a different correctional home and the number of letters so written by him shall not be taken into account for the purpose of sub-section (1) of section 50.

(2) The Inspector General of Correctional Services may, on the request of the Inspector General of Prisons of any other State, transfer a prisoner confined in a correctional home, who is domiciled in West Bengal, to a prison in that State where the prisoner is required in connection with the trial of any offence committed by him in that State.

(3) (a) Subject to the provisions of this Act and the rules made thereunder, the Superintendent of a district correctional home shall have the power—

- (i) to transfer a prisoner from a district correctional home to the central correctional home on grounds of over-crowding;
- (ii) to transfer a prisoner, sentenced to rigorous imprisonment for any period exceeding three years, from the district correctional home to the central correctional home;

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(Chapter XVIII.—Transfer of prisoners.—Section 64.)

- (iii) to transfer a female prisoner, whether convicted or under-trial, to the central correctional home if there is no other female prisoner in the district correctional home;
 - (iv) to transfer a criminal lunatic or non-criminal lunatic to the central correctional home or, if there is any standing order of the Inspector General of Correctional Services requiring lunatics to be kept in custody in a particular correctional home, to that correctional home, provided no order for his transfer to any lunatic asylum or mental asylum or mental hospital is received during the period of one month from the date of admission of the lunatic into the correctional home.
- (b) In all cases referred to in clause (a), the Superintendent shall send immediate communication to the Inspector General of Correctional Services, and shall give prior intimation to the Superintendent of the correctional home to which the prisoner is transferred about such transfer.
- (c) The Superintendent of the correctional home to which a prisoner is transferred from a district correctional home shall receive the prisoner so transferred, and the transfer order made by the Superintendent of such district correctional home shall be considered sufficient warrant for taking into custody of such prisoner.
- (d) If the prisoner sentenced to imprisonment for any period exceeding three months is admitted into a subsidiary correctional home, he shall, within 15 days from the date of his conviction, be sent by the Superintendent to the district correctional home, and if there is no such district correctional home, to the central correctional home.
- (e) If a prisoner is convicted by a courtmartial and is confined in any correctional home not being situated in his home district, and if such prisoner expresses his desire to be transferred to a correctional home which may be nearer to the place of ordinary residence of his family, he shall be transferred to such correctional home, and in all cases in which a courtmartial prisoner expresses such desire, the Superintendent shall, as expeditiously as possible, obtain order from the Inspector General of Correctional Services for the transfer of such prisoner to such correctional home and, on receipt of such order from the Inspector General of Correctional Services, the Superintendent shall take steps for carrying out the order.
- (f) In cases of emergency and natural calamity like cyclone, flood, prevalence of widespread epidemic disease, earthquake or violent riot, if the keeping of prisoners in the correctional home becomes dangerous to the lives of the prisoners, the Superintendent of the district correctional

(Chapter XVIII.—Transfer of prisoners.—Section 64.)

home may, without the prior permission of the Inspector General of Correctional Services, transfer the prisoners to the central correctional home or to any other place making adequate security arrangements. Such place of temporary dwelling for the prisoners shall be deemed to be the correctional home for so long as the prisoners are detained there.

(g) If a prisoner, who is not ordinarily a resident of West Bengal, makes an application for transfer of himself to a correctional home or prison in his home State, the Superintendent shall immediately forward such application to the Inspector General of Correctional Services. On receipt of such application, the Inspector General of Correctional Services shall communicate with the Inspector General of Prisons of the State to which the prisoner concerned wants to be so transferred, and if the Inspector General of Prisons of the other State gives consent to the transfer of such prisoner, the Inspector General of Correctional Services shall inform the Superintendent to arrange for the transfer of such prisoner. On receipt of such information from the Inspector General of Correctional Services, the Superintendent shall make arrangements for the transfer of such prisoner to such correctional home or prison.

(h) If in any subsidiary correctional home there is excessive overcrowding or if there occurs any emergency of the nature mentioned in clause (f), the Superintendent shall have the power to transfer such number of under-trial prisoners as may be deemed necessary to the district correctional home or, where there is no separate district correctional home, to the central correctional home without the prior permission of the court by which the prisoner was remanded to custody or to which the prisoner is to be produced for trial. The Superintendent of such subsidiary correctional home shall send immediate intimation of such transfer to the aforesaid court.

(i) If any process issued by a court of competent jurisdiction requiring the attendance of a prisoner confined in a correctional home for the purpose of giving evidence in any suit, trial or proceeding pending before such court, is served upon him or if any intimation for production of such prisoner for answering any charge is received from any court, the Superintendent shall take steps for production of such prisoner before such court on the appointed date, and may, for the said purpose, transfer such prisoner to the correctional home which is located nearest to such court with instructions for production of the prisoner so transferred before the court on the appointed date.

(j) The State Government may provide for the transfer of prisoners, not covered by the provisions of this Chapter, in such manner as may be prescribed.

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(Chapter XVIII.—Transfer of prisoners.—Section 65.)

(4) Upon the transfer of a prisoner preparing for an academic examination under any University or Board or recognised institution to a correctional home where there is no co-examinee nor are there necessary books in the library thereof, he may apply to the Superintendent for his re-transfer to a correctional home having a co-examinee and a library with necessary books, and the Superintendent may, with the concurrence of the Inspector General of Correctional Services transfer him to a correctional home having a co-examinee and a library with necessary books.

(5) When a female prisoner is transferred under sub-section (1), the Superintendent shall arrange for a female attendant to accompany her during the entire journey, and a female prisoner shall not be made to travel with male prisoners in the same vehicle or in the same compartment of a train during journey on transfer from one correctional home to another.

(6) When a prisoner is transferred under sub-section (1), he shall not be hand-cuffed or tied with a rope during journey from one correctional home to another.

(7) When a female lunatic is transferred from a correctional home to an asylum or from an asylum to a correctional home or is released from a correctional home and sent to the custody of her relative or friend or when a recovered female lunatic is sent to the court of trial, the Superintendent shall engage a female warder or any other female attendant to accompany her during the journey in addition to the usual police escort. If it is not possible for the Superintendent to engage a female warder or any other female attendant to accompany a female lunatic to be transferred to an asylum, he shall request the Superintendent of the asylum to send a female keeper who shall arrive at the correctional home on the date of transfer of the female lunatic and accompany her during the journey.

(8) No prisoner shall be transferred from one correctional home to another or be allowed to proceed to attend a court for trial unless the Medical Officer certifies him to be physically fit to undertake the journey for the purpose. The court shall be requested to postpone the trial of the prisoner if the Medical Officer does not certify the prisoner to be fit to attend the court.

