

THE KENYA CORRECTIONAL SERVICES BILL, 2025

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THE KENYA CORRECTIONAL SERVICES BILL, 2025

A Bill for

AN ACT of Parliament to provide for the establishment of the Kenya Correctional Service, the Kenya Prisons Service, the Kenya Probation Service and other correctional institutions; to regulate the manner in which persons in correctional institutions are to be treated including through rehabilitation and reintegration programmes by those responsible for their detention and care; to provide for certain powers relating to the management of correctional services officers and employees and for other connected purposes.

ENACTED by the parliament of Kenya as follows—

PART I— PRELIMINARY PROVISIONS

Short title.

1. This Act may be cited as the Kenya Correctional Services Act, 2024.

Interpretation.

2. In this Act, except where the context otherwise requires—

“aggravated offence against discipline” means an offence declared to be such by the rules made under this Act;

“appellant offender” means a convicted criminal offender who is detained in a prison as a result of a conviction which is the subject matter of an appeal;

“Cabinet Secretary” means the Cabinet Secretary responsible for matter relating to correctional services;

“civil offender” means any offender other than a criminal offender;

“Commissioner-General” means the Commissioner-General of Prisons appointed under [section...](#);

Cap. 75. “convicted criminal offender” means any criminal offender under sentence of a court or a court martial, and includes a person detained in prison under sections 162 to 167 of the Criminal Procedure Code;

“Court” means a court or authority entitled to pass a sentence in a criminal case or to order a person to be detained in custody in any case;

“criminal offender” means a person duly committed to custody under the writ, warrant or order of any court exercising criminal jurisdiction or by order of a court martial;

“Director General” means the Director General of the Kenya Probation Service appointed under [section...](#)

“deserter” means a prison officer who absents himself or herself from duty without reasonable cause for a period of twenty-one days or more;

Cap. 241. “healthcare professional” has the meaning assigned to it under the Health Act;

“offence against discipline” means an offence declared as such by the rules made under this Act;

“officer in charge” means a prison officer or an administrative officer appointed by the Commissioner to be in charge of any prison;

“prison” means a prison established or deemed to have been established under [section 24](#) of this Act;

“offender” means a person held in custody or placed on non-custodial orders or released from penal institutions on license, or on parole or pardon orders;

“prison officer” means any member of the Kenya Prisons Service of any rank;

“Prisons Service” means the Kenya Prison Service established under [section 21](#);

Cap. 64.

“probation officer” has the meaning assigned to it under section 2 of the Probation of Offenders Act;

“Probation Service” means the Kenya Probation Service established under section 7;

“prohibited article” means any article the introduction or removal of which into or out of a prison is prohibited by this Act or by any the rules made thereunder;

“senior prison officer” means a prison officer of or above such rank as the Cabinet Secretary may specify under section 6(2) of this Act;

“unconvicted person” means a debtor, and any person on remand or awaiting trial, or detained for safe custody or for want of sureties, who has not been convicted by any court;

“visiting justice” means a person appointed by the Cabinet Secretary to be a visiting justice under [section 88 \(1\)](#) of this Act; and

“young offender” means a person who is under the legal age of adulthood and who has been convicted of an offence punishable with imprisonment .

Objects of the Act.

3. The objects of this Act are to—

- (a) provide for the establishment and management of the Kenya Prisons Service, the Kenya Probation Service and other correctional institutions;
- (b) provide for the safe and secure management of

offenders held in correctional institutions;

- (c) provide for supervision of offenders placed on non- custodial supervision for compliance of orders;
- (d) promote the rehabilitation of offenders by providing a framework for —
 - (i) for the correction, guidance and management to assist in their reintegration into the community;
 - (ii) the effective, planned and individualized management plans for offenders; and
- (e) support the reintegration of offenders with the community as part of their rehabilitation.

Guiding
principles.

4.(1) The implementation of this Act shall be guided by the national values and principles of governance set out in Article 10 of the Constitution and the values and principles of public service set out in Article 232 of the Constitution.

(2) In the implementation of this Act the implementing bodies shall be to ensure that—

- (a) the safety of the community is upheld in the implementation of correctional services;
- (b) the community is involved in the management of offenders;
- (c) the rights of victims of crime is upheld and restorative justice in offender management is promoted;
- (d) facilities and programs developed for the care,

rehabilitation, imprisonment, training, and treatment offenders are evidence based and individually designed based on the needs of the offender;

- (e) offenders are informed of their rights, responsibilities and obligations under the law and the consequences of any breach of the law;
- (f) the measures implemented in the management of offenders foster their rehabilitation and reintegration into the community.

Application of the Act.

5. This Act shall apply to—

- (a) correctional institutions and facilities established under this Act;
- (b) the various categories of offenders and the rights of offenders under this Act;
- (c) correctional service officers and staff as provided under this Act; and
- (d) rehabilitation and reintegration measures provided for under this Act.

