

Chapter:	234	PRISONS ORDINANCE	Gazette Number	Version Date
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		Long title		30/06/1997
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To amend and consolidate the law relating to prisons and persons employed therein.

[15 April 1954]

(Originally 17 of 1954)

Part:	I	PRELIMINARY*	L.N. 289 of 1999	19/11/1999
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Note:

* (Added 58 of 1999 s. 4)

Section:	1	Short title	L.N. 289 of 1999	19/11/1999
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This Ordinance may be cited as the Prisons Ordinance.

Section:	2	Interpretation	L.N. 9 of 2010	31/03/2010
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In this Ordinance, unless the context otherwise requires-

"Chief Officer" (總懲教主任) means a senior officer of the Correctional Services Department holding the rank of chief officer;

"civil service provident fund scheme" (公務員公積金計劃) means the Civil Service Provident Fund Scheme referred to in the government regulations; (Added 6 of 2009 s. 11)

"Commissioner" (署長) means the Commissioner of Correctional Services of Hong Kong; (Amended 52 of 1960 s. 2; 42 of 1986 s. 2)

"disciplinary offence" (違紀行為) means a disciplinary offence prescribed by rules made under section 25; (Added 35 of 1977 s. 2)

"government regulations" (政府規例) means the administrative rules known as the Government Regulations and any other administrative rules or instruments regulating the public service; (Added 15 of 1999 s. 3)

"hostel" (宿舍) means a building or portion of a building set aside as a hostel under section 24B; (Added 44 of 1987 s. 2)

"other person employed in the prisons" (受僱於監獄的其他人) includes any officer or member of the Correctional Services Department, other than a senior officer or a subordinate officer, and any other person for the time being employed in the Correctional Services Department; (Replaced 14 of 1966 s. 2)

"prisoner" (囚犯) includes a person who is sentenced in a place outside Hong Kong and is brought into Hong Kong in order to serve the sentence imposed upon him (or any part thereof) in that place; (Added 51 of 1997 s. 11)

"Public Service (Administration) Order" (《公務人員(管理)命令》) means-

- (a) the Public Service (Administration) Order 1997 (Executive Order No. 1 of 1997);
- (b) the Public Service (Disciplinary) Regulation made under section 21 of that Order (and together with that Order published as S.S. No. 5 to Gazette No. 2/1997); and
- (c) any other regulation made or any direction given under that Order, as amended from time to time; (Added 15 of 1999 s. 3)

"retirement benefits" (退休福利), in relation to a person, means-

- (a) the pension, gratuity or other allowance of that person as provided for under the Pensions Ordinance (Cap 89);
- (b) the pension benefits of that person as provided for under the Pension Benefits Ordinance (Cap 99); or
- (c) the part of that person's beneficial interests in the civil service provident fund scheme that is attributable to sums derived from the voluntary contributions made by the Government, as employer,

in respect of that person under section 11(4) of the Mandatory Provident Fund Schemes Ordinance (Cap 485), together with the income, profits or losses arising from any investment of those sums and of such income or profits; (Added 6 of 2009 s. 11)

"senior officer" (高級人員) means the Commissioner, Deputy Commissioner, and any Assistant Commissioner, Chief Superintendent, Senior Superintendent, Superintendent, or Chief Officer; (Replaced 35 of 1977 s. 2. Amended 13 of 1995 s. 2)

"subordinate officers" (部屬人員) means Principal Officers, Officers, Assistant Officers, Nurses, and any other officers of the Correctional Services Department below the rank of Chief Officer whom the Chief Executive may declare to be subordinate officers; (Replaced 11 of 1974 s. 2. Amended 15 of 1999 s. 3)

"Superintendent" (監督) means a senior officer of the Correctional Services Department holding the rank of superintendent. (Amended 31 of 1983 s. 2)

(Amended L.N. 30 of 1982)

Part:	II	ESTABLISHMENT AND ADMINISTRATION OF PRISONS*	L.N. 289 of 1999	19/11/1999
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Note:

* (Added 58 of 1999 s. 4)

Section:	3	Appointment of Commissioner of Correctional Services and other officers	L.N. 289 of 1999	19/11/1999
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The Chief Executive may appoint fit persons to be, respectively, Commissioner, Deputy Commissioner, Assistant Commissioners, Chief Superintendents, Senior Superintendents, Superintendents, Chief Officers, Chaplains, Medical Officers and such other officers for the service of the prisons as the Chief Executive may think necessary.

(Replaced 35 of 1977 s. 3. Amended 13 of 1995 s. 2; 15 of 1999 s. 3)

Section:	4	Setting apart of places as prisons		30/06/1997
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The Secretary for Security may by order published in the Gazette provide for-

- (a) any place or building or portion of a building to be set apart for the purposes of a prison;
- (b) the discontinuance of the use of any prison.

(Replaced 35 of 1977 s. 3)

Section:	5	(Repealed 19 of 1969 s. 2)		30/06/1997
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Section:	6	Certification of cells by Commissioner		30/06/1997
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(1) A cell shall not be used for the confinement of a prisoner unless it is certified by the Commissioner that its size, lighting, heating, ventilation and fittings are adequate for health and that it allows the prisoner to communicate at any time with an officer of the prison.

