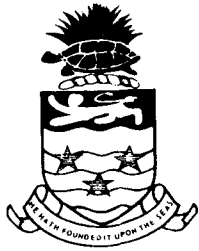


CAYMAN ISLANDS



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THE IMPRISONMENT (AMENDMENT)

LAW, 1981.

(LAW 10 OF 1981)

CAYMAN ISLANDS

LAW 10 OF 1981

I assent

T. RUSSELL

Governor

30th June, 1981.

L. S.

**A LAW TO AMEND THE IMPRISONMENT LAW
(LAW 14 OF 1975)**

ENACTED by the Legislature of the Cayman Islands.

Short title.

1. This Law may be cited as the Imprisonment (Amendment) Law, 1981.

Amendment of
section 1.

2. Section 1 of the principal Law is amended by substituting "Prisons" for "Imprisonment" in the first line.

Amendment of
Law 14 of 1975.

3. The Imprisonment Law, in this Law referred to as the principal Law, is amended by substituting "Director" for "Commissioner" in —

- (a) section 3;
- (b) the first line and in the marginal note of section 7;
- (c) the fourth line of section 8;
- (d) the penultimate line of section 37.

Amendment
of principal
Law.

4. The principal Law is amended by substituting "convicted prisoner" for "convict" or "convicted prisoners" for "convicts" (as the case may be) in —

- (a) the definition of "detainee" in section 2;
- (b) the definition of "first offender" in section 2;
- (c) the definition of "prisoner" in section 2;
- (d) the definition of "recidivist" in section 2;
- (e) paragraph (b) of section 12;
- (f) the marginal note of section 16;
- (g) the first line and in the marginal note of section 36.

Amendment of
section 2.

5. Section 2 of the principal Law is amended —

- (a) by deleting the definition "Commissioner";
- (b) by substituting "'convicted prisoner' means a prisoner on

whom sentence of death has been passed or who is undergoing a sentence of imprisonment imposed by a competent court or other lawful authority in respect of a criminal or disciplinary offence" for the definition "convict";

- (c) by inserting immediately after the definition "detainee" the definition "'Director" means the Director of Prisons or any officer acting under his authority;";
- (d) by deleting the definition "extra mural convict";
- (e) by inserting "to death or to" immediately after "sentenced" in the second line of the definition "first offender";
- (f) by inserting immediately after the definition "first offender" the definition "'Governor" means the Governor in Council;";
- (g) by deleting the definition "internal convict";
- (h) by substituting "section 5" for "sections 4 or 5" in the definition "officer";
- (i) by substituting for the definition "prison officer" the new definition "'prison officer" includes any person employed in a prison for purposes connected with its administration";
- (j) by inserting in the definition "prisoner" the words "means a person detained in prison by lawful authority and" immediately before "includes";
- (k) by inserting immediately after the definition "rules" the definition "'sentence" includes a sentence in default of payment of a fine;";
- (l) by deleting the definition "Service";
- (m) by deleting the definition "suspended sentence";
- (n) by deleting the definition "visiting justices";
- (o) by deleting the definition "weekend convict".

Repeal of
section 4.

6. Section 4 of the principal Law is repealed.

Amendment of
section 7.

7. Section 7 of the principal Law is amended by inserting "with the approval of the Governor," immediately after "make" in the first line of paragraph (b).

Insertion of
new section 7A.

8. The principal Law is amended by inserting the following new section immediately after section 7 –

"Power of
Director to
delegate.

7A. The Director may delegate the exercise or performance of any of the several powers and duties conferred or imposed by this Law, except the power –

- (a) to hear an appeal by an officer against a disciplinary award;
- (b) to make a disciplinary award involving dismissal or reduction in rank."

Amendment of
section 9.

9. Section 9 of the principal Law is amended by deleting "or constable" in the second line.

Amendment of
section 11.

10. Section 11 of the principal Law is amended by inserting "with responsibility for the physical and mental health of all prisoners," immediately after "officer" in the first line.

Insertion of
new sections
11A & 11B.

11. The principal Law is amended by inserting the following two new sections immediately before section 12 –

“Lawful
confinement
and custody.”

11A. (1) A person, whether sentenced to imprisonment or committed to prison for any other reason, may only be lawfully confined in any prison on production of an appropriate warrant or other legal instrument addressed to the Director.

(2) A prisoner shall be deemed to be in the lawful custody of the Director and shall be deemed to be in lawful custody while he is confined in, or is being taken to or from, any prison and while he is working, or is for any other reason, outside the prison in the custody or under the control of an officer.

Minimum
age. **11B. Subject to –**

Caymanian
Protection
Law (R). **(a) sections 44 and 61 of the Caymanian Protection Law (Revised); and**
Law 16
of 1975. **(b) subsections (1) and (2) of section 17 of the Juveniles Law, 1975,**

no person under the age of seventeen years shall be detained in a prison.”.

Amendment of
section 12.

