ANGUILLA

REVISED REGULATIONS OF ANGUILLA

under

PRISON ACT
R.S.A. c. P75

Showing the Law as at 15 December 2014

This Edition was prepared under the authority of the Revised Statutes and Regulations Act, R.S.A. c. R55 by the Attorney General as Law Revision Commissioner.

Regulation	Citation	Page
PRISON REGULATIONS	R.R.A. P75-1	3
Consolidates: R.A. 26/2001, in force 31 October 2001	*(15/12/2002)*	
Act 7/2010, in force 1 November 2010	*(15/12/2010)*	
R.A 2/2011, in force 20 December 2010	*(15/12/2014)*	

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Revised Regulations of Anguilla: P75-1

PRISON ACT (R.S.A. c. P75)

PRISON REGULATIONS

Note: These Regulations are enabled under the definition of "prison" in section 1 and under section 18 of the Prison Act, R.S.A. c. P75.[1]

(Am. in L. R. 15/12/2014)

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[1] This Note has been corrected to reflect the renumbering of the Act by Act 8 of 2011.

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PART 1

PRELIMINARY AND PRISON DECLARATION

Interpretation

1. In these Regulations—

"Act" means the Prison Act;

"adjudged term" means the length of imprisonment imposed by a court on passing sentence, and where it passes 2 or more sentences of imprisonment to be served consecutively by a prisoner, means the aggregate length of all those sentences;

"medical officer", in relation to a prison, means the Director of Health Services or other medical practitioner appointed by the Governor for the purposes of these Regulations;

"sentence" means the sentence of imprisonment being served by a prisoner pursuant to an order of a court made upon his conviction for a criminal offence, and includes any such sentence being served in default of payment of a fine or other monetary penalty imposed by the court upon his conviction;

"Superintendent" means the Superintendent of Prisons appointed under section 6(1) of the Act;

"unconvicted prisoner" means a prisoner awaiting trial, a prisoner on remand, a prisoner committed for contempt of court, a prisoner convicted but not sentenced, or a prisoner under lawful temporary detention without charge, but does not include a prisoner detained for an indeterminate term at the pleasure of the Governor, and "convicted prisoner" shall be construed accordingly;

"Visiting Committee" means the committee established under section 42(1).

Prison declaration

2. The following are designated as prisons for the purpose of the definition of "prison" in the Act—

(a) Her Majesty's Prison Anguilla East on Parliamentary Drive in the Valley;

(b) Her Majesty's Prison Anguilla West on Parliamentary Drive in the Valley;

(c) the cells and premises in the Royal Anguilla Police Force Headquarters in The Valley.

(R.A. 2/2011, s. 1 and 2)

PART 2

GENERAL

Admission, search and briefing of prisoners

3. (1) Prisoners shall not be received at a prison earlier than 6:00 a.m. or later than 6:00 p.m. or on any Sunday, Christmas Day or Good Friday, except with the special permission of the Superintendent.

(2) Before any prisoner shall be received into a prison the usual form of committal, properly filled up in all parts, shall be put into the hands of the Superintendent or other officer in charge.

(3) Immediately upon the admission of a prisoner into prison, the Superintendent shall cause to be entered—

(a) in the prisoners Admission Book, the name of the prisoner, whether he is convicted, and if so, the date of commencement and expiration of his sentence, his age, height, weight and other details relevant to his identification;

(b) in the Reconviction Book, the name of every prisoner admitted into prison on a second or subsequent conviction; and

(c) in the prisoners' Property Book, any property found upon the prisoner at the time of his admission into prison.

(4) Subject to section 16, immediately upon the admission of a prisoner into prison, the prisoner shall be searched by a Prison Officer of the same sex as the prisoner concerned, in as seemly a manner (out of sight of other prisoners) as is consistent with the discovery of anything concealed.

(5) Every prisoner shall be provided, within 24 hours of his admission into prison, with sufficient information about these Regulations and any other matters which it is necessary for him to know, including the proper method of making requests and complaints.

(6) The Superintendent may require that any prisoner admitted into prison be photographed and finger-printed.

(7) A copy of these Regulations shall be made available to any prisoner who requests it.

Classification and separation of prisoners

4. (1) Subject to section 5 and any direction of the Governor, the Superintendent may classify prisoners according to their age, temperament and record with a view to maintaining good order and furthering rehabilitation.

Prisoners may be classified into—

Category A:

a prisoner who must be held in accommodation to the highest level of security available and whose escape would be a danger to the public, the police or the nation;

Category B:

a prisoner who need not be held in accommodation to the highest level of security available but whose escape must be made as difficult as possible;

Category C:

a prisoner who does not have the resources or inclination to escape but who cannot be held in open accommodation;

Category D:

a prisoner who is not considered to be a security risk and who can serve his sentence in open accommodation.

(2) As far as reasonably possible unconvicted prisoners shall be kept apart from convicted prisoners.

Female prisoners

5. (1) Female prisoners shall be kept entirely separate from male prisoners.

(2) The Superintendent may, subject to any conditions he thinks fit, permit a female prisoner to nurse or tend her child in prison, in which case everything necessary for the child's maintenance and care shall be provided there.

Privileges

6. For the encouragement of good conduct, industry and rehabilitation of prisoners, the Superintendent shall, subject to the approval of the Governor, establish a system of privileges for each prison, including schemes under which money earned by prisoners may be spent by them within the prison.

Remission of sentence

7. (1) Every prisoner sentenced to a term of imprisonment, whether by one sentence or by consecutive sentences for a period exceeding 1 month, shall become eligible for unconditional release when he shall have completed two-thirds of his term of imprisonment in addition to any number of days forfeited under the provisions of subsection (3).

(2) A prisoner referred to in subsection (1) shall be discharged when that part of the adjudged term of his sentence less the period of remission has been served.

(3) A prisoner eligible for remission of sentence under this section who commits any offence against prison discipline may suffer total or partial loss of remission of his sentence as provided in sections 33 and 34, unless on account of his subsequent good conduct and industry the Superintendent directs otherwise.

(4) This section shall not apply to any prisoner serving a sentence of imprisonment for life or ordered to be detained in prison for an indefinite term during the pleasure of the Governor.

Temporary release

8. (1) The Superintendent may, subject to any conditions he sees fit to impose, authorise the temporary release of a convicted prisoner to enable him to engage in employment, or receive training, or assist him in his transition to freedom, or for any special purpose.