65. (1) The Inspector General of Correctional Homes and Correctional Services may transfer an *ex* military person or other person convicted by a civil court and confined in a correctional home to a correctional home in the State of his origin with the prior consent of the Inspector General of Prisons of that State to enable such person to be as nearer

Transfer of
ex military
persons or
other persons
committed
by a civil
court to the
States of
their origin.

(Chapter XIX.—Female prisoners.—Sections 66, 67.)

to his home as possible so that such person may have more congenial atmosphere as respects food, climate, association, reformatory treatment, interviews and visits of relatives and friends. If such person does not wish to be transferred to the State of his origin for reasons to be recorded by him in writing, the Inspector General of Correctional Services may consider such reasons and pass such orders as he deems fit.

(2) An *ex* military person convicted by a courtmartial held outside India and repatriated to India for custody in a correctional home in West Bengal may be transferred by the Inspector General of Correctional Services for confinement in a correctional home situated in the State of origin of such person with the prior consent of the Inspector General of Prisons of that State:

Provided that no such transfer shall be made if there are sufficient reasons for custody of such person in a correctional home in West Bengal.

CHAPTER XIX

Female prisoners

Correctional
homes for
female
prisoners.

66. (1) The State Government shall establish such number of correctional homes for female prisoners as it may consider necessary. Pending the establishment of correctional homes for female prisoners, both male and female prisoners shall be confined in the same correctional home:

Provided that the female prisoners shall be accommodated in the female ward of a correctional home till they are transferred to a correctional home for female prisoners as and when established.

(2) A correctional home for female prisoners shall have the status of a district correctional home and shall be of the type of a work centre. Medical Officers, pharmacists, trainers, matrons and other staff of such correctional home shall be females:

Provided that male security staff may be employed for duties outside such correctional home and inside the office thereof.

Segregation
of female
prisoners.

67. (1) Female prisoners may be accommodated in a correctional home for female prisoners or in the female ward of a correctional home, as the case may be, in the following manner:—

- (a) female prisoners classified as habitual offenders shall be segregated from female non-habitual offenders;
- (b) female under-trial prisoners shall be segregated from female convicts;

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(Chapter XIX.—Female prisoners.—Section 67.)

Ben. Act VI
of 1933.

- (c) female prisoners convicted or charged for an offence under the Bengal Suppression of Immoral Traffic Act, 1933 or for any sexual or other offence involving grave moral depravity, shall be segregated from all other types of female prisoners.

Explanation.—For the purpose of clause (c), the offence of pick-pocketing or shop-lifting shall be deemed to be an offence involving grave moral depravity.

(2) No male officer or warder shall enter the female ward or enclosure except for the performance of his duties under this Act or the rules made thereunder or for carrying out the orders of his superior. In such case, the officer or warder shall be accompanied by the matron and a female warder in a central correctional home and by a female warder in a district or subsidiary correctional home for so long as such male officer or warder remains in the female ward or enclosure on duty:

Provided that such male officer or warder may enter the female ward or enclosure at night only for discharge of an unavoidable duty which cannot be held up till the next morning and, in such emergency, the male officer or warder shall make an entry in the gate register noting down the purpose and time of his entry and the time of his exit and shall be accompanied by a matron or a female warder.

(3) A female prisoner shall not be accommodated in a female ward alone. If there is no other female prisoner in the correctional home, the Superintendent shall depute a female warder to stay and sleep with the female prisoner at night. In a subsidiary correctional home where there is no female warder, the Assistant Controller shall employ a female warder from the panel prepared by the Superintendent to stay and sleep with the female prisoner as aforesaid.

(4) The male warders escorting any visitor shall remain outside the female ward or enclosure and the visitor shall enter the female ward or enclosure accompanied by two officers not below the rank of Controller.

(5) A police-officer may, on the orders of a competent court, take the foot-print, finger impression, photograph or measurement of a female prisoner in the office of the correctional home in the presence of an officer of the correctional home, not below the rank of Controller or Assistant Controller and the matron or a female warder.

(6) When a female prisoner is confined in a cell, the key of the cell shall be in the custody of the female warder who shall be within hearing distance of the female prisoner and, for the day and night, two separate female warders shall be placed on duty as far as practicable.

*(Chapter XIX.—Female prisoners.—Sections 68, 69.—
Chapter XX.—Condemned prisoners.—Section 70.)*

Works to be
performed
by female
prisoners.

68. Female prisoners shall generally be employed in the types of work to which they are accustomed. Female prisoners sentenced to imprisonment for any period exceeding six months shall be trained bread-earning avocation such as bamboo crafts, wood-crafts, doll making, embroidery, painting of earthen pichers and pots, tailoring, weaving of tapes, towels, scarfs, knitting of woollen garments, and child-care etc., and in performing arts such as music and dramatic art. For the aforesaid purpose, lady trainees may be employed on payment of such remuneration as may be prescribed.

Confinement
of female
prisoner
with child.

69. (1) If a woman is arrested on a criminal charge and is confined in a correctional home as an under-trial prisoner or convicted prisoner and has a child who has not attained the age of five years, she shall be allowed to retain the child with her in the correctional home till the child attains the age of five years unless her husband or any other relative offers to maintain the child during the period of her confinement in the correctional home.

(2) The Superintendent shall be responsible for proper care and nourishment of the child retained in the correctional home under subsection (1). When the child attains the age of five years during the term of imprisonment of the female prisoner, the child shall be given to her husband or, in his absence, to any other relative according to her choice. In case the husband or other relative does not accept the child, the Superintendent shall send a notice to the Commissioner of Police or the District Magistrate, as the case may be, who shall make arrangement for the custody of the child in consultation with the Director of Social Welfare, West Bengal.

(3) If a child is born of a female prisoner in a correctional home, the Superintendent shall make all hygienic arrangements as are necessary, both for the mother and the child, provide facilities for the performance of such ceremonies as are customary to the community to which the female prisoner belongs, and grant such amount to meet the cost of the ceremony as may be prescribed.

CHAPTER XX

Condemned prisoners

Privileges of
condemned
prisoners.

70. (1) For removal of doubt, it is hereby declared that for the purposes of this Act, a prisoner sentenced to death by a competent court shall be called a condemned prisoner.

(2) A condemned prisoner, who is placed in Division I before conviction, shall, on conviction, continue to enjoy the privileges of a Division I prisoner subject to such restrictions as may be prescribed.