(2) A certificate given under this section in respect of any cell may limit the period for which a prisoner may be separately confined in the cell and the number of hours a day during which a prisoner may be employed therein.

(3) The certificate shall identify the cell to which it relates by a number or mark and the cell shall be marked by that number or mark placed in a conspicuous position; and if the number or mark is changed without the consent of the Commissioner the certificate shall cease to have effect.

(4) The Commissioner may withdraw a certificate given under this section in respect of any cell if in his opinion the conditions of the cell are no longer as stated in the certificate.

(5) In every prison special cells shall be provided for the temporary confinement of refractory or violent prisoners.

[cf. 1952 c. 52 s. 14 U.K.]

Section:	7	Commitment and removal of prisoners		30/06/1997
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(1) Any prisoner sentenced to imprisonment or committed to prison on remand pending trial or otherwise may be lawfully confined in any prison to which this Ordinance applies.

(2) Prisoners shall be confined in such prisons as the Commissioner may direct and may on like direction be removed therefrom during the term of their imprisonment to any other prison.

[cf. 1952 c. 52 s. 12 U.K.]

Section:	8	Separation of male and female prisoners		30/06/1997
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In a prison used for both men and women separate buildings or parts of a building shall be used for the men and for the women respectively so as to prevent the one from seeing or communicating with the other.

[cf. 1952 c. 52 s. 15 U.K.]

Section:	9	Control of prisoners	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

Prisoners shall be under the control of the Commissioner who may-

- (a) allocate them to suitable institutions under his control;
- (b) classify them according to the classifications laid down by the Chief Executive in Council from time to time under section 25. (Amended 15 of 1999 s. 3)

Section:	10	Custody and conveyance of prisoners		30/06/1997
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(1) A person shall be deemed to be a prisoner and in legal custody whenever he is being taken to or from, or is confined in, any prison in which he may be lawfully confined, whether under criminal or civil process, or whenever he is working outside or is otherwise outside any such prison in the custody or under the control of an officer of the Correctional Services Department.

(2) Any police officer or other officer acting under the order of any judge or magistrate or other officer having power to commit a prisoner to prison may convey a prisoner to or from any prison to or from which he may be legally committed or removed.

[cf. 1952 c. 52 s. 13 U.K.]

Section:	11	Removal of prisoners for medical treatment		30/06/1997
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The Commissioner on being satisfied that a prisoner is suffering from a disease and cannot properly be treated in a prison, or that he should undergo and desires to undergo a surgical operation which cannot properly be performed in a prison, or that a female prisoner is pregnant and that a birth may be imminent, may order that the prisoner be taken to a Government hospital or other suitable place for the purpose of treatment or such operation or such birth, and while absent from a prison in pursuance of such order the prisoner shall be deemed to be in legal custody.

[cf. 1914 c.58 s. 17 U.K.; 1952 c. 52 s.22 U.K.]

Section:	12	Attendance of prisoners	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) When the attendance of any prisoner at any place is required by a court, tribunal or other body performing judicial functions or for the purposes of any enactment, the Commissioner shall arrange for his transfer in custody to and from such place, and during any such transfer the prisoner shall be deemed to be in legal custody. (Amended 19 of 1969 s. 3)

(2) Without prejudice to subsection (1), if the Chief Executive, after consultation with the Commissioner, is satisfied that the attendance of a prisoner at any place is desirable in the interests of justice or for the purposes of any

public inquiry, the Chief Executive may by order direct that prisoner to be taken to that place in pursuance of such interests or for such purposes and while absent from a prison in pursuance of such order the prisoner shall be deemed to be in legal custody. (Added 31 of 1983 s. 3. Amended 15 of 1999 s. 3)

Section:	12A	Leave of absence of persons detained	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) The Chief Executive may grant a permit to any person who is detained in a prison under section 76 of the Criminal Procedure Ordinance (Cap 221) to be absent from the prison, subject to such conditions (if any) as the Chief Executive considers necessary in the interest of such person or for the protection of other persons. (Amended 34 of 1972 s. 22)

(2) Leave of absence may be granted to a prisoner under this section either indefinitely or on specified occasions or for any specified period and where leave is so granted for a specified period, that period may be extended by further leave granted in the absence of the prisoner.

(3) Where it appears to the Chief Executive that it is necessary so to do in the interests of the prisoner or for the protection of other persons, he may, upon granting leave of absence under this section, direct that the prisoner remain in custody during his absence; and where leave of absence is so granted the prisoner may be kept in the custody of a subordinate officer.

(4) In any case where a prisoner is absent from a prison in pursuance of leave of absence granted under this section, and it appears to the Chief Executive that it is necessary so to do in the interests of the prisoner's health or safety or for the protection of other persons, the Chief Executive may, by notice in writing given to the prisoner or to the person for the time being in charge of the prisoner, revoke the leave of absence and recall the prisoner to prison.

(5) Any prisoner who has been granted leave of absence under this section and who does not return to prison at or before the expiration of the period of absence specified under subsection (2) may be arrested by any person without warrant.

(Added 19 of 1969 s. 4. Amended 15 of 1999 s. 3)
[cf. 1959 c. 72 s. 39 U.K.]

