

THE MISCELLANEOUS PROVISIONS (PRISONS) BILL, 2014

Explanatory Note

(These notes form no part of the Bill but are intended only to indicate its general purport)

This Bill seeks to amend the Prisons Act, Chap. 13:01, the Criminal Offences Act, Chap. 11:01 and the Mental Health Act, Chap. 28:02

Clause 1 of the Bill would provide for the short title of the Bill.

Clause 2 of the Bill would provide for the commencement of sections 4 and 11 of the Bill.

Clause 3 of the Bill would provide for the interpretation of the words “the Act” to mean the Prisons Act.

Clause 4 of the Bill would seek to amend section 2 of the Prisons Act thereby inserting in alphabetical sequence several new definitions in the said section.

Clause 5 of the Bill would increase the fine and term of imprisonment for offences under section 9 the Prisons Act.

Clause 6 of the Bill would seek to amend section 10 of the Prisons Act to increase the fine and term of imprisonment for offences under the said section and also to expand the liability for an offence to include police officers and members of the Trinidad and Tobago Defence Force.

Clause 7 of the Bill would increase the fine and term of imprisonment for offences under section 11 the Prisons Act.

Clause 8 of the Bill would increase the fine and term of imprisonment for offences under section 12 the Prisons Act.

Clause 9 of the Bill would seek to amend section 13 of the Prisons Act to insert before the word “officer” the word “prison”.

Clause 10 of the Bill would seek to amend section 17(1) of the Prisons Act to insert before the word “officers” in paragraphs (o) and (r), the word “prison”.

Clause 11 of the Bill would repeal sections 19, 20 and 21 of the Prisons Act and substitute new sections. The new sections to be substituted would provide for the establishment of an Inspectorate of Prisons that would be responsible for conducting independent inspections in the operation and management of prisons institutions in

Trinidad and Tobago.

The new section 26 as proposed in the Bill would establish an Appeal Tribunal that would be responsible for the hearing of all appeals in prison disciplinary proceedings against prisoners.

Clause 12 of the Bill would seek to amend section 4 of the Criminal Offences Act, Chap. 11:01 to increase the fine and term of imprisonment under the said section.

Clause 13 of the Bill would seek to amend the Mental Health Act, Chap. 28:02 in various sections to change the designation of portfolio from the Minister of Nation Security to that of the Minister of Justice.

BILL

AN ACT to amend the Prisons Act, Chap. 13:01, the Criminal Offences Act, Chap. 11:01 and the Mental Health Act, Chap. 28:02

Enactment	ENACTED by the Parliament of Trinidad and Tobago as follows:
Short title	1. This Act may be cited as the Miscellaneous Provisions (Prisons) Act, 2014.
Commencement	2. Sections 4, and 11 of this Act shall come into operation on such day as is fixed by the President by Proclamation.
Interpretation Chap. 13:01	3. In this Act, “the Act” means the Prisons Act.
Section 2 amended	4. Section 2 of the Act is amended – (a) by deleting the definition of “former Inspector”; (b) by deleting the definition of “Inspector”; and (c) by inserting in the appropriate alphabetical sequence, the following definitions: “ “Chief Inspector of Prisons” means a person appointed to the office of Chief Inspector of Prisons under section 20(1); “Commissioner of Prisons” means a person holding or acting in the office of the Commissioner of Prisons established under the Prison Service Act; “Deputy Chief Inspector of Prisons” means a person appointed to the office of Deputy Chief Inspector of Prisons under section 20(2); “Industrial Institution” means an institution established by the Minister under section 2 of the Young Offenders Detention Act;
Chap. 13:02	
Chap. 13:05	“Prison Commissioner” means a person holding or acting in the office of Deputy Commissioner of

Prisons, or Assistant Commissioner of Prisons established under the Prison Service Act;

“prison officer” means a person holding or acting in an office established in the First Schedule of the Prison Service Act;

“service provider” means a person, other than a prison officer, who provides a service to a prison or Industrial Institution;

“young offender” means a person sentenced to detention under penal discipline under the Young Offenders Detention Act”.

Section 9 amended

5. Section 9 of the Act is amended –

(a) by deleting the words “two hundred dollars or to imprisonment for three months” and substituting the words “five thousand dollars and to imprisonment for nine months”; and

(b) by inserting after the words “Commissioner of Prisons or”, the word “prison”.

Section 10 repealed and substituted

6. Section 10 of the Act is repealed and the following section is substituted:

“Aiding escape

10. (1) Any person aiding the escape of a prisoner from prison or from the custody of any person in charge of such prisoner is liable on summary conviction to a fine of thirty thousand dollars and to imprisonment for seven years.

(2) Where an offence under subsection (1) is committed by –

(a) a prison officer;

(b) a police officer; or

(c) a member of the Trinidad and Tobago Defence Force,

that person shall be liable on summary conviction to a fine of fifty thousand dollars and to imprisonment for ten years.