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*(Chapter XX.—Condemned prisoners.—Section 71.—
Chapter XXI.—Criminal and non-criminal lunatics.—Section 72.)*

(3) A condemned prisoner, not classified during the period of confinement before conviction, shall, from the date of conviction to death sentence, be entitled to get such facilities admissible to a Division I prisoner as may be prescribed:

Provided that the Superintendent may allow a condemned prisoner such changed diet to be chosen by the condemned prisoner within such price limit as may be prescribed.

(4) The Superintendent shall provide a condemned prisoner from the date of conviction to death sentence with full opportunity of recreation in such form as may be prescribed.

(5) The procedure for accommodation and custody of, and facilities and amenities available to, a condemned prisoner shall be such as may be prescribed.

71. (1) If a condemned prisoner desires to prefer an appeal to the High Court, the Superintendent shall forward such appeal as promptly as possible and shall, if necessary, arrange for free legal aid to him. If the High Court dismisses the appeal and confirms the death sentence, and thereupon the condemned prisoner desires to prefer an appeal to the Supreme Court, the Superintendent shall afford to the condemned prisoner all facilities for preferring such appeal and arrange for free legal aid to such prisoner, if he so desires.

Appeal by
condemned
prisoner.

(2) If the Supreme Court dismisses an appeal preferred by a condemned prisoner, the Superintendent shall ascertain from him whether he desires to make a mercy petition to the Governor of the State or to the President of India. If the prisoner desires to make such petition, the Superintendent shall contact the local legal aid committee or the District and Sessions Judge or the Chief Justice of the High Court, as the case may be, and arrange free legal aid for him.

CHAPTER XXI

Criminal and non-criminal lunatics

72. (1) (a) No non-criminal lunatic shall be confined in any correctional home and no court or any other authority shall make an order committing a non-criminal lunatic to a correctional home for custody except in a case where immediate arrangement cannot be made for lodging such lunatic in a lunatic asylum or in any other place.

Confinement
of non-
criminal
lunatics.

(b) When a non-criminal lunatic is committed by a court or any other authority to the custody of a correctional home under clause (a), the Superintendent shall admit such lunatic and request the court concerned

(Chapter XXI.—Criminal and non-criminal lunatics.—Section 73.)

for transfer of the lunatic to a lunatic asylum as early as possible. When a female non-criminal lunatic is so confined in a correctional home and is subsequently transferred under orders of the court to a lunatic asylum, the Superintendent shall arrange for a female attendant to accompany her in addition to the usual police escort.

(2) No court or other authority shall, by a writ, warrant or order, commit a non-criminal lunatic to a correctional home for custody for a period exceeding fifteen days at a time and no court shall make more than six such successive writs, warrants or orders so that the total period of confinement as aforesaid does not exceed three months. On the expiry of the said period, the Superintendent shall send back the non-criminal lunatic to the court for transfer of the lunatic to a lunatic asylum.

(3) When a court commits a non-criminal lunatic to a correctional home for custody by a writ, warrant or order which is not in accordance with the provisions of sub-section (1) or sub-section (2), the Superintendent shall not comply with such writ, warrant or order and shall invite the attention of the court to the said provisions for reconsideration of the writ, warrant or order, as the case may be.

Confinement
of criminal
lunatics.

73. (1) (a) The State Government shall set up in every central correctional home a separate ward or wing for custody and care of criminal lunatics. Such ward or wing shall be placed under the charge of a qualified psychiatrist who shall be a whole time officer of the central correctional home and shall be under the direct control of the Chief Medical Officer of Correctional Homes. The State Government may appoint such number of psychiatrists in a central correctional home as may be necessary. When there are two or more psychiatrists in a central correctional home, the seniormost psychiatrist shall be designated as the Chief Psychiatrist and the other psychiatrist or psychiatrists shall be subordinate to the Chief Psychiatrist.

(b) There shall be established an institution for the custody of curable lunatics. The State Government shall appoint such number of officers and other staff for the administration of such institution as may be prescribed.

(2) If any person of unsound mind is admitted to a correctional home as an under-trial prisoner or if a convicted prisoner is found, on medical examination after his admission into a correctional home and while serving a sentence, to be of unsound mind, the Superintendent shall move the Inspector General of Correctional Homes and Correctional Services for orders for the transfer of such prisoner to a central correctional home having a ward or wing set up under clause (a) of sub-section (1)

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(Chapter XXII.—Under-trial prisoners.—Section 74.)

for custody and care and shall transfer the concerned prisoner to the central correctional home approved by the Inspector General of Correctional Homes and Correctional Services.

(3) When a prisoner is transferred from a correctional home to a central correctional home under sub-section (2), the Superintendent of the correctional home from which he is transferred shall communicate the fact of such transfer to the near relative or friend of such prisoner if the name of the relative or friend, as the case may be, is ascertainable from the records of the correctional home.

(4) When an under-trial prisoner or a convicted criminal lunatic is found by the Medical Officer or the Psychiatrist in charge of the world of wing of a central correctional home to have been cured, he shall make a report to that effect to the Chief Medical Officer of Correctional Homes. On receipt of such report, the Chief Medical Officer shall examine the concerned prisoner or cause him to be examined by an expert. If the Chief Medical Officer is satisfied that the concerned prisoner has been completely cured of mental derangement and is fit to understand the proceedings of the court or to serve the sentence, as the case may be, he shall issue a certificate to that effect. On receipt of the certificate from the Chief Medical Officer, the Superintendent shall, with the approval of the Inspector General of Correctional Services, transfer the concerned prisoner to the correctional home within the jurisdiction of the court before which the trial of the under-trial prisoner is pending or to the correctional home in which the convicted prisoner was serving sentence, along with a copy of the certificate of the Chief Medical Officer.

(5) The Superintendent of the correctional home to which a under-trial prisoner is transferred under sub-section (4), shall forward a copy of the certificate from the Chief Medical Officer to the Court before which the trial of the said prisoner is pending for consideration of the court as to the commencement of his trial.

(6) The period during which a convicted criminal lunatic suffers from unsoundness of mind shall be computed as the period of sentence served by him. In the case of an under-trial criminal lunatic, the period of such unsoundness of mind shall be considered as the period of confinement as an under-trial prisoner.

CHAPTER XXII

Under-trial prisoners

74. (1) Where the date for identification of an under-trial prisoner has been fixed by the court, the prisoner shall be put to identification parade in such manner as may be prescribed.

Under-trial
prisoners.