PART II — CO-ORDINATION AND ADMINISTRATION OF CORRECTIONAL SERVICE MATTERS

Role of the Cabinet Secretary.

6. (1) The Cabinet Secretary shall have the following under this Act —

- (a) providing policy direction on matters related to correctional services;
- (b) coordinating the adherence to national, regional

and international obligations relating to correctional services;

(c) overseeing the administration of this Act.

(d) issuance of guidelines for acts or omissions by offenders which may be deemed to be prison offences;

(e) any other lawful function as may be assigned by the President or any other written law.

(2) The Cabinet Secretary shall be responsible for the provision of advisory services to the President on any matter relating to and affecting the correctional services.

The Kenya Prisons Service

Establishment of
the Kenya
Prisons Service.

7. (1) There is established a service to be known as the Kenya Prisons Service.

(2) The Prison Service shall be as a uniformed and disciplined service under the general command of the Commissioner-General

(3) The Prisons Service shall be under the general command of the Commissioner-General who shall be accountable to and subject to the directions of the Cabinet Secretary in the performance of his or her functions under this Act.

(3) A prison officer in the Prisons Service shall be accountable to the Commissioner-General in the performance of their duties under this Act.

(4) The Prisons Service may, through the Prisons Council recommend to the Public Service Commission, the employment of such number of non-uniformed officers and

professionals as may be necessary to ensure effective implementation of this Act.

Composition of
the Kenya
Prisons Service.

8. (1) The Prisons Service shall consist of such number of uniformed and non-uniformed officers as may be determined by the Commissioner-General in consultation with the Public Service Commission.

(2) The ranking structure of the uniformed officers appointed pursuant to subsection (1), shall be as set out in the [First Schedule](#).

(3) The grading structure for the non-uniformed officers of the Prison Service shall be as determined by the Commissioner-General in consultation with the Public Service Commission.

Functions of the
Prisons
Service.

9. The functions of the Prisons Service shall include—

- (a) containment and safe custody of offenders;
- (b) supervision, rehabilitation, reformation and reintegration of offenders;
- (c) facilitation of the administration of justice;
- (d) treatment of young offenders in correctional institutions and youth corrective training centers;
- (e) provision of facilities for children aged four years and below accompanying their mothers in prison; and
- (f) recruitment and training of prisons officers.

Commissioner-
General of
Prisons

10. (1) There shall be a Commissioner-General of Prison who shall be appointed by the President from among persons

recommended by the Public Service Commission.

(2) The Commissioner-General shall have the overall command of the Prisons Service.

(3) Without prejudice to subsection (2), The Commissioner General shall—

- (a) have the overall superintendence of the Prisons Service;
- (b) be the principal adviser to the Cabinet Secretary on any prison operational and administrative matter in the Prisons Service;
- (c) lawfully administer, control and manage the Prisons Service as a correctional service;
- (d) comply with any lawful direction issued by the Cabinet Secretary;
- (e) advise the government on emerging correctional practices;
- (f) ensure efficient delivery of the functions and services of the Prisons Service;
- (g) ensure that the Prisons Service is adequately staffed at all times;
- (h) determine the deployment and distribution of prison officers;
- (i) monitor and evaluate compliance with human rights standards;
- (j) monitor the implementation of the policy, operations and directions of the Prisons Service;

- (k) commission research and benchmark against good practices on the Prisons Service;
- (l) put in place a system to ensure continuous and sustainable prison reforms with regard to Prisons Service operational matters;
- (m) provide the Cabinet Secretary and the Prisons Council with such information, with regard to the Prisons Service, as may be requested by the Cabinet Secretary or the Prisons Council;
- (n) issue Standing Orders, directives and guidelines for the effective implementation of this Act;
- (o) ensure that prisons staff discharge their functions and exercise their powers in accordance with the Constitution and this Act and regulations made under this Act; and
- (p) perform any other lawful function as may be assigned, conferred or imposed by or under this Act or any other written law.

(3) The Commissioner-General may, in writing, delegate the performance of any the function or the exercise of any powers conferred on him or her by this Act or any other written law to any member of the Prison Service.

(4) A delegation under subsection (3)—

- (a) shall be subject to any conditions the Commissioner-General may impose;
- (b) shall not divest the Commissioner-General of the responsibility concerning the exercise of the powers or the performance of the duty

delegated, and

- (c) may be withdrawn, and any decision made by the person so delegated, may be withdrawn or amended by the Commissioner-General.

Qualifications for
appointment of a
Commissioner-
General of
Prisons.

11. A person qualifies for appointment as a Commissioner-General if the person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has had a distinguished career in their respective fields;
- (d) has served in a senior management position for at least fifteen years and has knowledge and experience in matters relating to—
 - (i) criminal justice;
 - (ii) corrections;
 - (iii) policy development and implementation;
 - (iv) finance and public administration;
 - (v) strategic management;
 - (vi) public safety and security;
 - (vii) protective security;
 - (viii) law;

(ix) sociology; or

(x) governance.