(3) Nothing contained in this section shall be deemed to affect the powers of the High Court on indictment for such offence under the Criminal Offences Act.”.

Chap. 11:01

Section 11

7. Section 11 of the Act is amended by deleting the words “one thousand

amended dollars or to imprisonment for six months” and substituting the words “fifteen thousand dollars and to imprisonment for two years”.

Section 12 amended **8.** Section 12 of the Act is amended by deleting the words “two hundred dollars” and substituting the words “ten thousand dollars and to imprisonment for one year”.

Section 13 amended **9.** Section 13 of the Act is amended by inserting before the word “officer”, the word “prison”.

Section 17 amended **10.** Section 17(1) of the Act is amended in paragraphs (o) and (r) by inserting before the word “officers”, the word “prison”.

Sections 19, 20 and 21 repealed and substituted **11.** Sections 19, 20 and 21 of the Act are repealed and the following sections are substituted:

“Establishment of Prisons of 19. There is hereby established a body corporate to be known as “the Trinidad and Tobago Inspectorate of Prisons” (hereinafter referred to as “the Inspectorate”).

Chief Inspector and Deputy Chief Inspector 20. (1) The Inspectorate shall be managed by the Chief Inspector of Prisons who shall be appointed in writing by the Minister.

(2) There shall be a Deputy Chief Inspector of Prisons who shall be appointed in writing by the Minister.

(3) The Chief Inspector of Prisons and the Deputy Chief Inspector of Prisons must –

(a) be persons of good standing;

(b) not be the holder of any other office of emolument whether in the public service or otherwise; and

(c) not have served in the Trinidad and Tobago Prison Service.

(4) The Chief Inspector of Prisons and the Deputy Chief Inspector of Prisons shall be appointed on a full-time basis for a period not exceeding three years and shall be eligible for reappointment.

(5) Notice of the appointment of the Chief Inspector of Prisons and the Deputy Chief Inspector of Prisons shall be published in the *Gazette*.

(6) The Minister shall determine the remuneration and other terms and conditions of service of the Chief Inspector of Prisons and the Deputy Chief Inspector of Prisons.

(7) The Chief Inspector of Prisons or the Deputy Chief Inspector of Prisons may resign at any time, by letter addressed to the Minister.

(8) Where the Chief Inspector of Prisons or the Deputy Chief Inspector of Prisons is temporarily unable to perform the functions of his office due to his absence from Trinidad and Tobago, illness or otherwise for a continuous period of one month, the Minister may appoint another person to act in his stead.

(9) The Minister may at any time remove the Chief Inspector of Prisons or the Deputy Chief Inspector of Prisons from office for misbehaviour or if, in the opinion of the Minister, the person holding such office has become incapable of effectively performing the functions of his office for any reason.

Appointment of officers and other staff of the Inspectorate

21. (1) The Chief Inspector of Prisons may from time to time and subject to the approval of the Minister, appoint –

(a) one or more persons with legal, medical or penological training as an Assistant, to assist him in the performance of his functions or duties; and

(b) such officers and other staff as may be necessary for the effective operation of the Inspectorate.

(2) An Assistant appointed under subsection (1) shall -

(a) hold office for a term not exceeding eighteen months;

(b) have the powers and functions of the

Chief Inspector of Prisons; and

- (c) be under the direct supervision and control of the Chief Inspector of Prisons.

(3) The Chief Inspector of Prisons shall, subject to the approval of the Minister, determine the remuneration and other terms and conditions of service of the officers and other staff of the Inspectorate.

Functions of the
Inspectorate

22. The functions of the Inspectorate are to –

- (a) inspect –
 - (i) prisons;
 - (ii) Industrial Institutions;
 - (iii) any area in a police station or a court building where a person is detained; or
 - (iv) any other place where a person is detained,and to report to the Minister on the findings of those inspections;

- (b) investigate and report to the Minister on –
 - (i) the treatment of prisoners and young offenders;
 - (ii) programmes, facilities, services and opportunities available to promote the rehabilitation of prisoners and young offenders and the accessibility of these programmes, facilities, services and opportunities to prisoners and young offenders;
 - (iii) matters connected with a prison and the prisoners held therein;
 - (iv) any complaint made by a prisoner or a young offender where the Chief Inspector of Prisons considers it necessary to do so; and
 - (v) any matter arising out of the management or operation of a prison or Industrial Institution where the Minister so directs; and

- (c) bring such issues or concerns relating to a

prison, Industrial Institution, prisoner or young offender to the attention of the Commissioner of Prisons or the Minister, as the Chief Inspector thinks fit.