Section:	13	(Repealed 24 of 1993 s. 19)		30/06/1997
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Section:	14	(Repealed 24 of 1993 s. 20)		30/06/1997
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Section:	15	(Repealed 24 of 1993 s. 21)		30/06/1997
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Section:	16	Prohibition of certain persons acting as jurors in an inquiry into death of prisoner	L.N. 211 of 1998	04/05/1998
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It shall not be lawful for any prisoner confined in a prison or any officer of the Correctional Services Department or person employed in the prisons, or any person engaged in any sort of trade or dealing with a prison, to be a juror on any inquest held under the provisions of the Coroners Ordinance (Cap 504).

(Amended 57 of 1967 Schedule; 27 of 1997 s. 76)
[cf. 1865 c. 126 s.48 U.K.; 1887 c. 71 s. 3 U.K.]

Section:	17	Escaping or aiding to escape from prison or legal custody		30/06/1997
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Any person who-

- (a) escapes from any prison or from legal custody; or
- (b) aids any prisoner in escaping from prison or from legal custody; or
- (c) with intent to facilitate the escape of any prisoner, conveys or causes to be conveyed anything into a

prison or to a prisoner or places anything anywhere outside a prison with a view to its coming into the possession of a prisoner, shall be guilty of an offence and shall be liable on conviction upon indictment to imprisonment for 2 years.
 (Amended 19 of 1969 s. 8; 11 of 1974 s. 4)
 [cf. 1952 c. 52 s. 39 U.K.]

Section:	17A	Failure by prisoner to return after leave of absence an offence		30/06/1997
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Any prisoner who has been granted leave of absence under the rules made under section 25 and who without lawful excuse fails to return to prison at or before the expiration of the period for which leave has been granted shall be guilty of an offence and liable on conviction upon indictment to imprisonment for 2 years.
 (Added 19 of 1969 s. 5. Amended 11 of 1974 s. 5)

Section:	18	Introduction of unauthorized articles into prison		30/06/1997
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(1) Any person who brings, throws or in any manner introduces or conveys into any prison, or conveys to any prisoner while in custody outside the prison, or deposits in any place outside a prison with intent that it shall come into the possession of a prisoner, or carries out of a prison any arms, ammunition, weapon, instrument, intoxicating liquor, opium or other drugs, tobacco, money, clothing, provisions, letters, papers, books or any other article whatsoever shall, unless so authorized by the rules made under section 25 or by the Commissioner, be guilty of an offence and shall be liable on conviction to a fine of \$2000 and to imprisonment for 3 years. (Amended 19 of 1969 s. 8; 11 of 1974 s. 6)

(2) Any officer of the Correctional Services Department or other person employed in the prisons who contravenes or permits any contravention of the provisions of subsection (1) shall be liable, in addition to the above punishment and any other punishment, to forfeit his office.
 [cf. 1952 c. 52 ss. 40 & 41 U.K.]

Section:	18A	Possession or introduction of prohibited articles by prison officers		30/06/1997
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(1) Except where authorized by rules made under section 25 or by the Commissioner, any officer of the Correctional Services Department or other person employed in the prisons who-

- (a) while in a prison or proceeding into or out of a prison, has in his possession, whether on his person or in any receptacle in his custody, any prohibited article;
- (b) knowingly conveys or permits or causes to be conveyed into or out of a prison, any prohibited article in any vehicle or other means of transport which is driven by him or in his charge or in which he is a passenger;
- (c) brings, throws or otherwise introduces or causes to be brought, thrown or otherwise introduced into or out of a prison, any prohibited article;
- (d) takes any prohibited article to or from any prisoner whether such prisoner is in a prison or in custody outside a prison;
- (e) deposits any prohibited article in any place whether in a prison or outside a prison, with the intent that it shall come into the possession of a prisoner,

shall be guilty of an offence and shall be liable on conviction to a fine of \$2000 and to imprisonment for 3 years.
 (2) In subsection (1), "prohibited article" (禁制物品) means any fire-arm, ammunition, weapon, instrument, explosive, harmful or deleterious substance, intoxicating liquor, opium or other drug, tobacco, money, clothing, provisions, letter, paper or book.
 (Added 11 of 1974 s. 7)

Section:	19	Supplying unauthorized articles to prisoners		30/06/1997
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Any person who-

- (a) in any prison sells any intoxicating liquor, opium or other drug, tobacco or any other unauthorized article; or

- (b) being an officer of the Correctional Services Department or other person employed in the prisons-
 - (i) permits any such article to be sold in any prison;
 - (ii) permits any such article to be used by any prisoner, unless such use be authorized by rules made under section 25 or by the Commissioner;
 - (iii) contrary to the rules made under section 25 gives or causes to be given anything of whatsoever nature to any prisoner,

shall be guilty of an offence and shall be liable on conviction to a fine of \$1000 and to imprisonment for 6 months and, if he be an officer of the Correctional Services Department or other person employed in the prisons, he shall be liable, in addition to such punishment and any other punishment, to forfeit his office.

(Amended 19 of 1969 s. 8)
[cf. 1952 c. 52 s. 40 U.K.]

Section:	20	Duty to display outside a prison notice containing punishments under sections 17, 18 and 19		30/06/1997
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The Commissioner shall cause to be affixed in a conspicuous place outside every prison a notice, in English and in Chinese, setting forth the penalties that will be incurred by persons who contravene the provisions of sections 17, 18 and 19.