(e) is a serving prison officer above the rank of Assistant Commissioner-General; and

(f) meets the requirements of Chapter 6 of the Constitution.

(2) The Commissioner-General shall serve for a single non-renewable term of five years.

(3) The President may remove, retire or redeploy the Commissioner-General at any time before the expiry of the term of office.

(4) A person is disqualified for appointment as Commissioner -General of Prisons if the person—

(a) is a member of Parliament or a county assembly, a governor or deputy governor;

(b) has served as a member of Parliament, county assembly, trade union or an office in a political party in Kenya in the preceding five years;

(c) has previously been convicted of any criminal offence;

(d) has violated the Constitution; or

(e) is an undischarged bankrupt.

Vacancy in the
Office of the
Commissioner
General.

12. (1) The office of the Commissioner-General shall become vacant if the holder—

- (a) dies;
- (b) resigns from office by a notice in writing addressed to the President;
- (c) is removed from office on the grounds of—
 - (i) inability to perform functions of the office arising out of mental incapacity;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) incompetence or negligence of duty;
 - (iv) violation of the Constitution or any other written law; or
 - (v) any other ground as specified in the instruments of appointment.

Cap. 7L. (2) The removal of the Commissioner- General under subsection (2)(c) shall be in accordance with Article 47 of the Constitution and the Fair Administrative Action Act.

(3) Where a vacancy occurs in the office of the Commissioner-General, the President shall appoint a replacement in accordance with this Act.

Oath of Office. **13.** The Commissioner-General shall upon appointment take the oath set out in the [Second Schedule](#).

Recruitment and enlistment of prison officers and other members of the Prisons Service. **14.** (1) The Commissioner-General may prescribe the qualifications for enlistment into the Prisons Service.

(2) The Commissioner-General shall issue a certificate of appointment person who has been enlisted into the Prisons service.

(3) A certificate of appointment shall be in a form prescribed and signed by a Gazetted prison officer authorized by the Commissioner-General for that purpose.

(4) A prison officer shall produce the certificate of appointment issued under subsection (2) on being requested to do so by any person in relation to whom the officer is exercising or is about to exercise a power conferred by this Act.

(5) Failure to comply with the requirements under subsection (4) shall invalidate the exercise of a power that the officer is seeking to exercise.

(6) A certificate issued to a prison officer under this section shall be evidence of the officer's appointment not only for the purposes of legal proceedings but for all other purposes of the law.

(7) An officer may leave the Prisons Service only by the modes prescribed under this Act.

(8) A prison officer shall upon being enlisted, subscribe to the oath or the affirmation set out in the [Second Schedule](#).

Establishment
and membership
of the Prisons
Council.

15. (1) There is established a council within the Prison Service to be known as the Prisons Council.

(2) The Prisons Council shall consist of —

(a) the Principal Secretary responsible for Correctional Services who shall be the

chairperson of the Prisons Council;

- (b) a person appointed by the association representing the Kenya Prisons, who shall be the vice-chairperson of the Council;
- (c) the Director of Personnel Management or a representative designated in writing;
- (d) three other persons appointed by the association representing the Kenya Prisons; and
- (e) the Commissioner-General who shall be the secretary to the Prisons Council.

Functions of the
Prisons Council.

16. The functions of the Prisons Council shall be to—

- (a) consider such matters affecting the welfare and efficiency of the Service;
- (b) provide oversight and supervision of the Prisons Service;
- (c) receive and where necessary, upon request review findings and sentences arising out of summary disciplinary proceedings;
- (d) consider or inquire into, and make recommendations for action on matters in respect of—
 - (i) any grievances;
 - (ii) the terms and conditions of employment; and
 - (iii) any other matters concerning the prison officers;

- (e) prepare and submit within three months after the end of each financial year an annual report to the Cabinet Secretary;
- (f) develop a training policy for the Prisons Service;
- (g) oversee their implementation of the training policy and curricula; and
- (h) perform any other function as may be conferred by law.

Meetings of the
Prisons Council.

17. (1) The Prisons Council shall meet at least four times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(2) The Chairperson shall preside over all meetings of the Prisons Council and in the absence of the Chairperson, the other members present at the meeting shall appoint one of the members to act as Chairperson for the purpose of that meeting.

(3) The quorum for the meetings shall be two thirds of the members of the Prisons Council.

(4) The Prisons Council may from time to time co-opt into its membership any person whose skills and experience are necessary for the performance of its functions to assist in any specified matter on need basis.

(5) A person co-opted under sub-section (4) shall not vote on any matter before the Prisons Council.

(6) Subject to this Act, the Prisons Council may regulate its own procedure.

Remuneration of
the Prison
Council.

18. The Chairperson and members of the Prisons Council shall be paid such allowances as may be determined by the Salaries and Remuneration Commission.