Powers of the
Inspectorate

23. (1) In carrying out the functions of the Inspectorate, the Chief Inspector of Prisons, the Deputy Chief Inspector of Prisons or an Assistant –

- (a) may at any time enter any prison or Industrial Institution or any part of a prison or Industrial Institution;
- (b) shall at any reasonable time, have access to a place referred to in section 22 (a)(iii) and (iv); and
- (c) shall have access to, and may take copies of, any document or photograph or other records, electronic or otherwise, relating to a prison, Industrial Institution, prisoner or young offender.

(2) The Commissioner of Prisons, other prison officers and service providers shall, as far as reasonably practicable, comply with any request for information made by the Chief Inspector of Prisons, the Deputy Chief Inspector of Prisons or an Assistant in the performance of his duties.

Annual report of the
Chief Inspector of
Prisons

24. (1) The Chief Inspector of Prisons shall, no later than 31st March of every year or such later date as may be determined by the Minister, submit a written report to the Minister on the performance of the Inspectorate during the previous year and on such other related matters as the Minister may direct.

(2) The Chief Inspector of Prisons shall include in a report under subsection (1), the methodology used in performing its functions under section 22(a).

(3) A report under subsection (1) shall, in respect of each prison and Industrial Institution, address –

- (a) the general management, including the level of effectiveness and efficiency

of the prison or Industrial Institution;

- (b) the condition and general health and welfare of prisoners or young offenders;
- (c) the general conduct and effectiveness of prison officers and service providers;
- (d) compliance with the Prison Rules or Rules made under this Act or any other written law relating to prisoners or young offenders and any other national and international standards relating to prisons;
- (e) programmes, facilities, services and opportunities available to prisoners and young offenders and the extent to which prisoners and young offenders participate in or avail themselves of the programmes, facilities, services and opportunities that are available to them;
- (f) security; and
- (g) discipline.

(4) Subject to subsection (5), the Minister shall, as soon as reasonably practicable after receiving a report under subsection (1), cause a copy of the report to be laid in Parliament.

(5) The Minister may omit any part of a report received under subsection (1) where, in the opinion of the Minister, disclosure of the material –

- (a) may be prejudicial to the security of the prison or Industrial Institution; or
- (b) would be contrary to the public interest.

(6) Where any aspect of a report laid in Parliament is omitted under subsection (5), a statement to that effect shall be attached to the report.

Assaulting or obstructing a member of the Inspectorate or other officer or members of staff

25. A person who assaults or obstructs the Chief Inspector of Prisons, the Deputy Chief Inspector of Prisons or an authorized person in the execution of his duties under this Act or Rules made under the Act is liable on summary conviction to a fine of fifteen thousand dollars and to imprisonment for two years.

Establishment of an Appeal Tribunal

26. (1) The Minister may appoint in writing, one or more Appeal Tribunals for the purpose of hearing appeals in disciplinary proceedings against prisoners.

(2) An Appeal Tribunal appointed under subsection (1) shall have the power to hear and determine –

- (a) an appeal from a decision against a prisoner in disciplinary proceedings conducted by a Prison Commissioner; and
- (b) such other matters as may be prescribed by Rules made under this Act.

(3) An Appeal Tribunal established under subsection (1) shall consist of one person who shall either be –

- (a) a retired Judge or retired Magistrate; or
- (b) an Attorney-at-law of at least seven years standing.

(4) The appointment of a person under this section shall be for a term not exceeding three years and the person shall be eligible for reappointment.

(5) The Minister shall determine the remuneration and terms and conditions of service of a person appointed to serve as an Appeal Tribunal under this section.

(6) Notice of the appointment of a person under subsection (1) shall be published in the *Gazette*.

(7) A person appointed under this section may resign at any time, by letter addressed to the Minister.

(8) The Minister may at any time remove from office a person appointed as an Appeal Tribunal under subsection (1) for misbehaviour or if, in the opinion of the Minister, the person holding such office has become incapable of effectively performing the functions of his office.”.

Chap. 11:01
amended

12. The Criminal Offences Act is amended in section 4, by deleting the words “imprisonment for three years” and substituting the words “a fine of one hundred thousand dollars and imprisonment for five years”.

Chap. 28:02
amended

13. The Mental Health Act is amended –

- (a) in section 6, by deleting the words “of National Security” and substituting the words “with responsibility for prisons”;
- (b) in section 14, by deleting the words “of National Security” wherever they occur and substituting in each place the words “with responsibility for prisons”;
- (c) in section 18, by deleting the words “of National Security” and substituting the words “with responsibility for prisons”;
- (d) in section 22(2), by deleting the words “of National Security” and substituting the words “with responsibility for prisons”;
- (e) in section 25(2), by deleting the words “of National Security” and substituting the words “with responsibility for prisons”; and
- (f) in section 26(2), by deleting the words “National Security” and substituting the words “with responsibility for prisons”.

Passed in the House of Representative this day of , 2014.

Clerk of the House

I confirm the above.

Speaker

Passed in the Senate this day of , 2014.

Clerk of the Senate

I confirm the above.

President of the Senate