[cf. 1952 c. 52 s. 42 U.K.]

Section:	20A	Offences against discipline generally		30/06/1997
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Any officer of the Correctional Services Department or other person employed in the prisons who commits a disciplinary offence shall be liable to be dismissed or otherwise dealt with as provided by or under this Ordinance.

(Added 35 of 1977 s. 4)

Section:	20B	Offences against discipline by Superintendents and higher ranks	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

Whenever it is alleged that a Superintendent or any officer of a higher rank of the Correctional Services Department has committed a disciplinary offence or whenever an investigation is being undertaken into any conduct which may amount to the commission of a disciplinary offence by a Superintendent or any such officer-

- (a) the provisions of the Public Service (Administration) Order and government regulations which relate to interdiction and to the payment of emoluments thereafter shall apply; (Amended 15 of 1999 s. 3)
- (b) the matter shall be investigated and the officer concerned dealt with in the appropriate manner provided for in those regulations for allegations of misconduct made against a public officer.

(Added 35 of 1977 s. 4)

Section:	20C	Offences against discipline by Chief Officers, subordinate officers and other persons employed in the prisons		30/06/1997
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(1) Whenever a Chief Officer or any subordinate officer or other person employed in the prisons is charged with a disciplinary offence-

- (a) the Commissioner may interdict him from duty; and
- (b) the matter shall be investigated and the officer or person concerned dealt with in the appropriate manner provided in the rules made under section 25.

(2) Whenever an investigation is being undertaken into any conduct which may amount to the commission of a disciplinary offence by a Chief Officer or any subordinate officer or other person employed in the prisons, and the Commissioner considers that it is contrary to the public interest for the officer or person to continue to exercise the powers and functions of his office, the Commissioner may interdict him from duty but the officer or person shall be entitled, until such time as he is charged with a disciplinary offence, to the full amount of the emoluments which he would have received if he had not been interdicted.

(3) An officer or person interdicted under subsection (1), and an officer interdicted under subsection (2) who is charged with a disciplinary offence, shall receive such proportion of the emoluments of his office, not being less than one-half, as the Commissioner may direct.

(4) If the proceedings against such officer or person do not result in any punishment of the officer or person, he shall be entitled to the full amount of the emoluments which he would have received if he had not been interdicted.

(5) If a punishment other than dismissal is inflicted the officer or person may be paid such proportion of the emoluments withheld as a result of his interdiction as the Commissioner may direct.

(Added 35 of 1977 s. 4)

Section:	20D	Interdiction where criminal proceedings are instituted against an officer	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) If criminal proceedings have been, or are likely to be, instituted against any officer of the Correctional Services Department or other person employed in the prisons, or an investigation is being undertaken into any conduct which may amount to the commission of a criminal offence by such officer or person, the officer or person may be interdicted from duty and thereafter paid emoluments as follows-

- (a) if a Superintendent or officer of a higher rank, in accordance with the Public Service (Administration) Order and government regulations; (Amended 15 of 1999 s. 3)
- (b) if a Chief Officer or subordinate officer or other person employed in the prisons, in accordance with section 20C.

(2) A Chief Officer or subordinate officer or other person employed in the prisons who is found guilty of or pleads guilty to any criminal offence which in the opinion of the Commissioner is serious enough to warrant dismissal shall not, as from the time when he is found or pleads guilty as aforesaid, be paid any emoluments of his office pending the consideration of the case in accordance with rules made under section 25.

(Added 35 of 1977 s. 4)

Section:	20E	Punishment of officers and other persons employed in the prisons guilty of a criminal offence	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) If in criminal proceedings before any court-

- (a) an officer of the Correctional Services Department or other person employed in the prisons is found guilty of or pleads guilty to any criminal offence; or
- (b) the court finds that a charge against an officer of the Correctional Services Department or other person employed in the prisons in respect of a criminal offence has been proved against him,

and any appeal or other application for review of those proceedings is not allowed or is abandoned or withdrawn, the officer or person may be punished, in the case of a Superintendent or officer of higher rank, in accordance with the Public Service (Administration) Order and government regulations, and in the case of a Chief Officer or subordinate officer or other person employed in the prisons, in the appropriate manner provided in the rules made under section 25. (Replaced 31 of 1983 s. 4. Amended 15 of 1999 s. 3)

(2) In section 20D and in subsection (1) of this section "criminal proceedings" and "criminal offence" include, respectively-

- (a) criminal proceedings in; and
- (b) a criminal offence against the law of,

any place outside Hong Kong.

(Added 35 of 1977 s. 4)

Section:	20F	Saving in respect of the Public Service (Administration) Order and government regulations	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

Nothing in this Ordinance shall be construed to preclude-

- (a) the summary dismissal of any officer of the Correctional Services Department or other person employed in the prisons in accordance with the Public Service (Administration) Order and government regulations;
- (b) the termination of the employment in accordance with the Public Service (Administration) Order of any such officer or person on the grounds that, having regard to the conditions of the public service, the usefulness of the officer or person thereto and all other circumstances of the case, such termination is desirable in the public interest.