(2) A prisoner temporarily released under subsection (1) may be recalled to prison at any time, whether the conditions of his release have been broken or not.

(3) This section shall not apply to any prisoner serving a sentence of imprisonment for life or ordered to be detained in prison for an indefinite term during the pleasure of the Governor.

Requests by prisoners to see certain authorities

9. (1) Every request by a prisoner to see the Superintendent or the Visiting Committee shall be recorded in the Application Book by the Prison Officer to whom it is made and promptly communicated to the Superintendent.

(2) The Superintendent, as soon as practicable after he is informed of a request under subsection (1), shall—

(a) if the request is addressed to himself, make himself available to hear it within 24 hours on any day other than Sunday, or a public holiday; and

(b) if the request is addressed to the Visiting Committee, inform a member of the Visiting Committee of the request.

Religious ministration

10. (1) A prisoner shall be treated as being of the religious denomination stated on his record upon his admission into prison or otherwise disclosed by him to a Prison Officer.

(2) The Superintendent shall approve the choice by any religious denomination of a chaplain to a prison and any prison minister of religion, and shall also approve the nomination of any substitute for the chaplain or a prison minister during the absence of the chaplain or prison minister.

(3) A chaplain or prison minister of religion shall—

(a) interview every prisoner individually as soon as practicable before the prisoner's admission into and release from prison;

(b) unless other arrangements are made, read the burial service at the funeral of any prisoner of his denomination who dies in prison;

(c) visit prisoners of his denomination as regularly as practicable; and

(d) conduct divine service for prisoners of his denomination at least once each week or at such intervals as may be practicable and, where possible, on the special days of religious observance pertaining to his denomination.

(4) Where a prisoner belongs to a denomination for which no prison minister has been appointed, the Superintendent shall do what he reasonably can, if so requested by the prisoner, to arrange for him to be visited by a minister of that denomination.

(5) The Superintendent shall not require prisoners of the Muslim, Jewish or Christian religion to do unnecessary work on a Friday, Saturday or Sunday respectively.

(6) So far as is reasonably practicable, there shall be available for the personal use of every prisoner such religious books as are approved by the Superintendent for use in prison. No prisoner shall be compelled to attend a religious service of a denomination to which he does not belong.

Illness and death of prisoners

11. (1) The medical officer shall have the care of the mental and physical health of the prisoners and for this purpose shall visit the prison not less than one day in every week and on such other days on the request of the Superintendent.

(2) Every request by a prisoner to see the medical officer shall be recorded in the Medical Book by the Prison Officer to whom it is made and promptly communicated to the medical officer.

(3) The medical officer may call another medical practitioner into consultation, and shall do so, if time permits, before performing any serious operation.

(4) If an unconvicted prisoner desires the attendance of a registered medical practitioner or dentist, other than the medical officer or dental surgeon, and will pay any expenses incurred, the Superintendent shall, if he is satisfied that there are reasonable grounds for the request, allow him to be attended by that practitioner or dentist, without the consultation of the medical officer.

(5) The medical officer shall report in writing immediately to the Superintendent on the case of any prisoner—

(a) suffering from a disease that is notifiably contagious; or

(b) whose health is likely to be injuriously affected by continued imprisonment or any conditions of imprisonment;

and the Superintendent shall thereupon without delay send a copy of the report to the Governor with his recommendation as to what requires to be done.

(6) The medical officer shall report in writing to the Superintendent on the case of any prisoner whose mental condition appears to require that special arrangements be made for the prisoner's supervision or care, and the Superintendent may approve any such arrangements.

(7) The medical officer shall inform the Superintendent if he suspects any prisoner of having suicidal intentions, and such prisoner shall thereupon be placed under special observation.

(8) If a prisoner dies, becomes seriously ill, sustains any severe injury or is removed to a hospital on account of mental or physical disorder, the Superintendent shall, if the address concerned is known to him, inform the prisoner's spouse or next of kin, and also any person whom the prisoner may reasonably have asked should be informed.

(9) If a prisoner dies, the Superintendent shall immediately notify the Coroner, the Visiting Committee, and the Governor.

Clothing of prisoners

12. (1) An unconvicted prisoner may wear his own clothing and arrange for it to be supplied to him from outside the prison, insofar as such clothing is adequate, clean and tidy.

(2) A convicted prisoner shall be provided with clothing adequate for the climate and consistent with good health in accordance with a scale approved by the Governor.

(3) The clothing referred to in subsection (2) includes protective clothing for use at work where it is needed.

(4) Subject to subsection (5), a convicted prisoner shall only wear the clothing provided for him under this section unless the Superintendent directs otherwise.

(5) A convicted prisoner required to be taken in custody to any court shall wear the clothing provided by the prison.

(6) A prisoner may be provided, where necessary, with suitable and adequate clothing on his release.

Food

13. (1) Subject to any directions of the Superintendent, an unconvicted prisoner may arrange at his own expense for food to be supplied to him from outside the prison.

(2) Subject to any directions of the Governor, or as advised by the medical officer, no convicted prisoner shall—

(a) be allowed to have any food other than that ordinarily provided; or

(b) be given less food than is ordinarily provided.

(3) The food provided shall be wholesome, nutritious, well prepared and served, reasonably varied and sufficient in quantity.

(4) The medical officer shall regularly inspect the food both before and after it is cooked, and shall report any deficiency or defect to the Superintendent.

Alcohol and tobacco

14. (1) No prisoner shall be allowed to have any intoxicating liquor except under a written order of the medical officer specifying the quantity and the name of the prisoner.

(2) No prisoner shall be allowed to smoke or have any tobacco except in accordance with any directions of the Superintendent or the medical officer.

Accommodation and hygiene

15. (1) No room or cell shall be used as sleeping accommodation unless certified by the Governor—

(a) as being capable of accommodating a specified maximum number of prisoners who may sleep or be confined at one time in the room or cell, which number shall not be exceeded without the authority of the Governor; and

(b) as being otherwise suitable for the confinement of any prisoner.

(2) Each prisoner shall be provided with a separate bed and with separate bedding, adequate for warmth and health.

(3) Every prisoner shall be provided with toilet articles necessary for his health and cleanliness, which shall be replaced as necessary.