*(Chapter XXIII.—Special provisions for Division I prisoners.—
Section 75.)*

(2) Every under-trial prisoner shall be subjected to as little interference as is consistent with the order and discipline of a correctional home. He shall be allowed to change his clothes in such a way that his identification is not materially hampered and to retain with him his shoes, spectacles and other articles as, in the opinion of the Superintendent, may be permitted to be kept without impairing the discipline and safety of the correctional home.

(3) If an under-trial prisoner volunteers for work, he shall receive wages for the work allotted to him at the prescribed rate and shall be supplied diet admissible to a labour prisoner of the division to which he belongs.

(4) No under-trial prisoner, who is sick or injured, shall be admitted to a correctional home having no arrangement for his treatment. A sick under-trial prisoner shall receive treatment in accordance with the provisions of sections 44 and 45. The Superintendent shall communicate the fact of illness of the under-trial prisoner to the court before which his trial is pending, contact the local legal aid committee, if any, for securing release of the prisoner on bail, and inform the relatives or friends of the prisoner as to the condition of his illness. In the case of probable delay in securing bail of the prisoner or in admitting him to a hospital, the Superintendent shall call in a doctor for the treatment of the prisoner at the cost of the correctional home. In the case of death of such prisoner, the Superintendent shall take steps in accordance with the provisions of section 46.

CHAPTER XXIII

Special provisions for Division I prisoners

75. (1) A Division I prisoner shall, without prejudice to the other provisions of this Act, be accommodated as far as possible in a cell which shall not amount to punishment or solitary confinement. Such prisoner, whether accommodated in a cell or ward, shall be provided with chair, table, light, iron cot, mattress, cotton pillow with cover, blanket, mosquito net, mirror, comb and such other items and at such scales as may be prescribed.

(2) A Division I prisoner, who is a student or an examinee or is in the habit of spending time in reading or educational pursuits, shall be provided with a table lamp.

(3) Each cell or ward for accommodation of Division I prisoners shall be provided with such type and such number of electric fans to be operated for such period of a year and for such hours of a day as may be prescribed.

Accommo-
dation for
Division I
prisoners.

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(Chapter XXIII.—Special provisions for Division I prisoners.—Section 76.—Chapter XXIV.—Prisoners' attendance in courts.—Section 77.)

76. (1) Every Division I prisoner shall—
- (a) receive during travel in custody daily allowance equivalent to twice the price of his daily diet in the correctional home (including the price of tea and breakfast);
 - (b) be supplied with tooth-brush, tooth-paste, toilet soap of standard size and good quality, cocoanut oil, and utensils of good quality for cooking, at such scales as may be prescribed;
 - (c) have the service of barber every alternate day for shaving and once a month for hair dressing;
 - (d) be supplied at the cost of the correctional home with such writing materials at such scales as may be prescribed;
 - (e) be supplied with newspaper at the cost of the correctional home and with such books and periodicals received from his relatives and friends as are, in the opinion of the Superintendent, not prohibited under the provisions of any law for the time being in force;
 - (f) be supplied with food received from his relatives and friends, subject to caution as to security hazard of prisoners;
- (2) In a correctional home,—
- (a) where the number of Division I prisoners does not exceed nine, the diet for them shall be cooked separately from that for Division II prisoners;
 - (b) where the number of Division I prisoners exceeds nine, there shall be a separate kitchen for them and they shall be entitled to supervise the cooking and to suggest menu.

Other amenities.

CHAPTER XXIV

Prisoners' attendance in courts

77. (1) Any court exercising civil or criminal jurisdiction may, if it thinks that the evidence of any prisoner confined in a correctional home is material in any matter pending before it, make an order directing the Superintendent of the correctional home to produce such person before such court on the date and at the time specified in the order, and the Superintendent shall comply with such order.

Prisoners' attendance in courts.

(2) Any court exercising criminal jurisdiction may, if it thinks that the attendance of any person confined in a correctional home against whom a charge of an offence has been made or is pending before the

*(Chapter XXIV.—Prisoners' attendance in courts.—
Section 78.)*

said court for disposal, make an order directing the Superintendent of the correctional home to produce such person before such court on the date and at the time specified in the order, and the Superintendent shall comply with such order.

(3) Where a court making an order under sub-section (1) or sub-section (2), as the case may be, sits in a district different from the district in which the correctional home is situated, the said order shall be sent to the Superintendent concerned through the Inspector General of Correctional Services.

(4) If the person for whose attendance an order has been made under sub-section (1) or sub-section (2), as the case may be,—

- (a) is certified by the Medical Officer to be unfit to undertake the journey to attend such court, or
- (b) is undergoing a trial before any other court and is required to be produced before that court on the same date, the Superintendent shall intimate the court accordingly.

(5) When a prisoner is required to be produced under sub-section (1) or sub-section (2) before a court situated outside the jurisdiction of the Chief Metropolitan Magistrate, the Superintendent of Police of the district shall make adequate arrangement for police escort for transmission of the prisoner from the correctional home to the court and *vice versa*.

(6) When a prisoner is required to be produced under sub-section (1) or sub-section (2) before a court situated within the jurisdiction of the Chief Metropolitan Magistrate, the concerned Deputy Commissioner of Police, Calcutta, shall make adequate arrangement for police escort for transmission of the prisoner to the court and *vice versa*.

78. (1) Where it appears to a civil court that—

- (a) the attendance of any prisoner cannot be secured by virtue of the provisions of sub-section (4) of section 77, or
- (b) the evidence of any prisoner confined in a correctional home situated outside West Bengal or beyond 80 kilometers from such court is material in any matter pending before such court, it may, if it thinks fit, issue a Commission under the provisions of the Code of Civil Procedure, 1908, for examination of such prisoner inside such correctional home.

5 of 1908.

Issue of
Commission
for
examination
of prisoners
in
correctional
home.

XXXII of 1992.]

(Chapter XXV.—Rights of prisoners.—Section 79.)

5 of 1908.
2 of 1974.

(2) When a Commission has been issued under sub-section (1) for examination of a prisoner inside of correctional home, the provisions of the Code of Civil Procedure, 1908, or the Code of Criminal Procedure, 1973, as the case may be, shall apply in relation to such examination, and the Superintendent shall give the facilities to the Commissioner and the lawyers representing the parties to the cause of action to perform their duties and discharge their functions according to law.

CHAPTER XXV

Rights of prisoners

79. (1) Every prisoner shall have the right of access to law. The Superintendent of every correctional home shall provide every prisoner with all reasonable opportunities for invoking the aid of law in all matters concerning his confinement and matters of personal nature. The right of access to law shall include the right of access to legal service and legal aid.

Rights of
prisoners.