(Added 35 of 1977 s. 4. Amended 15 of 1999 s. 3)

Section:	21	Penalties for misconduct		30/06/1997
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Any officer of the Correctional Services Department or other person employed in the prisons who-

- (a) after having duly engaged to serve as such absents himself from his duties; or (Amended 21 of 1955 s. 4)
- (b) on being dismissed or permitted to resign from or ceasing to belong to the Correctional Services Department, does not deliver up all arms, accoutrements, appointments and things entrusted to him for the performance of his duty,

shall be guilty of an offence and shall be liable on conviction to a fine of \$1000 and to imprisonment for 6 months, and shall be liable to forfeit his office upon conviction.

(Amended 19 of 1969 s. 8)

Section:	21A	Prisoners' Welfare Fund		30/06/1997
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- (1) There shall be established a fund to be known as the "Prisoners' Welfare Fund".
- (2) The fund shall consist of-
 - (a) the balance of any sums deposited in or donated to the fund known as the "Prisoners' Welfare Donation Fund" existing at the commencement of the Prisons (Amendment) Ordinance 1986 (42 of 1986) for the welfare of prisoners;
 - (b) all sums resulting from or donated in connection with public entertainment performed by prisoners;
 - (c) all sums received at any function organized to raise money for the fund less any expenses which defray any necessary costs and charges in respect of that function;
 - (d) moneys confiscated by the Superintendent under rule 23 of the Prison Rules (Cap 234 sub. leg. A) and sums derived from the sale of articles confiscated under that rule;
 - (e) such other donations and voluntary contributions as may be made to the fund.
- (3) The fund shall be controlled by the Commissioner subject to rules made under section 25 and shall be applied for the benefit of prisoners in such ways as the Commissioner may determine, including-
 - (a) procuring for prisoners while in prison comforts, convenience or other advantages;
 - (b) meeting expenses of prisoners and providing services for prisoners or items not chargeable to the general revenue;
 - (c) assisting prisoners after discharge from prison.
- (4) The cost of administration of the fund shall be a charge upon the general revenue, but the Financial Secretary may direct that an annual supervision fee to be determined by him shall be charged against the income of the fund and paid into the general revenue.
- (5) The fee charged under subsection (4) shall not exceed 2.5 per cent of the income of the fund for the period in respect of which the fee is charged.

(Added 42 of 1986 s. 3)

Section:	22	(Repealed 58 of 1999 s. 4)	L.N. 289 of 1999	19/11/1999
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Section:	22A	Special services and fees	L.N. 289 of 1999	19/11/1999
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(1) Upon application made to him by any person in that behalf and the payment to him of such fee as he may think fit, the Commissioner may detail any officer of the Correctional Services Department or other person employed in the prisons to perform special services in or about any prison specified by the applicant and for the purpose, furnish such equipment as he may deem necessary. (Amended 58 of 1999 s. 4)

(2) All fees received by the Commissioner under subsection (1) shall be paid by him to the Director of Accounting Services, who shall credit them to the Correctional Services Department Welfare Fund.

(Added 31 of 1983 s. 6)

Section:	23	Visiting justices and visiting committees	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) For the purpose of visiting prisons and other institutions under the control of the Commissioner, the Chief Executive- (Amended 15 of 1999 s. 3)

(a) shall appoint such numbers of justices of the peace as he considers necessary; and

(b) may appoint fit and proper persons to serve on visiting committees.

(2) Visiting justices and visiting committees shall carry out the duties and exercise the powers prescribed by rules made under section 25.

Section:	24	Powers of delegation	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

(1) Save where the contrary intention appears from the context of this or any other Ordinance and subject to any special instructions of the Commissioner, the Deputy Commissioner may exercise and perform any of the powers, functions and duties which are conferred or imposed upon the Commissioner by this or any other Ordinance except any power to dismiss a subordinate officer which may be conferred on the Commissioner by or under this Ordinance.

(2) Save where the contrary intention appears from the context of this or any other Ordinance and subject to any special instructions of the Chief Executive, the Commissioner may authorize any senior officer by name, office or appointment to exercise and perform any of the powers, functions and duties which are conferred or imposed upon the Commissioner by this or any other Ordinance except any power to dismiss a subordinate officer which may be conferred on the Commissioner by or under this Ordinance. (Amended 15 of 1999 s. 3)

(Replaced 35 of 1977 s. 5)

Section:	24A	Chief Executive to determine dietary scales	15 of 1999	01/07/1997
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Remarks:

Amendments retroactively made - see 15 of 1999 s. 3

The Chief Executive may determine dietary scales of plain and wholesome food which shall be supplied to each prisoner.

(Added 19 of 1969 s. 6. Amended 15 of 1999 s. 3)

Section:	24B	Hostels		30/06/1997
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(1) The Secretary for Security may, by order published in the Gazette, provide for-

(a) any building or portion of a building to be set aside as a hostel for the purposes of this Ordinance;

(b) the discontinuance of the use of such building or portion of a building as a hostel.

- (2) A hostel shall be under the control of the Commissioner.
- (3) A person who is-
- (a) required, by any supervision order made under the authority of any Ordinance, to reside in a hostel; and
 - (b) employed outside the hostel under a contract of service or apprenticeship and remunerated,
- may be required to pay such charges in respect of his food and accommodation in the hostel as the Commissioner, with the approval of the Financial Secretary, may determine.