(4) Every prisoner shall be required to wash at proper times, have a shower on admission into prison and thereafter at least once a day and to have his hair cut as may be necessary for neatness. Any objection to the cutting of hair on valid grounds of religion shall be referred to the Governor for a decision. In the case of a male prisoner not excepted by the Superintendent, he shall be required to shave or be shaved daily, but an unconvicted prisoner shall not be required to have his hair cut or any beard or moustache usually worn by him shaved off except where the medical officer directs this to be done for the sake of health or cleanliness and then only with the permission of the Superintendent.

Intrusive bodily examination of prisoners

16. The Governor may permit the medical officer or any registered medical practitioner authorised by the medical officer—

(a) to conduct, with or without the consent of the prisoner, an intrusive bodily search of a prisoner for the purpose of discovering any prohibited or unauthorised article; and

(b) to obtain samples from a prisoner of such bodily fluids as may be necessary to detect illness or drug abuse, but no sample other than urine and saliva may be obtained from the prisoner without his consent.

Daily exercise

17. (1) A prisoner not engaged in outdoor work shall be given exercise in the open air for not less than one hour each day, if health permits, but exercise consisting of physical training may be given indoors instead of in the open air.

(2) The period of exercise referred to in subsection (1) may be reduced in special circumstances by the Superintendent.

(3) The medical officer shall decide upon the fitness of every prisoner for exercise and physical training, and may excuse a prisoner from, or modify, any activity on medical grounds.

Work

18. (1) A convicted prisoner shall be required to do useful work, approved by the Governor, for not more than 10 hours a day, on weekdays and arrangements shall be made to allow prisoners to work, where possible, outside the cells accompanied by a Prison Officer and in association with one another.

(2) On Saturdays work in the prison shall be suspended and all outside gangs shall return at 2:00 p.m. for purposes of washing, shaving, hair clipping and such like.

(3) The medical officer may excuse a prisoner from work on medical grounds, and no prisoner shall be set to do work which is not of a class for which he has been passed by the medical officer as being fit.

(4) No prisoner shall work in the service of another prisoner or a Prison Officer, or for the private benefit of any person, without the authority of the Governor.

(5) An unconvicted prisoner may, if he wishes, do work as if he were a convicted prisoner.

(6) Prisoners may be paid for their work at rates approved by the Governor, either generally or in relation to particular cases.

(7) Every prisoner shall be searched on parade immediately on return from outside work.

Education and social welfare

19. (1) Every prisoner able to profit from the educational facilities at a prison shall be encouraged to do so.

(2) Programmes of daytime and evening educational classes shall be arranged and, subject to the directions of the Governor, reasonable facilities shall be afforded to prisoners who wish to do so to improve their education by correspondence courses or private study, or to practise handicrafts in their spare time.

(3) Special attention shall be paid to the education of illiterate prisoners, and if necessary, they shall be taught to read and write within the hours normally allotted to work.

(4) A library shall be provided and, subject to the direction of the Governor, every prisoner shall be allowed to have library books and exchange them.

Outside contacts and aftercare

20. (1) The Superintendent shall endeavour to maintain such relations between a prisoner and his family as are desirable in the best interests of both.

(2) A prisoner shall be encouraged and assisted to establish and maintain such relations with persons and agencies outside prison as may, in the opinion of the Superintendent, best promote the interests of his family and his own social rehabilitation.

(3) From the beginning of a prisoner's sentence, consideration shall be given, in consultation with the appropriate aftercare organisation, to the prisoner's future and the assistance to be given to him after his release.

Letters and visits

21. (1) The Superintendent may, with a view to securing discipline or the prevention of crime or in the interests of any persons, impose restrictions, either generally or in a particular case, upon the communications to be permitted between a prisoner and other persons.

(2) Except as provided by these Regulations, a prisoner shall not be permitted to communicate with any person outside the prison, or that person with him, without the leave of the Superintendent.

(3) Except as provided by this section, every letter or communication to or from a prisoner may be read or examined by the Superintendent or a Prison Officer deputed by him, and the Superintendent may, at his discretion, stop any letter or communication on the ground that its contents are objectionable.

(4) Every visit to a prisoner shall take place within the sight and, except as provided by this section, the hearing of a Prison Officer, unless the Governor otherwise directs.

(5) The Superintendent may give directions, generally or specifically, in relation to any visit or class of visit, concerning the days and times when prisoners may be visited.

(6) An unconvicted prisoner may send and receive as many letters and receive as many visits as he wishes within such limits and subject to such conditions as the Superintendent may direct, either generally or in a particular case.

(7) A convicted prisoner shall be entitled—

(a) to send and receive a letter on his admission into prison and thereafter once a week; and

(b) to receive once every 2 weeks visits of 30 minutes duration and at the discretion of the Superintendent visits of more than once every 2 weeks or for more than 30 minutes.

(8) The Superintendent may allow a prisoner an additional letter or visit where necessary for his welfare or that of his family and may extend the duration of the visit.

(9) The Superintendent may allow a prisoner entitled to a visit to send and receive a letter instead.

(10) The Superintendent may defer the right of a prisoner to a visit until the expiration of any period of cellular confinement.

(11) Where the Superintendent refuses the prisoner an additional letter or visit, the Visiting Committee may, on request, allow a prisoner an additional letter or visit in special circumstances, and may direct that a visit may extend beyond the normal duration.

(12) The Governor may allow additional letters and visits in relation to any prisoner or class of prisoner.

(13) A prisoner shall not be entitled under this section to receive a visit from any person other than a relative or friend, except with the leave of the Superintendent.

Visits and communications in connection with legal and other proceedings

22. (1) A Police Officer not under rank of corporal may, on production of an order issued by or on behalf of the Commissioner of Police, interview any prisoner willing to see him.

(2) A person detained in prison in default of finding a surety, or of payment of a sum of money, may communicate with, and be visited at any reasonable time on a weekday by, any relative or friend to arrange for surety or payment in order to secure his release from prison.

(3) The legal adviser of a prisoner in any legal proceedings, civil or criminal, to which the prisoner is a party, shall be afforded reasonable facilities for interviewing him in connection with those proceedings out of hearing but in the sight of a Prison Officer.

(4) A prisoner's legal adviser may, with the leave of the Superintendent, interview the prisoner in connection with any legal business in the sight and hearing of a Prison Officer, but, where such legal business is in respect of contemplated legal proceedings, whether by or against the prisoner, such interview shall be conducted out of the hearing of the Prison Officer.