(2) Every prisoner shall have the right—

- (a) to protection against unlawful aggression on his person or against imposition of ignominy in any manner not authorised by law;
- (b) to protection against confinement in unhealthy or obnoxious surroundings;
- (c) of having proper medical care and service for preventing deterioration of his health and for cure of ailment with which he may be attacked;
- (d) to protection against unreasonable discrimination;
- (e) to protection against punishment or hardship amounting to punishment, except through procedure established by law and with due opportunity of defence;
- (f) of being informed of the rules of conduct which may be binding on prisoners and of the amenities and privileges of prisoners admissible under the law;

(Chapter XXVI.—Offences and punishment.—Section 80.)

- (g) of pursuing his religious faith and performing essential religious rites required by his religious faith in a manner not causing serious disturbance to the routine of the correctional home or annoyance to the other prisoners, and of observing penance in the case of death of the prisoner's father or mother or husband as the case may be, for the period prescribed by his or her own religious custom;
- (h) to protection against labour not authorised by law or in excess of the prescribed period or without payment of wages at the prescribed rate;
- (i) of communication with relatives and friends as permissible under the rules;
- (j) of enjoyment of fundamental rights under Chapter III of the Constitution of India in so far as they do not become incapable of enjoyment as an incident of confinement.

Explanation.—For the purpose of clause (d), classification, segregation or difference in treatment under the provisions of this Act or the rules made thereunder shall not be deemed to be unreasonable discrimination.

(3) Every prisoner shall, subject to the provisions of any law for the time being in force, have the right to vote in the elections to the State Legislature or Parliament or to any local authority.

(4) No prisoner shall be deployed at the residence of any official of the correctional home for any kind of domestic duties.

CHAPTER XXVI

Offences and punishment

Offence
committed
by a prisoner
in correc-
tional home.

80. (1) A prisoner shall be deemed to have committed an offence in a correctional home if he—

- (i) wilfully disobeys any rule or regulation relating to internal administration of the correctional home without any lawful excuse; or
- (ii) assaults or uses criminal force upon any other prisoner or an officer of the correctional home; or
- (iii) deliberately or persistently uses insulting or abusive words to any other prisoner or an officer of the correctional home; or

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(Chapter XXVI.—Offences and punishment.—Section 80.)

- (iv) shows any conduct, or deliberate and disorderly behaviour, outrageous to normal sense of normality and decency; or
- (v) wilfully injures himself or pretends his own illness with the ulterior motive to avoid labour; or
- (vi) refuses to work without any reasonable excuse; or
- (vii) wilfully causes damage or mischief to any property of the correctional home; or
- (viii) wilfully mismanages his work or causes loss or diminution of the product of his labour through unfair means or tampers with any implement of work without any lawful excuse; or
- (ix) tampers with or defaces any history ticket or record or document relating to the correctional home; or
- (x) receives or possesses any prohibited article or transfers or attempts to transfer any prohibited article for despatch outside the correctional home; or
- (xi) wilfully maligns; or
- (xii) wilfully withholds any information or refuses or omits to disclose any information which has come to his knowledge about the occurrence or chance of occurrence of any danger to any other prisoner or any conspiracy for escape from the correctional home or preparation thereof or any attack or preparation of attack upon any other prisoner or any officer of the correctional home; or
- (xiii) attempts to escape, or conspires with any other prisoner to escape, or assists any other prisoner to escape, from the correctional home or abets any of the aforesaid acts; or
- (xiv) commits such other act as may be prescribed.

(2) Each of the acts referred to in clauses (ii), (v), (vi), (viii), (ix), (x) and (xiii), or the mischief referred to in clause (vii) (if and when it involves a loss of one hundred rupees or more at any one time), of sub-section (1) shall constitute a major offence, and each of the other acts referred to in that sub-section shall constitute a minor offence:

Provided that if a prisoner commits a major offence on more than two occasions, he shall be deemed to have committed a major offence and shall be punished under sub-section (1) of section 81.

(Chapter XXVI.—Offences and punishments.—Sections 81, 82.)

Punishment
for offences
committed
by prisoners
within
correctional
home.

81. (1) Any prisoner, who commits a major offence within the meaning of sub-section (2) of section 80, shall be punished, at the discretion of the Superintendent, with—

- (i) irksome work involving hard toil for a period not exceeding fifteen days; or
- (ii) forfeiture of remission for a period not exceeding fifteen days; or
- (iii) disentitlement to recreational activities for a period not exceeding fifteen days; or
- (iv) disentitlement to the privileges of writing letters to, and interviews with, relatives and friends for a period not exceeding two months; or
- (v) such other punishment as may be prescribed:

Provided that no prisoner shall be punished with more than one punishment for a single offence.

(2) Any prisoner, who commits a minor offence within the meaning of sub-section (2) of section 80, shall be punished, at the discretion of the Superintendent, with—

- (i) warning which shall be entered in his history ticket; or
- (ii) forfeiture of remission for a period not exceeding seven days; or
- (iii) disentitlement to the privileges of writing letter to, and interviews with, relatives and friends for a period not exceeding one month; or
- (iv) such other punishments as may be prescribed:

Provided that no prisoner shall be punished for more than once for the same offence.

(3) All punishments imposed on a prisoner during a spell of his imprisonment shall be entered in his history ticket as well as in the punishment register maintained by the Superintendent in such form as may be prescribed.

(4) Notwithstanding anything contained in sub-section (1) or sub-section (2), the Superintendent shall suspend the punishment imposed by him on a prisoner under sub-section (1) or sub-section (2) for such period as may be recommended by the Medical Officer after medical examination of the prisoner.

Offences
punishable
under the
Indian Penal
Code, etc.

82. (1) Where a prisoner commits within a correctional home an offence punishable under the Indian Penal Code or any other law for the time being in force, and if the Superintendent finds the said offence to be of a serious nature, he shall not impose any punishment on the said

45 of 1860.

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(Chapter XXVI.—Offences and punishments.—Section 83.)

prisoner under sub-section (1) or sub-section (2) of section 81 but shall lodge a complaint to the Sub-Divisional Judicial Magistrate having jurisdiction or to the Chief Metropolitan Magistrate, Calcutta, if the correctional home is situated within his jurisdiction, praying for trial of the prisoner by a competent court.

2 of 1974.

(2) On receipt of a complaint under sub-section (1), the Sub-Divisional Judicial Magistrate or the Chief Metropolitan Magistrate, Calcutta, as the case may be, shall direct the Superintendent of Police or the Commissioner of Police, Calcutta, as the case may be, to investigate into the matter and frame charges against the prisoner under the provisions of the Code of Criminal Procedure, 1973.