(Added 44 of 1987 s. 2)

Part:	III	CORRECTIONAL SERVICES DEPARTMENT WELFARE FUND	L.N. 9 of 2010	31/03/2010
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(Part III added 58 of 1999 s. 4)

Section:	24C	Definitions: Part III	L.N. 9 of 2010	31/03/2010
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In this Part-

"acquire" (取得) means acquire by purchase or by any other lawful means;

"amenities" (設施活動) means any of the following-

- (a) facilities that are not chargeable to the general revenue, including holiday premises and recreational facilities (whether provided free or for a charge);
- (b) social, educational and recreational activities and performances (whether provided free or for a charge and whether provided for participation or as spectator events);

"beneficiaries" (受益人) means the following persons-

- (a) Correctional Services employees;
- (b) former Correctional Services employees;
- (c) dependants of deceased persons who, at the time of death, were Correctional Services employees or former Correctional Services employees;

"corporation" (法團) means the corporation sole constituted under section 24D(1);

"Correctional Services employee" (懲教署僱員) means an officer of the Department or any other person employed in the prisons;

"Department" means the Correctional Services Department;

"dependant" (受養人) means-

- (a) in relation to a Correctional Services employee or a former Correctional Services employee-a person who, in the opinion of the Commissioner, is wholly or partially dependent on the employee or former employee; and
- (b) in relation to a deceased Correctional Services employee or a deceased former Correctional Services employee-a person who, in the opinion of the Commissioner, was, at the time of the death of the employee or former employee, wholly or partially dependent on the employee or former employee;

"dispose of" (處置) means dispose of by sale, lease, hiring, mortgage or any other lawful means;

"former Correctional Services employee" (前懲教署僱員) means a person who was formerly an officer of the Department, or who was formerly employed in the prisons, and-

- (a) who has retired from the Department with retirement benefits; or (Amended 6 of 2009 s. 23)
- (b) whose contract of service as an officer or employee of the Department has expired on or after the person reached 55 years of age without the contract being renewed;

"function" (職能) includes a power, an authority and a duty;

"Fund" (基金) means the Correctional Services Department Welfare Fund continued by section 24E;

"this Part" (本部) includes rules made under section 25(1)(e).

(Part III added 58 of 1999 s. 4)

Section:	24D	Commissioner to be corporation sole for purposes of this Part	L.N. 289 of 1999	19/11/1999
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(1) The Commissioner is constituted as a corporation sole for the purposes of this Part with the corporate name of "Commissioner of Correctional Services of Hong Kong Incorporated".

(2) The corporation-

- (a) has perpetual succession; and
- (b) for the purposes of this Part, may acquire, hold and dispose of real and personal property; and
- (c) may take legal proceedings and be proceeded against in its corporate name; and
- (d) is required to have a corporate seal; and
- (e) for the purposes of this Part, has the capacity to do and be subjected to all other things that bodies corporate may, by law, do and be subjected to.

(3) A document requiring authentication by the corporation is sufficiently authenticated if it is signed by the Commissioner or by any officer of the Department authorized to do so by the Commissioner.

(4) The affixing of the corporate seal to a document executed by the corporation is not valid unless authenticated by the Commissioner or an officer of the Department designated for the purpose by the Commissioner.

(5) The corporation is not a trustee for the beneficiaries, but, subject to subsection (6), nothing in this Part limits a right conferred by law to bring legal proceedings against the corporation for a contravention of this Part or a failure to perform a duty imposed by this Part.

(6) Neither the Commissioner nor any delegate of the corporation is personally liable in any legal proceedings arising out of an act done or omitted to be done in relation to the Fund if the act was done or omitted to be done in good faith for the purpose of giving effect to this Part.

(Part III added 58 of 1999 s. 4)

Section:	24E	Continuance of Correctional Services Department Welfare Fund	L.N. 289 of 1999	19/11/1999
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(1) The fund called the "Correctional Services Department Welfare Fund " in English and "懲教署福利基金" in Chinese is continued by this section.

(2) The Fund and the property derived from the application of the Fund are vested in the corporation.

(Part III added 58 of 1999 s. 4)

Section:	24F	What the Fund consists of	10 of 2005	08/07/2005
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The Fund consists of the following-

- (a) any donations made to the Fund;
- (b) proceeds from the sale of souvenirs and the disposal of other property held for the purposes of the Fund;
- (c) all money received from the letting of holiday premises, or the hire of recreational facilities, held for the purposes of the Fund;
- (d) all fees collected from social, educational and recreational activities organized by or on behalf of the Commissioner for the purposes of the Fund;
- (e) money derived from the investment of the Fund;
- (f) money accruing as interest on loans made from the Fund;
- (g) gifts of money required under the Acceptance of Advantages (Chief Executive's Permission) Notice 2004* to be disposed of by being paid into the Fund; (Amended 10 of 2005 s. 216)
- (h) any money voted to the Fund by the Legislative Council;
- (i) money held in the Fund immediately before the commencement of Schedule 3 to the Disciplined Services Welfare Funds Legislation (Amendment) Ordinance 1999 (58 of 1999) and money which was, immediately before that commencement, recoverable for the Fund and which is subsequently paid to, or recovered for, the Fund after that commencement;
- (j) money paid or payable to the credit of the Fund from any other lawful source.