(5) A prisoner who is a party to any legal proceedings may correspond with his legal adviser in connection with the proceedings and, unless the Superintendent has reason to suppose that any such correspondence contains matter not relating to the proceedings, it shall not be read or stopped under section 21(1).

(6) A prisoner shall on request be provided with any writing materials necessary for the purposes of subsection (5).

(7) Subject to any directions given in the particular case by the Governor, a registered medical practitioner selected by or on behalf of a prisoner who is a party to legal proceedings shall be afforded reasonable facilities for examining him in connection with the proceedings in the presence of the medical officer, and may do so out of hearing but in the sight of a Prison Officer.

(8) Subject to any directions of the Governor, a prisoner may correspond with a solicitor for the purpose of obtaining legal advice concerning the action in relation to which the prisoner may become a party to civil proceedings, or for the purpose of instructing the solicitor to issue such proceedings.

Custody outside prison

23. (1) A prisoner being taken to or from a prison in custody shall be exposed as little as possible to public observation, and proper care shall be taken to protect him from curiosity and insult.

(2) A prisoner required to be taken in custody anywhere outside a prison shall be kept in the custody of a Prison Officer or a Police Officer with the permission of the Superintendent.

Prisoners' property

24. (1) Subject to any directions of the Governor, an unconvicted prisoner may have supplied to him at public expense and retain for his own use, books, newspapers, writing materials and any other means of occupation, except any that appear objectionable to the Visiting Committee or, pending consideration by them, to the Superintendent.

(2) Anything, other than cash or other property which he is allowed to retain for his own use, shall be taken into the Superintendent's custody. An inventory of the prisoner's property shall be kept, and he shall be required to sign it, after having a proper opportunity to see that it is correct.

(3) Any cash which a prisoner has at a prison shall be paid into an account under the control of the Superintendent and the prisoner shall be credited with the amount in the books of the prison.

(4) Any article belonging to a prisoner which remains unclaimed for a period of more than 3 years after he leaves prison, or dies, may be sold or otherwise disposed of, and the net proceeds of any sale shall be paid to Government funds for its general purposes.

(5) The Superintendent may confiscate any unauthorised article found in the possession of a prisoner after his admission into prison, or concealed or deposited anywhere within the prison.

Money and articles received by post

25. (1) Any money or other article (other than a letter or other communication) sent to a convicted prisoner through the Post Office shall be dealt with in accordance with the provisions of this section, and the prisoner shall be informed of the manner in which it is dealt with.

(2) Any cash shall, at the discretion of the Superintendent, be—

(a) dealt with in accordance with section 24(3);

(b) returned to the sender; or

(c) in a case where the sender's name and address are not known, held in a deposit account by the Accountant General for a period of 12 months and, if the name and address are still unascertained after that period, be paid into the Consolidated Fund,

(Act 7/2010, s. 26)

but in relation to a prisoner committed to prison in default of payment of any sum of money, the prisoner shall be informed of the cash and, unless he objects to it being so applied, it shall be applied towards the satisfaction of the amount due from him.

(3) Any article received shall, at the discretion of the Superintendent—

(a) be placed with his property at the prison;

(b) be returned to the sender; or

(c) in case where the sender's name and address are not known or the article is of such a nature that it would be unreasonable to return it, be held for a period of 12 months and, if such name and address are still unascertained after such period, be sold or otherwise disposed of, and the net proceeds of any sale applied in accordance with paragraph (2)(c).

PART 3

DISCIPLINE

Removal from association

26. (1) Where it appears desirable for the maintenance of good order and discipline or in his own interests that a prisoner should not associate with other prisoners, either generally or for particular purposes, the Superintendent may arrange for the prisoner's removal from association accordingly.

(2) A prisoner shall not be removed under this section for a period of more than 24 hours without the authority of a member of the Visiting Committee or the Governor.

(3) The Superintendent may arrange at his discretion for such a prisoner to resume association with other prisoners, and shall do so if in any case the medical officer so advises on medical grounds.

Use of force

27. (1) A Prison Officer in dealing with a prisoner shall not use force unnecessarily and, when the application of force to a prisoner is necessary, no more force than is necessary shall be used.

(2) No Prison Officer shall act deliberately in a manner calculated to provoke a prisoner.

Temporary confinement

28. The Superintendent may order a refractory or violent prisoner to be confined temporarily in a special cell (if available), but a prisoner shall not be so confined as a punishment, or after he ceases to be refractory or violent.

Restraints

29. (1) The Superintendent may order a prisoner to be handcuffed or handcuffed with a closeting chain where this is necessary to prevent the prisoner from injuring himself or others, damaging property or creating a disturbance.

(2) Notice of such an order shall be given without delay to a member of the Visiting Committee and to the medical officer.

(3) On receipt of the notice, the medical officer shall inform the Superintendent whether he concurs in the order. The Superintendent shall give effect to any recommendations which the medical officer may make.

(4) A prisoner should not be kept under restraint longer than is necessary, nor shall he be so kept for longer than 24 hours without a direction in writing given by the Governor or a member of the Visiting Committee. Such a direction shall state the grounds for the restraint and the time during which it may continue.

(5) Particulars of every case of restraint under subsections (1) to (4) shall be forthwith recorded.

(6) Except as provided by this section, no prisoner shall be kept under restraint otherwise than for safe custody during removal, or on medical grounds by direction of the medical officer. No prisoner shall be put under restraint as a punishment.

(7) Any means of restraint otherwise than by means referred to in subsection (1) shall be of a pattern authorised by the Governor, and shall be used in such manner and under such conditions as the Governor may direct.