(3) When a prisoner is prosecuted under sub-section (2), the Superintendent shall arrange for his legal aid at Government cost or shall allow the prisoner to defend his case by any legal practitioner at his own cost if the prisoner so desires, and such legal practitioner shall be allowed to interview the prisoner as often as he considers necessary and the provisions of section 51 shall apply to all such interviews.

(4) The Sub-Divisional Judicial Magistrate or the Chief Metropolitan Magistrate, Calcutta, as the case may be, shall decide on the charges framed under sub-section (2), and pass such orders as he may consider expedient.

83. (1) Any officer or other employee of a correctional home, who—
- (i) wilfully commits a breach of any provision of this Act or the rules made thereunder; or
 - (ii) neglects, or omits without reasonable excuse to perform, his duties under this Act or the rules made thereunder, or
 - (iii) deliberately and unnecessarily indulges in any sort of harsh or cruel or humiliating behaviour to a prisoner, or
 - (iv) voluntarily abets the commission of any act referred to in clauses (i), (ii) and (iii), shall, when such breach, negligence or omission, indulgence, or abetment causes substantial injury to the person or property of any prisoner or to any property of the correctional home, be punished with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Offences by persons employed in correctional home.

(Chapter XXVII.—Probation and after-care services.—Section 84.)

(2) Any officer or other employee of a correctional home, who voluntarily causes hurt to a prisoner within the meaning of section 320 of the Indian Penal Code, shall be punished with imprisonment for a term which may extend to five years, or with fine which may extend to five thousand rupees, or with both; any officer or other employee of a correctional home, who commits any offence punishable under the Indian Penal Code, shall be punished with imprisonment which may extend to three years, or with fine which may extend to three thousand rupees, or with both.

45 of 1860.

(3) Any officer or other employee of a correctional home who,—

- (i) causes diminution in the quantity, or deterioration in the quality, of diet to be served to a prisoner under this Act or the rules made thereunder with a motive of personal gain for himself or for any other person or out of malice to a prisoner, or
- (ii) wilfully participates or connives entry into, or despatch from, the correctional home of any narcotic drug or intoxicating or explosive substance or of any prohibited article,

shall be punished with imprisonment for a term which may extend to three years, or with fine which may extend to three thousand rupees, or with both.

(4) Any officer or other employee of a correctional home, who helps, or connives at, any attempt made by a prisoner for escape from the correctional home, shall be punished with imprisonment for a term which may extend to ten years, or with fine which may extend to five thousand rupees, or with both.

(5) An offence under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (4) shall be triable by a Metropolitan Magistrate if it is committed in a correctional home within Calcutta as defined in the Calcutta Municipal Corporation Act, 1980, or by a Judicial Magistrate having jurisdiction if it is committed in a correctional home situated in a district.

West Ben.
Act LIX of
1980.

(6) No prosecution shall lie against an officer or other employee of a correctional home under this section without the prior approval of the Inspector General of Correctional Homes and Correctional Services.

CHAPTER XXVII

Probation and after-care services

Amalgama-
tion of
service on
probation
and after-
care
services.

84. (1) On and from the date of coming into force of this Act, the service on probation under the Probation of Offenders Act, 1958 shall, for the purpose of securing inter-connection between services, be amalgamated with the after-care service under this Act in such manner as may be prescribed.

20 of 1958.

XXXII of 1992.]

(Chapter XXVII.—Probation and after-care services.—Sections 85-87.)

(2) The State Government shall, for the purpose of impressing upon the public that by virtue of imprisonment for an offence under any law for the time being in force a person is not to be treated as a social outcaste, take such measures as may be prescribed.

20 of 1958.

(3) Notwithstanding anything to the contrary contained in the Probation of Offenders Act, 1958, any person appointed to be a Probation Officer by the State Government prior to the date of commencement of this Act or any person so appointed on or after the said date shall be re-designated as Probation-cum-After-Care Officer, and the duties and functions of such officer shall include the conduct of after-care services under this Act.

85. The State Government shall, with a view to securing the rehabilitation of a released prisoner in the society as a good citizen, grant to him such financial and other rehabilitation assistance in such manner as may be prescribed.

Réhabilitation assistance.

86. Without prejudice to the generality of the provisions of section 85, the following categories of released prisoners shall be entitled to rehabilitation assistance:—

Rehabilitation assistance for indigent and disable persons.

- (a) released prisoners who have attained the age of sixty years;
- (b) released prisoners who are infirm and have been suffering from permanent physical disability;
- (c) released prisoners who lost their employment by virtue on imprisonment;
- (d) released prisoners who, during their imprisonment, showed efficiency in any sort of work or handicraft or art and aesthetics or attained praiseworthy educational qualifications;
- (e) unemployed released prisoners, aged not above thirty years, who have passed the Madhyamik or its equivalent examination.

87. (1) There shall be an advisory committee consisting of twelve members, to be called the West Bengal Advisory Committee for After-Care Services to aid and advise the State Government in the matter of after-care services to, and rehabilitation of, the released prisoners.

Advisory Committee.

(2) The State Government shall appoint a person, who has dedication to care and rehabilitation services, at the Chairman of the advisory committee and the Additional Inspector General of Correctional Homes and Correctional Services shall be its Member-Secretary. The half of the

(Chapter XXVIII.—Open correctional homes.—Section 88.)

remaining members shall be nominated by the Home (Jails) Department, Relief and Welfare Department and Commerce and Industries Department and the remaining members shall be nominated by the State Government from amongst the persons engaged in humanitarian and social services.

(3) The advisory committee shall hold at least three meetings a year. Five members shall be a quorum for a meeting of the advisory committee.

(4) The advisory committee shall scrutinise the activities of Probation-cum-After-Care Officers and render such guidance as may be necessary.

CHAPTER XXVIII

Open correctional homes

Establishment
of open
correctional
homes.

88. (1) The State Government shall establish one or more open correctional home with a view to grant more freedom to prisoners so as to avail themselves to adapt to community life after release from the correctional home, and the other provisions of this Act, not inconsistent with the provisions of this chapter, shall apply to such open correctional homes.

(2) The open correctional homes established under sub-section (1) shall be classified as 'A' type 'B' type and 'C' type correctional homes in accordance with the provisions of sub-section (3). In A and B type open correctional homes the night lock-up shall be completed after proper counting at 8 p.m. and shall be opened at such hours as may be prescribed. In C type open correctional homes, there shall not be any night lock-up. There shall not also be any day lock-up except in a case where any prisoner violates the rules made under this Act and is found uncontrollable.