(Part III added 58 of 1999 s. 4)

Note:

* **The Acceptance of Advantages (Chief Executive's Permission) Notice 2004 has been cancelled. Please see the Acceptance of Advantages (Chief Executive's Permission) Notice 2007 which was published as G.N. 1133 in the Government of the HKSAR Gazette (No. 7 Vol. 11) on 16 February 2007, and the Acceptance of Advantages (Chief Executive's Permission) Notice 2010 which was published as G.N. 1967 in the Government of the HKSAR Gazette (No. 14 Vol. 14) on 9 April 2010.**

Section:	24G	Functions of corporation	L.N. 289 of 1999	19/11/1999
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- (1) Subject to this Part, the principal function of the corporation is to administer the Fund, and the property derived from the application of the Fund, for the benefit of beneficiaries and others as provided by this Part.
- (2) The corporation has such ancillary functions as are necessary to enable it to perform its principal function.
- (3) The corporation is required-
- (a) to act honestly in all matters relating to its principal function; and
 - (b) to exercise in relation to all matters relating to the administration of the Fund the same degree of care, skill and diligence as an ordinary prudent person would exercise in dealing with property of another person for whom the person felt morally bound to provide; and
 - (c) to ensure that its functions relating to the Fund are performed or exercised in the best interests of the beneficiaries.

(Part III added 58 of 1999 s. 4)

Section:	24H	What the Fund may be used for	L.N. 289 of 1999	19/11/1999
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- (1) The Fund may be used for any of the following purposes-
- (a) providing and maintaining amenities for the use and enjoyment of Correctional Services employees and former Correctional Services employees;
 - (b) acquiring real and personal property for the purpose specified in paragraph (a);
 - (c) making payments to the corporation's employees in respect of their employment;
 - (d) making payments for the services of the corporation's agents;
 - (e) making loans to Correctional Services employees and former Correctional Services employees;
 - (f) granting financial assistance to dependants of deceased persons who, at the time of death, were Correctional Services employees or former Correctional Services employees in order to meet the funeral expenses of those employees or former employees;
 - (g) making grants, allowances and gifts to beneficiaries for purposes other than the purpose mentioned in paragraph (f);
 - (h) making or acquiring souvenirs for sale to beneficiaries and others;
 - (i) making donations to charitable or community organizations;
 - (j) paying interest that is payable on loans made to the corporation or the Fund.
- (2) The corporation-
- (a) may dispose of property derived from the application of the Fund that is, in its opinion, no longer required for the purposes of the Fund; and
 - (b) may pay from the Fund the expenses incurred in disposing of the property.
- (3) Loans to Correctional Services employees and former Correctional Services employees may, at the discretion of the corporation, be granted free of interest or subject to the payment of interest.
- (4) Whenever the Commissioner considers it appropriate to do so, the Commissioner may permit persons who are not Correctional Services employees or former Correctional Services employees to enjoy the use of amenities derived from the application of the Fund. Permission may be granted subject to such conditions as the Commissioner considers appropriate.

(Part III added 58 of 1999 s. 4)

Section:	24I	Corporation may make donations	L.N. 289 of 1999	19/11/1999
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The corporation may, whenever appropriate, donate money from the Fund to charitable or community organizations on such terms and conditions as it thinks fit.

(Part III added 58 of 1999 s. 4)

Section:	24J	Corporation may employ staff	L.N. 289 of 1999	19/11/1999
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- (1) The corporation may, for the purposes of this Part-
 - (a) employ persons under contracts of employment; or
 - (b) use the services of any staff or facilities of the Department.
- (2) The corporation may fix the remuneration and other conditions of employment of its staff.
(Part III added 58 of 1999 s. 4)

Section:	24K	Corporation may engage agents	L.N. 289 of 1999	19/11/1999
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The corporation may engage and pay agents to transact any business or do any act (including receiving or paying money) that the corporation is authorized or required to do for the purposes of this Part.
(Part III added 58 of 1999 s. 4)

Section:	24L	Corporation may delegate its functions	L.N. 289 of 1999	19/11/1999
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- (1) The corporation may delegate to a specified member, or the holder of a specified office, in the Department any of its functions, other than this power of delegation.
- (2) A delegation under this section may-
 - (a) be general or limited; and
 - (b) be revoked, wholly or partly, by the corporation.
- (3) A delegated function is to be performed or exercised only in accordance with any conditions to which the delegation is subject.
- (4) A delegate may, in the performance or exercise of a function delegated under this section, exercise any other function that is incidental to the delegated function.
- (5) A delegated function that is duly performed or exercised by a delegate is taken to have been performed or exercised by the corporation.
- (6) If a function is delegated to the holder of a particular office in the Department-
 - (a) the delegation does not cease to have effect merely because the person who was the holder of the office when the function was delegated ceases to be the holder of that office; and
 - (b) the function may be exercised, or, in the case of a duty, must be performed, by the person for the time being occupying or acting in the office.
- (7) A function that has been delegated may be performed or exercised by the corporation despite the delegation.
(Part III added 58 of 1999 s. 4)