Vacancy in office
of the members
of the Council.

19. The office of a member of the Prisons Council, shall become vacant—

(a) if the member resigns by giving notice in writing to the appointing authority;

(b) if the member is—

(i) declared bankrupt or enters into a composition or scheme of arrangement for the benefit their creditors;

(ii) convicted of a criminal offence;

(iii) sentenced to a term of imprisonment exceeding six months;

(iv) incapacitated by reason of infirmity of body or mind;

(v) absent from three consecutive meetings of the Prisons Council, without the leave of the Chairperson; or

(vi) removed from office by the appointing authority; and

(c) upon the death of the member.

Financial
provisions of the
Prison Service. of—

20. (1) The funds of the Prison Service shall consist

(a) such sums as may be appropriated by Parliament for the purposes of the Prison Service;

- (b) any monies or property which may in any manner accrue or vest in the correctional service in the course of the exercise of its functions under this Act;
- (c) grants, gifts, donations or other endowments given to the Prison Service.

(2) Before the commencement of each financial year, the Cabinet Secretary shall cause to be prepared estimates of revenue and expenditure of the Prison Service for that year in accordance with the Public Financial Management Act.

(3) The accounts of the Prison shall be audited and reported upon in accordance with the Public Audit Act and the Public Finance Management Act.

Protection from personal liability.

21. The Commissioner-General, a prison officer or any staff of the Prisons Service shall not be held personally liable for having performed any of their functions in good faith and in accordance with this Act.

The Kenya Probation Service

Establishment of the Kenya Probation Service.

22. (1) There is established a service the Kenya Probation Service.

(2) The Kenya Probation Service shall consist of such number of officers as shall be recommended from time to time by the Probation Council in consultation with the Public Service Commission.

Functions and powers of the Kenya Probation Service.

23. The functions of the Kenya Probation Service shall be to—

- (a) provide social inquiry reports to Courts and

- other criminal justice agencies on accused persons and offenders for purposes of administration of justice;
- (b) conduct offender assessment in the implementation of this Act;
 - (c) supervise offenders on non-custodial orders;
 - (d) develop and implement rehabilitation and treatment programs for offenders on supervised non-custodial measures;
 - (e) identify suitable work sites for offenders serving community service orders;
 - (f) reintegrate and resettle ex non-custodial offenders, offenders released on licenses, parolees and presidential pardon orders;
 - (g) establish and maintain probation service institutions;
 - (h) provide services for the promotion of the welfare of victims and special needs offenders;
 - (i) support social crime prevention activities with a view to enhancing public safety;
 - (j) develop empowerment programmes for offenders to enhance reintegration;
 - (k) enhance staff training and capacity building;
 - (l) maintain offender data and records; and
 - (m) perform such other functions as may be directed by the Cabinet Secretary.

Establishment of
the Probation
Council.

24. (1) There is established a unincorporated body within the Probation Service to be known as the Probation Council.

(2) The Probation Council shall consist of—

- (a) the principal secretary responsible for the correctional service who shall be the chairperson;
- (b) a Judge of the High Court nominated by the Chief Justice;
- (c) the Director of Public Prosecutions or a representative nominated in writing;
- (d) the Inspector General of Police or a representative nominated in writing;
- (e) the Commissioner General of Prisons or a representative nominated in writing;
- (f) three members appointed by the Cabinet Secretary—
 - (i) one of who shall be a retired probation officer of senior rank; and
 - (ii) two of who shall be representatives nominated by civil society organisations dealing with matters related to non-custodial offender management; and
- (g) the Director General of the Kenya Probation Service, who shall be the Secretary.

(3) The Cabinet Secretary shall take cognizance of the provisions of the Constitution regarding gender, youth, persons with disabilities and minorities when making

appointments under subsection (2)(f).

(4) The persons nominated under sub section (2)(h)(ii) shall be appointed by the Cabinet Secretary from organisations with national coverage and known track records in their respective fields.

(5) The members of the Council appointed under paragraphs (2) (a) and (h) shall hold office for a term of three years and may be reappointed for one further term of three years.

(6) The members of the Council shall be paid such allowances as the Salaries and Remuneration Commission may determine.

(7) The Kenya Probation Service shall provide secretariat services to the Council.

Functions of the
Probation
Council.

25. The functions of the Probation Council shall include—

- (a) advising the Cabinet Secretary and other agencies on matters relating to the Kenya Probation Service;
- (b) monitoring the implementation of the policies of the Probation Service;
- (c) receiving reports and recommendations from the probation case committees;
- (d) recommending probation officers for promotion and recruitments to the Public Service Commission;
- (e) promoting professional development, capacity building and welfare of probation staff;

- (f) mobilising resources and facilitating stakeholder engagement on within criminal justice sector on probation matters; and
- (g) registration, licensing and accreditation of private non-custodial facilities upon recommendation of the Kenya Probation Service.