Offences against discipline

30. A prisoner commits an offence against discipline if he—

(a) mutinies or incites another prisoner to mutiny;

(b) commits any assault;

(c) detains any person against his will;

(d) denies access to any part of the prison to any Prison Officer;

(e) fights with any person;

(f) intentionally endangers the health or personal effects of others or, by his conduct, is reckless whether such health or personal safety is endangered;

(g) intentionally obstructs a Prison Officer in the execution of his duty;

(h) escapes from prison or legal custody;

(i) fails—

(i) to return to prison when he should return after being temporarily released under section 8, or

(ii) to comply with any condition upon which he is so released;

(j) has in his possession—

(i) any prohibited article, or

(ii) a greater quantity of any article than he is authorised to have;

(k) sells or delivers to any person any prohibited article;

(l) sells or, without permission, delivers to any person any article which he is allowed to have only for his own use;

(m) takes improperly any article belonging to another person or to the prison;

(n) intentionally or recklessly sets fire to any part of the prison or any other property, whether or not his own;

(o) destroys or damages any part of the prison or any other property other than his own;

(p) absents himself from any place where he is required to be or is present at any place where he is not authorised to be;

(q) is disrespectful to the Superintendent or to any Prison Officer or to any person visiting the prison;

(r) uses threatening, abusive or insulting words or behaviour;

(s) intentionally fails to work properly or, being required to work, refuses to do so;

(t) disobeys any lawful order;

(u) disobeys or fails to comply with these Regulations;

(v) makes any false and malicious allegation against a Prison Officer;

(w) repeatedly makes groundless complaints;

(x) in any way offends against good order and discipline; or

(y) attempts to commit, or incites another prisoner to commit, or assists another prisoner to commit, any of the foregoing offences.

Disciplinary charges

31. (1) Where a prisoner is to be charged with an offence against discipline, the charge shall be laid as soon as possible, and save in exceptional circumstances, within 48 hours of the discovery of the offence.

(2) A prisoner who is to be charged with an offence against discipline may be kept apart from other prisoners pending adjudication of his case.

(3) Every charge shall be inquired into, in the first instance, by the Superintendent or Deputy Superintendent.

(4) Save in exceptional circumstances, every charge shall be first inquired into not later than the next day, not being a Sunday or public holiday, after it is laid.

Rights of prisoners charged

32. (1) Where a prisoner is charged with an offence against discipline, he shall be informed of the charge as soon as possible and, in any case, before the time when it is to be inquired into by the Superintendent or Deputy Superintendent.

(2) At any inquiry into a charge against a prisoner, he shall be given a full opportunity of hearing what is alleged against him and of presenting his own case.

Punishments

33. (1) If he finds a prisoner guilty of an offence against discipline, the Superintendent or Deputy Superintendent may, subject to section 35, impose one or more of the following punishments—

(a) a caution;

(b) forfeiture for a period not exceeding 28 days of any privileges under section 6;

(c) exclusion from associated work for a period not exceeding 14 days;

(d) stoppage of earnings for a period not exceeding 28 days;

(e) cellular confinement for a period not exceeding 3 days;

(f) forfeiture of remission of sentence for a period not exceeding 28 days;

(g) in the case of an unconvicted prisoner, forfeiture for any period of the right under section 24(1) to have articles there mentioned;

(h) in the case of an unconvicted prisoner guilty of escaping or attempting to escape, forfeiture of the right to wear his own clothing under section 12(1).

(2) If a prisoner is found guilty of more than one offence, punishments may be ordered to run consecutively.

(3) In the case of an offence against discipline committed by a prisoner who was under the age 18 years when it was committed, subsection (1) shall have effect but—

(a) the maximum period of forfeiture of privileges shall be 14 days; and

(b) the maximum period of stoppage of earnings shall be 14 days.

Referrals to Visiting Committee

34. (1) Where at an inquiry held pursuant to section 31(3), the Superintendent or Deputy Superintendent decides that, if the prisoner were found guilty, the punishments provided under section 33 would, having regard to the nature and circumstances of the offence, be inadequate, the Superintendent may refer the charge to the Visiting Committee.

(2) Where a charge is referred to the Visiting Committee, the Chairman shall summon a special meeting at which not more than 5 nor fewer than 2 members shall be present.

(3) The Visiting Committee shall inquire into the charge and, if it finds the prisoner guilty, it may, subject to subsection (4), impose one or more of the following punishments—

(a) a caution;

(b) forfeiture or postponement for any period of any privileges under section 6;

(c) stoppage of earnings for a period not exceeding 56 days;

(d) cellular confinement for a period not exceeding 56 days;

(e) exclusion from associated work for a period not exceeding 56 days;

(f) forfeiture of remission of sentence for a period not exceeding 120 days;

(g) the punishments referred to in sections 33(1)(g) or (h).

(4) If a prisoner is found guilty of more than one offence, punishments may be ordered to run consecutively, but where forfeiture of remission is concerned, the total period forfeited shall not exceed 180 days.

(5) In the case of an offence against discipline committed by a prisoner who was under the age of 18 years when it was committed, subsection (3) shall have effect but—

(a) the maximum period of forfeiture or postponement of privileges shall be 28 days;

(b) the maximum period of exclusion from associated work and stoppage of earnings shall be 28 days;

(c) the maximum period of cellular confinement shall be 7 days;

(d) the maximum period of forfeiture of remission of sentence shall be 90 days; and

(e) the maximum period of forfeiture of remission arising from punishments ordered to run consecutively on charges arising from an incident shall be 135 days.

Particular punishments

35. (1) Where any punishment of stoppage of earnings is imposed for any specified period, not exceeding 28 or 56 days, as the case may be, regarding any prisoner's earnings, there may instead be forfeited a proportion (not being less than one half) of such earnings for a period not exceeding a correspondingly greater number of days.

(2) No punishment of cellular confinement shall be imposed unless the medical officer has certified that the prisoner is in a fit state of health to be so dealt with.

(3) In the case of an offence against discipline committed by an unconvicted prisoner, a punishment of prospective or contingent forfeiture of remission may be made, but such punishment shall have effect only if a sentence of imprisonment is imposed upon conviction of the prisoner, in which case it shall have effect even if the sentence is stated to be reduced by the period during which the prisoner was a convicted prisoner.

Suspension, remission and mitigation of punishments

36. (1) Subject to any directions of the Governor, the power to impose a punishment (other than a caution) under this Part, shall include the power to suspend for up to 6 months the operation of the punishment unless, within the period of the suspension, the prisoner commits another offence against discipline.

(2) Where a prisoner upon whom a suspended punishment is imposed commits another offence against discipline, the Superintendent or Visiting Committee, as the case may be, may—

(a) direct that the suspended punishment take effect;

(b) direct that it take effect subject to a specified reduction of its period or amount;

(c) suspend the operation of the suspended punishment for a further period of up to 6 months; or

(d) give no directions with respect to the suspended punishment.

(3) The Governor may quash any finding of guilt and may remit any punishment or mitigate it either by reducing it or by substituting another which is, in his opinion, less severe.