(3) The classification of open correctional homes as 'A' type, 'B' type or 'C' type shall be made in such manner as may be prescribed.

(4) Every prisoner accommodated in an open correctional home shall be entitled to remission as admissible under sections 58 and 59.

(5) The Superintendent may allow such visitors to an open correctional home for the purpose of learning the process of rehabilitation of convicted prisoners as may be prescribed.

(6) Any police-officer of or above the rank of Sub-Inspector of Police in the Criminal Investigation Department may visit any open correctional home to keep track of the prisoners after their released from the open correctional home and to protect them from the hardened criminals outside.

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(Chapter XXVIII.—Open correctional homes.—Sections 89, 90.)

89. (1) There shall be constituted for each district a Selection Board consisting of the following members for selection of prisoners to be accommodated in different types of correctional homes:—

Selection Board.

- | | |
|---|--------------|
| (a) Inspector General of Correctional Services or his nominee not below the rank of Additional Inspector General of Correctional Services | — President. |
| (b) District Magistrate or his nominee | — Member. |
| (c) Deputy Inspector General of Correctional Services | — Member. |
| (d) Each of the Superintendent of central correctional homes | — Member. |
| (e) Commissioner of Police, Calcutta or his nominee | — Member. |
| (f) Superintendent of Police or his nominee | — Member. |

(2) The Selection Board constituted under sub-section (1) shall examine such prisoners for the purpose of selection for accommodation in different type of correctional homes and in such manner as may be prescribed.

(3) Notwithstanding anything contained elsewhere in this Act a prisoner,—

- (a) who is not a resident of West Bengal, or
- (b) who is aged less than twenty-five years or more than sixty years, or
- (c) who has been stamped as a confirmed criminal by a court-martial,

shall not be considered by the Selection Board for accommodation in any type of open correctional home.

(4) A prisoner selected by the Selection Board for accommodation in any type of correctional home shall, during transit from a correctional home to an open correctional home, be sent under police escort but shall not be handcuffed.

90. (1) Without prejudice to the provisions of section 62, a prisoner accommodated in an open correctional home may, with the prior approval of the Inspector General of Correctional Services, be granted leave on parole for a period not exceeding fifteen days at a time and not more than twice a year to enable him to meet his family and the officer-in-charge of the police-station having jurisdiction over the residence of the family of the prisoner shall be informed of the name, address and period of leave on parole of the prisoner.

Release of prisoner in open correctional home on parole.

(Chapter XXVIII.—Open correctional homes.—Sections 91, 92.)

(2) If the leave on parole admissible to a prisoner in any year under sub-section (1) has been exhausted, the Inspector General of Correctional Services may, as a special case, grant such prisoner leave on parole for such period as he may deem fit on grounds of serious illness or death of a near relative or natural calamity or any other emergency.

Privilege of prisoners accommodated in 'C' type open correctional home.

91. (1) Every prisoner accommodated in a 'C' type correctional home shall be—

- (a) supplied with food, free of cost, for three months from the date of his entry into such home;
- (b) assisted by the Superintendent in obtaining small trade loan from the State Bank of India or any nationalised bank guaranteed by the State Government for repayment of the loan to be utilised exclusively for the purchase of working implements and raw materials for cottage industry;
- (c) allowed to go to market or to probable customers for selling of goods produced by him and to come back within 7 p.m.;
- (d) allowed to go to a local *mela* or other congregational amusement as a visitor or to display his products for sale;
- (e) allowed, on his release, to take with him the implements of work.

(2) After three months from the date of his entry into a 'C' type correctional home, a prisoner shall procure food out of his income from his industry and may live with his family comprising of five members at a time who may contribute to the maintenance of the family, either by participating in such industry or out of the income from any other avocation.

(3) After one year from the date of his entry into a 'C' type correctional home, a prisoner shall contribute to of the income from his industry to the maintenance of the correctional home at such rate as may be prescribed.

(4) The provisions of sub-sections (2) and (3) shall apply also to a prisoner accommodated in 'A' type or 'B' type open correctional home, and a prisoner in any type of correctional home shall be permitted to open Savings Bank Account at a nearby post-office providing such facility.

Recreational facilities for prisoners in open correctional homes.

92. (1) In every open correctional home there shall be a library for lending books to the prisoners, and a reading room provided with newspapers and magazines. The manner of selection of books for the library and lending or issuing the same to intending prisoners shall be such as may be prescribed.

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(Chapter XXVIII.—Open correctional homes.—Sections 93-97.—
Chapter XXIX.—Prisoners' Panchayat.—Section 98.)

(2) Every open correctional home shall be provided with a radio set with speakers installed in different barracks.

(3) The prisoners in an open correctional home shall be permitted to participate in cultural activities such as song, drama, instrument-music and *kirtan*. In a well-organised cultural, dramatic or variety performance, local villagers may be invited.

93. In all types of open correctional homes prisoners may be rewarded for meritorious work at such rate, not exceeding one hundred rupees in a year, as may be prescribed.

Reward for meritorious work.

94. The provisions of Chapter XIII shall apply *mutatis mutandis* to the prisoners accommodated in any type of open correctional home.

Medical attendance and care of prisoners in open correctional home.

95. The case of every prisoner accommodated in an open correctional home shall reviewed once a month by the Superintendent who shall analyse the problems of the prisoner in detail. If the Superintendent is of opinion that any such prisoner is unfit for being accommodated in the correctional home on grounds of misconduct or unsatisfactory work or for any other cause, he shall, with the approval of the Inspector General of Correctional Services, transfer such prisoner to such correctional home as the Inspector General of Correctional Services may specify.

Review.

96. The Inspector General of Correctional Services or the Additional Inspector General of Correctional Services shall inspect every open correctional home once in every six months. The Deputy Inspector General of Correctional Services shall inspect every open correctional home once in every six months. The Deputy Inspector General of Correctional Services shall inspect every open correctional home once in every three months and submit a report to the Inspector General of Correctional Services.

Inspection.

97. The Inspector General of Correctional Services shall exercise such financial and administrative powers in respect of the management of open correctional homes as may be prescribed.

Financial and administrative control.

CHAPTER XXIX

Prisoners' Panchayat

98. (1) There shall be constituted in every correctional home (including an open correctional home) a prisoners' Panchayat with

Prisoners' Panchayat.