Conduct of
business and
affairs of the
Probation
Council

26. (1) The Probation Council shall specify the conduct its business and affairs

(2) The Probation Council may establish committees consisting of members of the Council for the effective performance of its functions under this Act.

(3) The Probation Council may co-opt into the membership of a committee established under subsection (1), not more than three persons any person whose knowledge and expertise may be necessary for the effective performance of the functions of the Council.

(4) The Probation Council shall not co-opt more than three persons at any given time to its committees.

(5) A person co-opted into a Committee under subsection (2), may attend the meetings of the Committee and participate in its deliberations, but shall not vote at such meetings.

(6) Unless otherwise provided, the Probation Council may regulate its own procedure.

Probation Service
case committees.

27. (1) There shall be Probation Service Case Committees at each probation station and institution, which shall be responsible for—

- (a) examination and review of the work of probation officers in relation to individual cases;
- (b) receiving and considering reports from probation officers;
- (c) making recommendations on the effective and efficient implementation of offender rehabilitation programmes to the Probation Council;
- (d) advising probation officers in the execution of their duties;
- (e) reviewing the implementation of all programs in respect of all categories of supervised non-custodial offenders;
- (f) overseeing adherence to conditions and treatment programs by supervised non-custodial offenders;
- (g) recommending where applicable modification to the terms of supervised non-custodial orders; and
- (h) supporting rehabilitation and reintegration of supervised non-custodial offenders.

(2) Each Probation Service Case Committee shall comprise a chairperson and ten members appointed by the Cabinet Secretary by notice in the Gazette.

(3) The members of the Probation Service Case Committee shall hold office for three years and shall be eligible for reappointment for one further term of three years.

(4) A probation officer stationed within the county or probation station in respect of which a committee is

established shall be the secretary.

(5) Each probation case committee, for purposes of discharging their mandate, shall regulate its own procedure.

Director-General
of the Kenya
Probation
Service.

28. (1) There shall be a Director-General of the Kenya Probation Service who shall be competitively recruited and appointed by Public Service Commission on the recommendation of the Probation Council.

(2) The Director General shall be responsible for—

- (a) the day-to-day management of the affairs of the Probation Service;
- (b) oversee the implementation of supervised non-custodial measures, programs, projects, and activities within the Kenya Probation Service;
- (c) supervision and maintenance of the probation institutions established under this Act;
- (d) facilitate the development and implementation of programs on emerging crimes and crimes prevention;
- (e) foster linkages with stakeholders, development partners, criminal justice agencies and other relevant stakeholders on matters related to the functions of the Probation Service;
- (f) provide progress reports to the Probation Council on all offenders and ex-offenders placed on non-custodial measures; and
- (g) perform any other functions necessary for the proper implementation of this Act.

(3) The Director-General may in writing, either

generally or in any particular case, delegate any of his or her functions under this Act.

(4) The Director-General shall hold office for a term of four years.

Removal from
office of the
Director-General.

29. (1) The Director-General may be removed from office in accordance with the terms and conditions of service, for—

- (a) inability to perform the functions of the office arising out of mental infirmity;
- (b) gross misconduct or misbehavior;
- (c) incompetence or neglect of duty;
- (d) conviction for a criminal offence with a sentence to imprisonment for a term exceeding six months;
- (e) violation of the Constitution or any other written law; or
- (f) any other grounds specified in the terms and conditions of service of the Director-General.

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(2) Where the question of the removal of the Director-General under subsection (1) arises, the Council shall act in accordance with the principles of fair administrative action prescribed under Article 47 of the Constitution and the Fair Administrative Action Act.

Probation officers
and other staff of
the Probation
Service.

30. The Public Service Commission may appoint such number of probation officers and other members of staff as may be necessary for the carrying out the functions of the Probation Service.

Powers and duties
of probation

31. A probation officer shall—

officers.

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- (a) conduct home visits and make inquiries into the conduct, mode of life, employment and assess the progress of rehabilitation of ex non-custodial offenders, offenders released on licenses, paroles and presidential pardon orders;
- (b) ensure compliance with Probation of Offenders Act, Community Service Orders Act and other statutory release orders;
- (c) institute action for breach of supervision orders;
- (d) refer offenders to programs for rehabilitation, counselling and support services; and
- (e) access information from relevant sources to assist in compilation of social inquiry reports and supervision.
- (f) undertake social inquiries, risk-needs assessments, and classification into the character, antecedents, home surroundings, and other circumstances of an accused person for courts and other criminal justice agencies purposes of administration of justice;
- (g) undertake the supervision of such offenders as may be assigned to his or her charge;
- (h) identify and maintain updated community service orders work sites;
- (i) ensure that the offender understands the terms and conditions of the Court orders or release licenses;

- (j) undertake treatment, rehabilitation, and reintegration of offenders to forestall recidivism and for harmonious co-existence in the community;
- (k) provide aftercare services to ex-offenders for purposes of reintegration and resettlement in the community;
- (l) provide periodical progress reports on offenders under supervision to relevant committees and agencies;
- (m) keep proper and up-to-date records in digital format or otherwise in respect of every offender for whom the probation officer is responsible;
- (n) apply to the Court and other criminal justice agencies for review of orders and licenses;
- (o) supervise the work of community probation volunteers in the execution of the functions of the Kenya Probation Service;
- (p) ensure safe conditions for both the community and offenders serving under community service orders; and
- (q) perform any other duties that may be assigned from time to time.