(4) Subject to any directions of the Governor, the Superintendent may remit or mitigate any punishment imposed by the Deputy Superintendent, and the Visiting Committee may remit or mitigate any punishment imposed by the Superintendent or the Deputy Superintendent.

PART 4

FUNCTIONS AND CONDUCT OF PRISON OFFICERS

General duty of Prison Officers

37. (1) It shall be the duty of every Prison Officer to conform to these Regulations, to assist and support the Superintendent in their observance, and to obey the lawful instructions of the Superintendent.

(2) A Prison Officer shall inform the Superintendent promptly of any abuse or impropriety which comes to his knowledge.

Search of Prison Officers

38. A Prison Officer shall submit himself to be searched in the prison if so required by the Superintendent.

Dealings with prisoners and former prisoners

39. No Prison Officer shall take part in any business or pecuniary transaction with or on behalf of a prisoner without the permission of the Superintendent.

Communications to the press and other forms of media

40. (1) No Prison Officer shall make, directly or indirectly, any unauthorised communication to a representative of the press or any other person concerning matters which have become known to him in the course of his duty.

(2) No Prison Officer shall, without authority, publish any matter or make any public pronouncement relating to the prison administration.

Code of discipline

41. The code of discipline set out in the Schedule shall have effect in relation to all Prison Officers.

(R.A. 26/2001, s. 1)

PART 5

VISITING COMMITTEE

Constitution and proceedings of Visiting Committee

42. (1) For the purpose of exercising the functions conferred upon it by these Regulations, there shall be a body known as the Visiting Committee which shall consist of a chairman and not less than 2 or more than 6 other members appointed by the Governor.

(2) A person appointed to be a member of the Visiting Committee, shall hold office for such term, not exceeding 3 years, as may be determined by the Governor at the time of appointment, but any member shall be eligible for reappointment and may at any time resign his office by notice in writing to the Governor.

(3) At any meeting of the Visiting Committee any 3 members shall constitute a quorum.

(4) The chairman shall preside at meetings of the Visiting Committee but, in the event of his absence from any meeting, the members present shall appoint any other member to preside at that meeting.

(5) No person interested in any contract for the supply of goods or services to a prison shall be a member of the Visiting Committee.

(6) The Visiting Committee shall meet at a prison in Anguilla once each month or, if it resolves for reasons specified in the resolution that less frequent meetings are sufficient, not fewer than 8 times in 12 months.

(7) The proceedings of the Visiting Committee shall not be invalidated by any vacancy in the membership or any defect in the appointment of a member in so far as the number of members present at those proceedings is sufficient to constitute a quorum.

(8) Decisions of the Visiting Committee shall be reached by a majority of the members present and voting, and in the case of an equality of votes, the chairman or member presiding shall have a casting vote.

(9) The Visiting Committee shall otherwise regulate its procedure as it thinks fit.

Duties of Visiting Committee

43. (1) The Visiting Committee shall satisfy itself as to the state of prisons and the treatment of prisoners and in particular it shall—

(a) hear any complaint or request that a prisoner wishes to make to it or any member;

(b) arrange for the food of the prisoners to be inspected by a member of the Visiting Committee at frequent intervals;

(c) inquire into any report made to it that a prisoner's mental or physical health is likely to be injuriously affected by any conditions of his imprisonment;

(d) inquire into and report upon any matter into which the Governor may ask them to inquire;

(e) direct the attention of the Superintendent to any matter it considers calls for his attention, and report to the Governor on any matter which it considers expedient to report upon; and

(f) inform the Governor immediately of any abuse which comes to its knowledge.

(2) The Visiting Committee shall, in a case of any abuse or neglect by a Prison Officer of his functions, notify the Governor of any such abuse or neglect and may recommend to the Governor that the Prison Officer be suspended with immediate effect until his decision in the case is known.

(3) Before exercising its power under subsection (2), the Visiting Committee or any member of the Visiting Committee shall inform the Superintendent.

Visiting of prison

44. (1) The members of the Visiting Committee shall arrange a rota whereby at least one member visits the prison between meetings of the Visiting Committee.

(2) A member of the Visiting Committee shall have access to the records of the prison.

Annual report

45. The Visiting Committee shall make an annual report to the Governor at the end of each year concerning the state of each prison and its administration, and may include in such report any recommendations it considers appropriate.

PART 6

SUPPLEMENTARY

Control of access to and visiting prison

46. (1) Any person or vehicle entering or leaving any prison may be stopped, examined and searched.

(2) The Superintendent may direct the removal from any prison of any person who does not leave upon being required to do so.

(3) No person outside any prison shall be permitted to view it unless authorised by the Superintendent.

(4) No person viewing any prison shall be permitted to take a photograph or make a sketch of such prison, nor to communicate with a prisoner unless authorised by the Superintendent.

Delegation by Superintendent

47. The Superintendent may, with the leave of the Governor, delegate any of his functions under these Regulations to the Deputy Superintendent or any Prison Officer.

Citation

48. These Regulations may be cited as the Prison Regulations, Revised Regulations of Anguilla P75-1.

SCHEDULE

(Section 41)

CODE OF DISCIPLINE FOR PRISON OFFICERS

PART 1

General Obligations of Officers

1. (1) Every Prison Officer shall conform to this Code, and shall assist and support the Superintendent of Prisons in the maintenance thereof.

(2) A Prison Officer shall be guilty of an offence against discipline if he fails to conform to this Code.

PART 2

Disciplinary Offences

2. A Prison Officer to whom this Code applies commits an offience against discipline if guilty of—

(a) **Discreditable conduct,** that is to say, if a Prison Officer—

(i) while on or off duty acts in a disorderly manner or any manner prejudicial to discipline or likely to bring discredit on the Prison Service,

(ii) smokes or drinks intoxicating liquor either within the prison walls (except under such restrictions as may from time to time be prescribed by the Superintendent) or while on duty in a court or in charge of prisoners outside the prison,

(iii) while on duty use obscene, abusive or insulting language to any other member of the Prison Service,

(iv) while on duty assaults any other member of the Prison Service, or

(v) while on duty, or liable to be called upon for duty, is unfit for duty through drinking intoxicating liquor;

(b) **Insubordinate conduct,** that is to say, if a Prison Officer is insubordinate by word or act towards any Officer of the Prison Service, whose orders it is for the time being his duty to obey;

(c) **Disobedience to orders,** that is to say, if a Prison Officer without good and sufficient cause fails to carry out any lawful order, whether in writing or not;