12. Section 12 of the principal Law is amended –

- (a) by deleting “prescribed” in the first line;**
(b) by substituting a semicolon for the fullstop and by adding –

“(e) civil prisoners shall be kept segregated from all other prisoners:

Provided that nothing in this section shall require a prisoner to be unduly deprived of the society of other prisoners or class of prisoners except as directed by the law or by an order of the court.”.

Substitution of
section 14.

13. Section 14 of the principal Law is substituted by the following –

“Medical
examination
of prisoners.”

14. (1) All prisoners shall be medically examined by the C.M.O. on reception into the prison and at least once every thirty days thereafter whilst in custody.

(2) A request by a prisoner to see the C.M.O. shall be recorded by the officer to whom it is made and shall be passed to the C.M.O. as soon as practicable.”.

Amendment of
section 15.

14. Section 15 of the principal Law is amended by inserting “(1)” immediately after “15.” in the first line and by adding the following new subsection –

“(2) The Director shall as soon as practicable inform the next-of-kin of a prisoner who becomes seriously ill.”.

Insertion of
new section
15A.

15. The principal Law is amended by inserting the following new section immediately after section 15 –

"Death of prisoner.	15A. The Director shall as soon as practicable after the death of a prisoner (whether as the result of the execution of a death sentence or not) inform the next-of-kin and a coroner."
Amendment of section 16.	16. Section 16 of the principal Law is amended by deleting "or suspension of sentence" in the third and fourth lines.
Repeal of section 26.	17. Section 26 of the principal Law is repealed.
Substitution of section 27.	18. Section 27 of the principal Law is substituted by the following – "Reception of prisoner. 27. Every prisoner shall, on reception into prison, take a bath and (if male) have his hair cut and be clean shaven, and shall thereafter be issued with prison clothing adequate for all activities and for warmth and health and with the prescribed personal toilet requisites and utensils: Provided that a male prisoner who has not been convicted shall not be required to have his hair cut or be clean shaven unless the C.M.O. has directed this to be done for the sake of health or cleanliness."
Insertion of new section 27A.	19. The principal Law is amended by inserting the following new section immediately after section 27 – "Documen- tation of prisoners. 27A. (1) A convicted prisoner on reception into prison at the commencement of his sentence and at such subsequent time as the Director may require shall be photographed and measured and, notwithstanding anything to the contrary contained in the Finger Prints Law, 1964, shall have his fingerprints taken. (2) The photographs and fingerprints and all negatives thereof of a convicted prisoner whose sentence is subsequently quashed or who is pardoned shall be destroyed by the Director as soon as practicable thereafter."
Substitution of section 28.	20. Section 28 of the principal Law is substituted by the following – "Discharge at end of sentence. 28. A prisoner due to be discharged on a Saturday, Sunday or on a public holiday shall be discharged on the last day (not being a Saturday, Sunday or a public holiday) preceding that day."
Substitution of section 29.	21. Section 29 of the principal Law is substituted by the following – "Remission. 29. (1) A convicted prisoner sentenced to imprisonment for a fixed term exceeding one month other than a convicted prisoner incarcerated in Jamaica shall, unless such remission shall be forfeited as a result of a disciplinary award made under this Law or any rules thereunder, be granted a remission of sentence not exceeding one-third of the sentence: Provided that no term of imprisonment so remitted shall be reduced to a term of less than thirty-one days.

(2) Subsection (1) does not apply to a convicted prisoner who is serving a sentence of life imprisonment or who is sentenced during the Governor's pleasure.

(3) For the purpose of this section consecutive terms of imprisonment shall be deemed to be a single term of the aggregate length.

(4) A sentence shall be deemed to have expired on the day a convicted prisoner is discharged from prison after having been granted any remission under this section.”.

Substitution of
section 30.

22. Section 30 of the principal Law is substituted by the following –

“Authority
to leave
prison and
pre-dis-
charge
leave.

30. (1) In addition to any other power that he may have, the Director may at his discretion and on such terms and conditions as he thinks fit as to custody or otherwise authorise a prisoner not being under sentence of death or recommended for deportation to leave the prison –

(a) under escort, for the purpose of visiting a dying relative or of attending a funeral service; or

(b) for part of a day, for attendance at any place if he considers that through such an absence from prison the skill, knowledge or development of the prisoner would be thereby advanced.

(2) A convicted prisoner shall, at the discretion of the Director, be eligible during the thirty days prior to the date of his anticipated discharge for up to five days pre-discharge leave to be taken on such conditions as the Director may think necessary.

(3) A prisoner who fails to observe any term or condition imposed by the Director under subsections (1) or (2) shall be deemed to be unlawfully at large and to have escaped from lawful custody.”.

Substitution of
section 31.

23. Section 31 of the principal Law is substituted by the following –

“Work and
payment.

31. (1) Subject to section 11, a convicted prisoner shall undertake such work in a prison as may be allocated by the Director, and such other work as the Director in his discretion considers to be of a public nature.