Section:	24M	Corporation may enter into contracts and other transactions	L.N. 289 of 1999	19/11/1999
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- (1) The corporation may enter into contracts and other transactions for the purposes of the Fund.
- (2) A person who pays money under a contract or other transaction purporting to be entered into under this section has no obligation to see that the money is paid into the Fund.
- (3) A person who enters into a contract or other transaction with another person who purports to be a delegate of the corporation has no obligation to be satisfied that the corporation has delegated to the other person the power to enter into the contract or other transaction.
(Part III added 58 of 1999 s. 4)

Part:	IV	MISCELLANEOUS*	L.N. 9 of 2010	31/03/2010
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Note:
* (Added 58 of 1999 s. 4)

Section:	25	Power to make rules	L.N. 9 of 2010	31/03/2010
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- (1) The Chief Executive in Council may make rules providing for- (Amended 15 of 1999 s. 3)

- (a) the regulation and government of prisons and hostels; (Amended 44 of 1987 s. 2)
- (b) the admission and discharge of prisoners;
- (c) the duties and conduct of the officers of the Correctional Services Department and other persons employed in the prisons and hostels; (Amended 44 of 1987 s. 2)
- (d) the acts which shall be disciplinary offences on the part of any officer of the Correctional Services Department or other person employed in the prisons and hostels; (Replaced 19 of 1969 s. 7. Amended 44 of 1987 s. 2)
- (da) the inquiry by the Commissioner, Deputy Commissioner or such other authority as may be prescribed into a disciplinary offence by any such officer or other person; (Added 19 of 1969 s. 7)
- (db) the procedure to be followed in any case where a disciplinary offence or a breach of duty is alleged to have been committed by any such officer or other person; (Added 19 of 1969 s. 7)
- (dc) the punishment, including-
 - (i) dismissal without retirement benefits; (Amended 6 of 2009 s. 12)
 - (ia) compulsory retirement with full retirement benefits or reduced retirement benefits or without retirement benefits; (Added 31 of 1983 s. 7. Amended 36 of 1987 s. 46; 6 of 2009 s. 12)
 - (ii) imposition of a fine;
 - (iii) reduction to a lower rank or pay;
 - (iv) forfeiture of seniority;
 - (v) stoppage or deferment of increments;
 - (vi) performance of extra duty;
 - (vii) reprimand or severe reprimand, of such officer or other person for any disciplinary offence; (Added 19 of 1969 s. 7)
- (dcc) the retirement of any such officer or other person in the public interest; (Added 31 of 1983 s. 7)
- (dd) the application of money in the possession of a prisoner committed for non-payment of a fine towards the fine adjudged to be paid; (Added 19 of 1969 s. 7)
- (de) the conferring on any officer of the Correctional Services Department or other person employed in the prisons and hostels of rights of appeal against a finding of guilt or a punishment awarded; (Added 35 of 1977 s. 6. Amended 44 of 1987 s. 2)
- (df) the control, administration and application of the Prisoners' Welfare Fund; (Added 42 of 1986 s. 5)
- (e) the control, administration and application of the Correctional Services Department Welfare Fund;
- (f) the duties and powers of visiting justices or visiting committees;
- (g) the conditions under which visitors may be allowed in the prisons and hostels; (Amended 44 of 1987 s. 2)
- (h) the classification, clothing, maintenance, employment, discipline, instruction and correction of the prisoners; (Amended 19 of 1969 s. 7)
- (i) the remission of a portion of their sentences;
- (j) the granting of gratuities to the prisoners or the remuneration of prisoners for work done;
- (k) the regulation of the execution of judgments of death and burials of executed prisoners;
- (l) all other matters relating to the prisons and hostels. (Amended 44 of 1987 s. 2)

(2) Any rule made under this Ordinance may provide that a contravention thereof shall be an offence and may provide punishment and penalties for such offence not exceeding a fine of \$1000 and imprisonment for 6 months.

(3) Rules made under paragraph (de) of subsection (1) may authorize the Chief Executive to delegate to the Secretary for the Civil Service, or to a public officer not below the rank of Director of Bureau, the determination of an appeal referred to in that paragraph. (Added 35 of 1977 s. 6. Amended 15 of 1999 s. 3)

Note:

This section was amended by section 12 of the Disciplined Services Legislation (Miscellaneous Amendments) Ordinance 2009 (6 of 2009). The transitional provisions contained in section 30 of that Amendment Ordinance read as follows-

"30. Transitional provisions

(1) If, after the commencement* of Parts 2 and 4, any public officer who is found guilty of or pleads guilty to any misconduct or offence for which that officer is punishable under any enactment amended by this Ordinance, that officer is to be punished in accordance with that enactment as amended by this Ordinance even though the misconduct or offence was committed before the

commencement.

(2) If, after the commencement of Part 5, a court in criminal proceedings finds that a charge against any police officer in respect of a criminal offence has been proved, pay and allowance may cease to be payable to that officer in accordance with section 37(4) of the Police Force Ordinance (Cap 232) as amended by this Ordinance even though the criminal offence was committed before the commencement."

* Commencement date: 31 March 2010.

Section:	26	(Repealed 58 of 1999 s. 4)	L.N. 289 of 1999	19/11/1999
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