(d) **Neglect of duty,** that is to say, if a Prison Officer—

(i) neglects, or without good and sufficient cause fails, promptly and diligently to do anything which it is his duty as a Prison Officer to do,

(ii) by carelessness or neglect contributes to the escape of a prisoner, or

(iii) by carelessness or neglect in the course of his duty contributes to the occurrence of any loss, damage or injury to any person or property;

(e) **False Statements,** that is to say, if a Prison Officer—

(i) knowingly makes any false, misleading or inaccurate statement either orally or in any official document or book, or

(ii) signs any false, misleading or inaccurate statement, or with intent to deceive destroys or mutilates any official document or book or alters or erases any entry therein,

whether in connection with his duties as a Prison Officer or as an Officer or member of any club or fund connected with the prison or prison staff;

(f) **Failure in account,** that is to say, if a Prison Officer—

(i) fails to account for, or to make prompt or true return of, any money or property received by him, or

(ii) fails to make a true return of any money or property for which he is responsible,

whether in connection with his duties as a Prison Officer or as an Officer or member of any club or fund connected with the prison or prison staff;

(g) **Breach of confidence,** that is to say, if a Prison Officer without proper authority—

(i) divulges any matter which it is his duty to keep secret,

(ii) communicates directly or indirectly to the press or to any unauthorised person any matter which may have become known to him in the course of his public duties, or

(iii) publishes any matter or makes any public pronouncement relating to the administration of the prison;

(h) **Improper relations with prisoners or ex-prisoners,** that is to say, if a Prison Officer—

(i) communicates with a prisoner for an improper purpose,

(ii) uses obscene, insulting or abusive language to a prisoner,

(iii) knowingly and without proper authority discusses his duties or any matters of discipline or prison arrangement within the hearing of a prisoner,

(iv) engages in personal relations with a prisoner, or

(v) allows any undue familiarity between a prisoner and himself or any other Officer or other member of the prison;

(j) **Trafficking**, that is to say, if a Prison Officer knowingly and without proper authority—

(i) carries out any pecuniary or business transaction with or on behalf of any prisoner,

(ii) brings into prison or carries out of the prison, or attempts to bring in or carry out, or allows to be brought in or carried out, to or for any prisoner any article whatsoever, or

(iii) accepts without proper authority any present or consideration from any prisoner or ex-prisoner or from a friend or relative of any prisoner or ex-prisoner;

(k) **Corrupt practice**, that is to say, if knowingly a Prison Officer—

(i) solicits or receives any unauthorised fee, gratuity or other consideration in connection with his duties as a Prison Officer, or

(ii) improperly uses his position as a Prison Officer for his private advantage;

(l) **Unlawful or unnecessary exercise of authority,** that is to say, if a Prison Officer—

(i) deliberately acts in a manner calculated to provoke a prisoner, or

(ii) in dealing with a prisoner uses force unnecessarily, or where the application of force to a prisoner is necessary, uses undue force;

(m) **Absence without leave or being late for duty**, that is to say, if a Prison Officer without reasonable excuse, is absent without leave from the prison or from any parade or place of duty or is late for any duty or parade;

(n) **Damage to clothing or other articles supplied,** that is to say, if a Prison Officer—

(i) wilfully or negligently damages or loses any article of clothing or personal equipment with which he has been provided or entrusted, or fails to take proper care thereof, or

(ii) neglects to report any damage to, or loss of, any article of clothing or personal equipment, however caused;

(o) **Unauthorised possession of property**, that is to say, if a Prison Officer while on or off duty is knowingly and improperly in possession of public property or of property belonging to any other member of the Prison Service or of the property belonging to any prisoner;

(p) **Attempting to enlist outside influence,** that is to say, if a Prison Officer procures or attempts to procure the intervention on his behalf of a person of influence for the purpose of securing his own advancement or the improvement of his personal position or of making charges against other Officers.

PART 3

Disciplinary Procedure

3. (1) A charge against an Officer for an offence against discipline as defined in sections 1(2) or 2 of this Code shall be entered on a charge sheet as soon as possible after consideration of the evidence on which the charge is based.

(2) The charge sheet shall specify the provision of this Code under which the charge is made and shall contain such particulars as will leave the Officer in no doubt as to the precise nature of the allegation on which the charge is based.

(3) Where an Officer is charged with several offences each charge shall be entered on a separate charge sheet.

(4) The charge sheet shall be handed to the accused Officer as soon as possible together with—

(a) the statements on which the charge is based and any additional written statements relating to it which are proposed to be used in evidence, each of which shall be signed by the Officer or person by whom it is made; and

(b) the names of the witnesses whom it is proposed to call in support of the charge.

(5) The accused Officer shall initial and date all documents handed to him under paragraph 4(a) and return them as soon as possible.

(6) The accused Officer shall, if he so requests, be supplied with copies of all or any such documents.

4. The accused Officer, shall as soon as possible, and in any case within 48 hours following the receipt by him of the charge sheet, state in writing upon the charge sheet—

(a) whether he admits or denies the charge;

(b) if he so desires, his reply to the charge; and

(c) the names of any witnesses whom he desires to call to the hearing.

5. (1) The Superintendent shall, as soon as possible, hear the case and shall take or cause to be taken a full record of the proceedings, and the witnesses and shall sign such parts of the record as comprise evidence given by them, and the accused Officer shall be shown the full record and sign it.

(2) If during the proceedings a statement is taken into consideration other than the statements referred to in section 3(4)(a), a copy of that statement shall, if the Superintendent thinks fit, be handed to the accused Officer.

6. (1) The accused Officer shall be entitled at the hearing to hear the case against him and to have an opportunity of cross-examining the witnesses called in support of the case against him and of giving evidence, calling witnesses and making representation in his defence.

(2) If the accused Officer so desires, he shall be allowed, in proceedings before the Superintendent, to have as a friend to assist him in the presentation of his case, a Prison Officer, selected by himself, who shall be a member of the staff at the prison at which the accused Officer is serving.

(3) The friend of the accused Officer may advise him on all points and suggest questions to be put to the witnesses and may, if desired by the accused Officer, examine or cross-examine the witnesses and address the Superintendent on behalf of the accused Officer.

7. (1) The Superintendent may dismiss any charge after hearing the evidence.