(2) The Director may by rule made under section 7 from time to time establish the rate of token earnings to be paid to any prisoner for work undertaken under this section.”.

Insertion of
new section
31A.

24. The principal Law is amended by inserting the following new section immediately after section 31 –

“Release
on licence.

31A. (1) The Governor acting in his discretion and on such conditions as he may think necessary order the release on licence –

(a) of a convicted prisoner serving a sentence of

definite length, and in lieu of any remission that may be granted under section 29, at any time after he shall have served at least one year's imprisonment or one-half of his sentence, whichever shall be the greater;

(b) of a convicted prisoner serving a sentence of life imprisonment or being detained during the Governor's pleasure, at any time.

(2) A convicted prisoner released on licence under this section shall until the expiration of the licence be under the supervision of a probation officer appointed under the

Cap. 136. Probation of Offenders Law.

(3) The Governor acting in his discretion may recall to prison a convicted prisoner who has failed to observe any condition imposed on his licence, and thereupon he shall be liable (subject to any re-consideration for release on licence subsequently) to be detained until the expiration of his sentence and until such detention shall be deemed to have escaped from lawful custody."

Substitution of
section 32.

25. Section 32 of the principal Law is substituted by the following –

"Prisoners on remand and detainees. **32. (1) A prisoner who is on remand may opt to work and, if having so opted and been permitted to work, –**

(a) he is subsequently acquitted or is not sentenced to a term of imprisonment, he shall be paid all his token earnings in respect of such work as he has undertaken whilst in prison; or

(b) he is subsequently convicted and sentenced to a term of imprisonment, the period during which he has been on remand shall, unless the court otherwise directs, be counted as part of his sentence and he shall in any case be entitled to receive his token earnings for such work.

(2) A prisoner who has not been convicted may if he wishes and on such terms and conditions as the Director may from time to time consider necessary be supplied with meals whilst in prison, either at his own expense or otherwise, and such personal comforts as may be permitted by standing orders made under this Law."

Amendment of
section 33.

26. Section 33 of the principal Law is amended –

(a) by substituting the following for the first sentence in the first four lines –

"(1) A convicted prisoner who has appealed against his conviction or sentence may elect in writing to –

(a) commence his sentence pending his appeal, in which case he shall wear prison clothing and

shall for the purposes of this Law be treated in all respects as if he was not appealing, in which case his time spent in prison counts towards his sentence; or

- (b) retain his status as a prisoner awaiting trial, in which case he shall for the purposes of this Law be treated in all respects as a prisoner on remand, but if his appeal is unsuccessful his time spent in prison since lodging his appeal shall not, unless the court shall otherwise direct, count towards his sentence.”;

(b) by inserting “(2)” immediately before “If” in the fourth line.

Repeal of
section 34.
Substitution of
section 35.

27. Section 34 of the principal Law is repealed.

28. Section 35 of the principal Law is substituted by the following –

“Escape from custody. 35. (1) A prisoner who escapes from lawful custody or who is deemed by this Law or any other law to have escaped from lawful custody may be arrested by an officer or a constable without warrant and shall be taken as soon as practicable to the prison at which he was required to be detained.

(2) Any period during which a prisoner is at large does not count towards the period of his imprisonment.”.

Amendment of
section 37.

29. Section 37 of the principal Law is amended by substituting “The receipt of pay is a privilege” for the first two lines.

Repeal of
section 38.

30. Section 38 of the principal Law is repealed.

Repeal of
section 39.

31. Section 39 of the principal Law is repealed.

Amendment of
section 40.

32. Section 40 of the principal Law is amended –

(a) by inserting “the entirety of” immediately before “sentence” in paragraph (a);

(b) by deleting paragraph (b);

(c) by substituting the following for paragraph (e) –

“(e) any punishment which the Director could have imposed under rules made under this Law.”.

Amendment of
section 42.

33. Section 42 of the principal Law is amended by substituting “monthly by two or more persons selected by the Member of the Executive Council responsible for prisons matters from a panel appointed by the Governor consisting of –

(a) Justices of the Peace volunteering for such service;

(b) magistrates; and

(c) other suitable persons,”

for “weekly by visiting Justices or, in the absence of visiting Justices, a Magistrate,” in the first two lines of subsection (1).

Substitution of
section 43.

34. Section 43 of the principal Law is substituted by the following –

"Regulations. 43. Without prejudice to the power of the Director, with the approval of the Governor, to make rules and standing orders under section 7, the Governor may make regulations, not inconsistent with this Law, prescribing any matter required or permitted to be prescribed or which is necessary or convenient to be prescribed for carrying out or giving effect to this Law."

Amendment of
section 47.

35. Section 47 of the principal Law is amended by substituting "by arrangement with the Director to interview them" for "privately to interview them upon at least one occasion in every week" immediately after "permitted" in the penultimate line.

Passed the Legislative Assembly this 29th day of May, 1981.

T. RUSSELL
President.

SYBIL McLAUGHLIN
Clerk of the Legislative Assembly.