(Chapter XXIX.—Prisoners' Panchayat.—Section 98.)

the members from amongst the prisoners, excluding the political prisoners and detenues detained in the correctional home:

Provided that no prisoner having previous conviction for any offence under Chapter VII of the Indian Penal Code, or any offence involving moral turpitude or illicit manufacturing of, or trade in, any intoxicating substance or adulterated food, drink or medicine, or for any economic offence, shall be included in the Prisoners' *Panchayat*:

45 of 1860.

(2) The Prisoners' *Panchayat* shall—

- (a) foster co-operation of the prisoners with the administrative authority of the correctional home and a spirit of friendliness amongst the prisoners of different correctional homes as well as a disciplined life amongst the prisoners;
- (b) look after the cooking of prisoners' food, suggest menu for the break-fast, and mid-day meal, consistent with the prescribed diet tables and price ceiling;
- (c) look after, and render aid in, the various sorts of cultural and recreational activities;
- (d) look after the sanitary and hygienic condition inside the correctional home as well as the privileges and amenities admissible to the prisoners under this Act or the rules made thereunder;
- (e) perform such other functions as may be prescribed.

(3) The Superintendent may, if the political prisoners or detenues detained in the correctional home so desire, recognise not less than three and not more than four of their representatives for the purpose of maintaining regular contact with him in relation to their grievances, if any.

(4) The female prisoners shall have a separate *Panchayat*, if the number of such prisoners is ten or more. Where the number of female prisoners in a correctional home is less than ten, the Superintendent shall nominate not more than two female prisoners as their representative who shall discharge the functions of the Prisoners' *Panchayat* under sub-section (2).

(5) The Superintendent shall nominate one member of the Prisoners' *Panchayat* as the *Pratinidhi* and another member thereof as *Upa-Pratinidhi* for the purpose of maintaining regular contact with him in relation to the grievances of the prisoners, if any.

(6) The manner of constitution of a Prisoners' *Panchayat*, the duties and functions of the *Panchayat*, the duration of the *Panchayat*, the duties and functions of the officers of the correctional home in relation to the *Panchayat* shall be such as may be prescribed.

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(Chapter XXX.—Miscellaneous provisions.—Sections 99-103.)

CHAPTER XXX

Miscellaneous provisions

- 99.** The accounts of every correctional home shall be maintained and audited in such manner as may be prescribed. Accounts and audit.
- 100.** (1) The State Government shall codify the rules made and orders issued, from time to time governing the conduct of, and the amenities and privileges admissible to, the prisoners accommodated in correctional homes and make the same available to the prisoners in such manner as may be prescribed. Codification of rules and orders etc.
- (2) A brief summary of the rules and orders referred to in sub-section (1) shall, as far as practicable, be conspicuously displayed on a black board in legible hand so that the prisoners may have an opportunity of reading the same.
- 101.** A prisoner shall, during transmission from one correctional home to another or during performance of any extramural labour outside the boundary walls of a correctional home, be deemed to be under the custody of the correctional home by way of imprisonment and shall be subject to all the incidences of the correctional home as if he were actually confined in the correctional home. Custody of prisoners during transmission.
- 102.** The High Court may grant pardon to any prisoner and recommend to the State Government for his release on personal recognizance bond. Thereupon the State Government shall pass order for his release on execution by him of such bond and, on receipt of such order, the Superintendent shall release him accordingly. Release by order of High Court.
- 103.** (1) The State Government shall set up an institution to be called the Institution for Training of Employees of Correctional Homes in West Bengal. The training institution as aforesaid shall provide different courses for different categories of employees. The duration and syllabus of, and other matters incidental to, such training shall be such as may be prescribed. Training Institution for employees of correctional homes.
- (2) The training referred to in sub-section (1) shall be compulsory for all categories of employees of correctional homes. The State Government shall by notification specify a date from which such training shall be imparted, and arrange for training of the employees of correctional homes in relevant courses in suitable batches so that all the employees are trained within such period as may be prescribed.

(Chapter XXX.—Miscellaneous provisions.—Sections 104-107.)

(3) Every person employed in a correctional home shall, after the commencement of this Act, be on probation for such period as may be prescribed, and shall undergo the relevant training course satisfactory during the period of probation, failing which his services under the correctional home shall be terminated.

Employees
not to have
interest in
contract etc.

104. No officer or other employee of a correctional home shall have any direct or indirect interest in any contract for supply of any article to a correctional home nor shall he derive any personal benefit from any such contract directly or indirectly or from sale or purchase of any article in the name of a prisoner.

Special
provisions
for detenu.

105. If any political detenu has any running insurance policy before his detention in a correctional home under any law for the time being in force, providing for preventive detention, the State Government shall take necessary steps for payment of premium for such policy during the period of detention of the detenu.

Power to
make rules.

106. (1) The State Government may by notification make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the matters which under any provision of this Act, are required to be prescribed or to be provided for by rules.

(3) All rules made under this Act shall be laid, as soon as may be after they are made, before the State Legislature.

Removal of
difficulties.

107. (1) If any difficulty arises in giving effect to any of the provisions of this Act, the State Government may, by order published in *Official Gazette*, make such provisions or take such measures, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for removing the difficulty:

Provided that no such order shall be made after the expiry of a period of three years from the date of commencement of this Act.

(2) The State Government may make an order under sub-section (1) to have effect from any date not earlier than the date of commencement of this Act.

(3) An order made under sub-section (1) shall be laid, as soon as may be after it is made, before the State Legislature.

XXXII of 1992.]

(Chapter XXX.—Miscellaneous provisions.—Section. 108.)

9 of 1894.
3 of 1900.
33 of 1920.
29 of 1950.
32 of 1955.

108. (1) The Prisons Act, 1894, the Prisoners Act, 1900, the Identification of Prisoners Act, 1920, the Transfer of Prisoners Act, 1950, and the Prisoners (Attendance in Courts) Act, 1955, in their application to West Bengal, are hereby repealed.

Repeal,
saving and
validation.

(2) Notwithstanding such repeal,—

- (a) all rules, regulations, orders notifications and directions made or issued from time to time under the provisions of the said Acts and continuing in force immediately before commencement of this Act shall, after such commencement, continue in force in so far as they are not inconsistent with the provisions of this Act until they are repealed or amended;
- (b) all suits and cases pending before any court or tribunal under any of the provisions of the said Acts shall be continued and disposed of, as if this Act had not been passed;
- (c) any licence or permit granted or any contract made under the provisions of the said Acts or the rules made thereunder and continuing in force immediately before the commencement of this Act shall not be affected;
- (d) any appointment made under the provisions of the said Acts and continuing in force immediately before the commencement of this Act shall be deemed to have been made under the provisions of this Act.