(2) The Superintendent may, after hearing the evidence, refer any charge to the Governor and, unless he dismisses it, shall so refer a charge under section 1(2) or any provision of section 2 of this Code, other than the following sections—

2(a)(i), (iii), (b), (c), (d), (h)(ii), (l)(i), (m) or (n).

(3) Where the Superintendent refers a charge to the Governor, he shall inform the accused Officer.

(4) Where the Superintendent does not refer a charge to the Governor, he shall, unless he dismisses it, either—

(a) caution the accused Officer; or

(b) make one of the following disciplinary awards—

(i) admonition,

(ii) reprimand, or

(iii) severe reprimand.

8. (1) A disciplinary award made by the Superintendent shall be entered by him on the charge sheet, which shall be shown to and initialled by the Officer and also recorded by the Superintendent in the Officer's record of service.

(2) Where the charge is dismissed by the Superintendent or dealt with by a caution without disciplinary award, no entry shall be made in the Officer's record of service.

9. (1) An Officer may within 14 days from the determination of a case by the Superintendent appeal in writing to the Governor, and shall hand his appeal to the Superintendent to be forwarded.

(2) The Superintendent shall forward to the Governor with the appeal the record of the proceedings taken under section 5(1) of this Code together with all statements taken into consideration during the proceedings, and his own observations on the case. The Superintendent's observations and other documents to be forwarded under this section shall be shown to and initialled by the Officer and he shall be provided with copies if he so requests.

(3) The Governor may allow the appeal and dismiss the charge, or he may confirm the award or substitute a caution or any disciplinary award within the powers of the Superintendent.

(4) The Governor may in connection with any appeal appoint a suitable person to hold an inquiry. At any such inquiry, the appellant shall be allowed all the facilities allowed by section 6 of this Code and may have as his friend under section 6(2) any serving Officer in the prison service.

10. (1) Where a charge is referred to the Governor under section 7(2) of this Code, the Superintendent shall forward an explanatory statement and also the record of the proceedings taken under section 5(1) together with all statements taken into consideration during the proceedings at the hearing by the Superintendent.

(2) In any case where the accused Officer admits the charge or not, the Superintendent shall forward a report on his general character and efficiency.

(3) All documents to be forwarded under this section shall be shown to and initialled by the accused Officer and he shall be provided with copies, if he so requests. The accused Officer shall be informed that he may, if he wishes, make a statement in writing to the Governor to be included with those documents.

11. (1) The Governor may dismiss the charge referred to him, at any stage.

(2) Where the Superintendent has referred to the Governor a charge that he had power to deal with by himself, the Governor may remit the case to the Superintendent to be dealt with by him.

(3) Where a charge is referred to the Governor, he may, in any case, and shall, if the accused Officer denies the charge, direct an inquiry to be held.

(4) An inquiry shall be held by a suitably qualified person appointed for the purpose by the Governor.

(5) A full record shall be made of the proceedings at an inquiry and a witness shall be required to sign the record of his evidence. The accused Officer shall be shown the full record and shall sign it.

12. (1) In any case referred to him under section 7(2) of this Code, the Governor, unless he dismisses the charge, shall either caution the accused Officer or make one or more of the following awards—

(a) dismissal;

(b) requirement to resign as an alternative to dismissal;

(c) removal from office as being unable to discharge the duties of his office efficiently;

(d) reduction in rank;

(e) forfeiture during a period not exceeding 12 months of the benefit of one or more increments earned or to be earned;

(f) special probation for a period not exceeding 12 months;

(g) any disciplinary award which may be made by the Superintendent.

(2) Where the Governor proposes to make an award under section 12(1)(a),(b),(c) or (d), he shall give notice to that effect to the accused Officer.

(3) Where an Officer is given notice as aforesaid he shall have the right of a personal hearing before a person suitably qualified (other than the person who held any inquiry under section 11 of this Code). At this hearing the Officer may be accompanied by any serving Officer of the Prison Service. Any request for this hearing shall be made within 7 days of the Officer being given notice as aforesaid.

(4) Where an Officer is given notice as aforesaid he may, within 14 days or such longer period as the Governor may allow, make representation in writing to the Governor, whether in defence or mitigation and whether or not he has a personal hearing as aforesaid.

(5) The Governor may as a result of any representations made under this section direct a person nominated by him to hold an inquiry, rehearing or further inquiry. In any such proceedings the accused Officer may be represented by any serving Officer in the Prison Service.

(6) Where the Governor has given notice as aforesaid, and representations are made under this section, he may modify his proposals and proceed accordingly, without giving further notice.

13. (1) When the Superintendent has received the decision of the Governor he shall supply a copy of the decision to the Officer.

(2) The decision of the Governor shall, subject to the provisions of subsection (3), be entered by the Superintendent in the Officer's record of service.

(3) No entry shall be made in the record of service in respect of a charge which is dismissed or for which the Governor has administered a caution.

14. (1) Where under section 7 the Superintendent refers a case to the Governor, he may suspend from duty the accused Officer, if in his opinion, the offence charged is so grave that the Officer should not continue on duty.

(2) Where an Officer has been suspended from duty, the Superintendent shall inform the Governor and obtain his instructions as to the pay and allowances of the Officer during the period of suspension. Pending his instructions, no payment shall be made.

(3) Where an Officer is suspended, up to half his pay and allowances in respect of any period of suspension may, if the Governor so decides, be withheld.

(4) On the termination of the period of suspension, whether by termination of service or reinstatement of the Officer, his pay and allowances in respect of the period may, if the Governor so determines after consideration of all the circumstances of the case, be forfeited in whole or in part. Where the charge is dismissed or dealt with by a caution, the Officer shall receive, in respect of the period of suspension, the pay and allowances which he would, but for the suspension, have received, less the amount of any sums paid to him in respect of that period; So however that nothing in the section shall affect the right of the Governor to enforce the recovery of any public monies due from the Officer.

15. Any hearing or inquiry held under this Code may be adjourned from time to time as may appear necessary for due hearing of the charge.

PART 4

Interpretation

16. In this Code the following expressions have the meaning hereby respectively assigned to them, that is to say—

"Act" means the Prison Act;

"Governor" means the Governor of Anguilla;

"prison" includes all prisons, remand centres and detention centres;

"Superintendent" means the Superintendent of Prisons appointed under section 6(1) of the Act and in his absence, the person appointed to act for him.

(R.A. 26/2001 s. 2)