Community
probation
volunteers.

32. (1) There shall be such number of community probation volunteers as may be necessary to support the management of non-custodial offenders.

(2) The Director General shall assign a community probation volunteer to work in such localities in such a manner as may be prescribed for the purpose of facilitating access to and ensuring the effective management of non-

custodial offenders.

(3) In the performance of the functions under subsection (1), a community probation volunteer shall, in consultation with the probation officer—

- (a) gather information relevant to compiling social inquiries about offenders;
- (b) supervise offenders place on community service, probation or aftercare programmes;
- (c) keep proper records of the offenders the community probation volunteer is supervising;
- (d) link offender to relevant service providers during reintegration and resettlement of the offender;
- (e) keep and maintain a record of offenders assigned to the community probation volunteer; and
- (f) submit quarterly reports, or at such intervals as shall be determined by the Director-General on the general rehabilitation of the offender and the exit strategy of the offender.

(4) A community probation volunteer shall, in the conduct of the functions specified under subsection (1) and (2)—

- (a) be ethical;
- (b) inform the offender of the use to which the information shall be put;
- (c) ensure confidentiality of the information received in the course of duty;

(d) ensure accuracy of the information captured;
and

(e) transmit any information within the timelines
specified by the Director-General.

(5) A community probation volunteer shall operate
under the general supervision of the Director General.

(6) The Director-General shall take all necessary
measures to build the capacity of community probation
volunteers for the proper and efficient implementation of this
Act.

Financial
provisions of the
Probation
Service.

33. (1) The funds of the Probation Service shall
consist of—

(d) such sums as may be appropriated by Parliament
for the purposes of the Probation Service;

(e) any monies or property which may in any manner
accrue or vest in the correctional service in the
course of the exercise of its functions under this
Act;

(f) grants, gifts, donations or other endowments
given to the Probation Service.

(2) Before the commencement of each financial year,
the Cabinet Secretary shall cause to be prepared estimates of
revenue and expenditure of the Probation Service for that
year in accordance with the Public Financial Management
Act.

(3) The accounts of the Probation Service shall be
audited and reported upon in accordance with the Public
Audit Act and the Public Finance Management Act.

Protection from
personal liability.

34. Any act done by a member of the Probation Service of the Probation Council or any officer, staff or agent of the Probation Council shall not render such member, officer, staff or agent personally liable for any action, claim or demand whatsoever if the matter or thing is done in good faith for executing the functions, powers or duties of the Council.

Powers and obligations of prison officers

General powers
and duties of
prison officers.

35. A prison officer shall exercise such powers and perform such duties as conferred by law or directed by the Commissioner-General, in writing.

Responsibilities
of officer in
charge of stores.

36. (1) An officer in charge of a store shall be charged with the safe custody of—

- (a) arms, accoutrements, ammunition, clothing and all other public stores and foodstuffs issued and delivered for the use of the prison, the prison officers and the offenders under his or her control;
- (b) public money for which he or she may be held accountable; and
- (c) valuables, money, articles of clothing and other property entrusted to his keeping as being the property of offenders.

(2) The officer in charge of a store shall be held responsible for the loss or damage of the items referred to under subsection (1).

Prison officers to
have powers and
privileges of
police officers.

37. A prison officer shall have the powers, protection and privileges of a police officer—

- (a) while in charge of offenders for the purpose of conveying any person to or from a prison, or
- (b) for the purpose of apprehending any offender who may have escaped from a prison, or who may have escaped while being conveyed to or from a prison; or
- (c) for the purpose of preventing the rescue of any persons in custody or an attack on a prison.

Appointment of police officers to perform the duties of prison officers.

38. (1) The Commissioner-General may with the approval of the Inspector General of Police, appoint such police officers, where the number of prison officers detailed for duty in prison is insufficient to secure the good management of the prison.

(2) A police officer appointed pursuant to subsection (1) shall have the powers, and perform in such prison all the duties, of a prison officer of the class to which the officer in charge shall appoint and, for the purposes of this Act, be deemed to be a prison officer.

(3) Where, on the removal of any offender from any prison, the staff of warders is insufficient to provide escort for such offender, it shall be lawful for the officer in charge of the prison from which the offender is to be removed to deliver the offender to any police officer who may be detailed for such duty.

Desertion.

39. (1) A prison officer who absents himself or herself from duty without leave or just cause for a period exceeding twenty-one days shall, unless the contrary is proved, be considered to have deserted the Prisons Service.

(2) Where a prison officer deserts the Prisons Service, any prison officer may without a warrant, arrest that officer

and take him or her before a magistrate's court having jurisdiction.

(3) A prison officer who deserts the Prisons Service commits an offence against discipline and shall on conviction be liable to a summary dismissal.

Incitement and
abetting of
desertion, mutiny
and
sedition.

40. (1) A person who directly or indirectly procures or persuades, or attempts to procure or persuade, any prison officer to desert, or who aids, abets or is accessory to the desertion of any prison officer, or who, having reason to believe that any person is a deserter, harbours such deserter, or aids him or her to conceal himself or herself, or assists in his or her rescue, commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand shillings or to a term of imprisonment of one year, or to both.

(2) A person who directly or indirectly instigates, commands, or solicits any mutiny, sedition or disobedience to any lawful command of a prison officer to any other prison officer, or maliciously endeavors to seduce any prison officer from his or her allegiance or duty, commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand or to imprisonment for a term not exceeding one year, or to both.

Power to
examine persons
or vehicles.

41. (1) A prison officer may—

- (a) examine anything within, or being brought into or out of a prison;
- (b) stop and search any vehicle or person within a prison, or going into or out of a prison; or
- (c) whether within or without a prison, search any person who, or any vehicle which, is without authority close to an offender or offenders, if he has reason to suspect that such person or vehicle

is carrying a prohibited article, or any property belonging to the Government in use in a prison.

(2) A senior prison officer on duty may refuse admission to the prison facility to any person who is not willing to be searched.

(3) A senior prison officer on duty may order any person within a prison facility who refuses to be searched to leave the prison and, if such person refuses to leave, may cause him or her to be removed from the prison, and for that purpose may use such force as may be necessary.

(4) Where, on stopping and searching any vehicle or person under subsection (1), a prison officer finds any prohibited article or any property belonging to the Government in use in a prison the prison officer may arrest that person and any conveyance and shall as soon as practicable cause any such person and conveyance to be handed over to a police officer or to be taken to the nearest police station.

Use of force by
prison officer.

42. (1) A prison officer may use such force against an offender as is reasonably necessary in order to make him or her obey lawful orders which he or she refuses to obey or in order to maintain discipline in a prison.

(2) A prison officer may use any weapons which have been issued to him or her, including firearms, against an offender if the offender is—

- (a) escaping or attempting to escape and refuses, when called upon, to return;
- (b) engaged with other persons in breaking out or attempting to break out of any part of a prison and continues to break out or attempts to break out when called upon to desist;

(c) engaged with others in riotous behavior in a prison and refuses to desist when called upon;

(d) endangering the life of, or is likely to inflict grave injury to, the prison officer or to any other prison officer or person and the use of weapons, including firearms, is the only practicable way of controlling the offender.

(3) A weapon that has been authorized for use as provided for under paragraphs (a), (b) and (c), shall not be used unless the officer has reasonable grounds to believe that the person cannot prevent the escape, breaking out or riotous behavior, without the use of the weapon.

Power to take
biometric data
of offenders.

43. (1) An officer in charge of a prison facility, may cause to be taken by a prison officer or other person authorized by the Commissioner-General in that behalf, the biometrics information of any offender.

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(2) The biometric data taken under subsection (1), shall be in accordance with the Data Protection Act.

(3) The biometric data of an offender taken under subsection (1) and who is subsequently not convicted shall be destroyed upon the offender being released by the court.

Non-liability for
act done under
authority of a
warrant.

44. Where the defence to any suit instituted against a prison officer is that the act complained of was done in obedience to a warrant issued by a court, the court shall, upon the production of the warrant, accept such warrant as prima facie evidence of the due making thereof, and upon the proof that the act complained of was done in obedience to such warrant enter judgement in favour of such prison officer.

Discipline of
staff.

45. (1) A prison officer who commits an offence against discipline is liable to be punished by—

- (a) reprimand;
- (b) suspension;
- (c) an order of restitution;
- (d) stoppage of salary increments for a specified period of time, but not exceeding one year;
- (e) reduction in rank;
- (f) dismissal from the Service;
- (g) reduction of salary by not more than one third of the basic salary for a period not exceeding three months;
- (h) a fine not exceeding a third of basic salary; or
- (i) any combination of the punishments provided under this section.

(2) The sanctions under subsection (1)(e) and (f) may take effect only after approval and confirmation by the Prisons Council.

(3) An officer recommended for dismissal under disciplinary proceedings shall be suspended from duty, pending the final decision of the Prisons Council.

(4) A prison officer authorized to impose a penalty for a disciplinary offence, shall enter a record of such punishment, the date of the punishment and the offence for which it was inflicted on the record sheet of the prison officer punished.

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(5) All disciplinary proceedings under this section shall be in accordance with the Standing Orders, the Fair Administrative Action Act and Article 47 of the Constitution.

(6) A prison officer facing disciplinary action may be accompanied by another prison officer of his or her choice for assistance and support, provided that such an officer is not of a senior rank to the presiding officer.

(7) A member of the Prisons Service aggrieved by a decision made under this section may appeal to the Prisons Council in accordance with the procedure prescribed.

Prison officers to be subject to Code of Regulations.

46. A prison officer shall be subject to the provisions of the Code of Regulations for Officers of the Public Service for the time being in force, so far as the same are not inconsistent with this Act, rules or standing orders made thereunder.

Assault on officer by fellow officer.

47. A prison officer who assaults, threatens or insults any other officer, whether junior or senior to that officer in the Prisons Service, commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

Miscellaneous offences by prison officers.

48. (1) A prison officer who without lawful authority—

- (a) knowingly suffers any intoxicating liquor, tobacco, bhang or hemp, drug, opiate, money, clothing, provisions, letter, document or other article to be sold to or received from or used by or on behalf of any offender; or
- (b) lends or gives to any offender any intoxicating liquor, tobacco, bhang or hemp, drug, opiate, money, clothing, provisions, letter, document or other article; or
- (c) knowingly suffers any letter, document, or other article to be brought out of any prison, or to be

conveyed from any offender; or

- (d) without the permission of the Commissioner - General, informs the Press or any other person of any matter concerning a prison or an offender or any matter derived from official sources connected with or related to the Service,

commits an offence and shall on conviction be liable to imprisonment to a term not exceeding five years or to a fine of not more than one hundred thousand shillings, or to both.

Other offences.

49. (1) A prison officer or person with any duty with offenders shall not sell or supply, or receive directly any benefit or advantage from the sale or supply of, any article to or for the use of any offender or for the use of any prison.

(2) A prison officer or any person with any duty with offenders shall not directly or indirectly have any pecuniary interest in the purchase of any prison supplies, or receive any discount, gift or other consideration from any contractor for or seller of such supplies, or have any pecuniary dealing with any offender or with any friend of any offender.

(3) A prison officer who contravenes this section commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

Prison officers
not to engage in
dealings with
offenders.

50. (1) A prison officer shall not receive any fee, favour or gratuity from or have any business dealing with any offender, or with any discharged offender, or with any visitor to a prison, or with any friend of any such visitor.

(2) A prison officer shall not correspond with or have any dealing with any friend or relative of any offender, unless expressly authorized so to do by the officer in charge.

(3) A prison officer unless so authorized by the

Commissioner-General shall not give any certificate or testimonial to, or in respect of, any offender as regards his conduct in prison or otherwise.

(4) A prison officer shall not, save in accordance with the orders or directions issued by the Commissioner-General, convey any communication or article to or from any offender.

(5) A prison officer who contravenes this section shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding five years, or to both.

Unlawful possession by prison officers.

51. A person who is found in possession of any article whatsoever which has been supplied, to any prison officer for use on duty, or of any prison property, and who fails to account satisfactorily for the possession thereof, commits an offence and shall on conviction be liable to fine of one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Search of prison officers.

52. (1) A prison officer may at any time be searched on the orders of a prison officer of a senior rank.

(2) The officer in charge may at any time order the quarters occupied by a prison officer to be searched by a prison officer of a senior rank.

Power to conduct disciplinary inquiries.

53. (1) A prison officer inquiring into a disciplinary offence alleged to have been committed by a prison officer shall have the power to summon and examine witnesses on oath or affirmation.

(2) A person who is summoned as a witness under subsection (1) but fails to attend at the time and place mentioned in the summons, commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment term not exceeding six months,

or to both.

(3) A prison officer inquiring into a disciplinary offence under this section may order payment on the part of Government of the reasonable expenses of any witness attending before the disciplinary inquiry.

Rights of a
prison officer.

54. Subject to section 52, a prison officer shall be entitled to all the rights set out in the Constitution.

(2) Working hours of prison officers shall be reasonable and where excessive overtime is required prison officers shall be compensated with commensurate periods of rest.

Limitation of
rights and
fundamental
freedoms of
prison officers.

55. (1) Subject to Article 24, 25 and 35 of the Constitution, the rights and fundamental freedoms of an officer of the Service may be limited for the purposes, in the manner and to the extent set out by law.

(2) A limitation of a right or fundamental freedom under subsection (1) shall be reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom and shall be limited only for purposes of ensuring—

- (a) the protection of classified information;
- (b) the maintenance and preservation of national security;
- (c) the security and safety of officers of the Prison Service;
- (d) the independence and integrity of the Prison Service; and
- (e) the enjoyment of the rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others.

(3) A limitation of a right or fundamental freedom under this section shall relate to—

- (a) the right to privacy to the extent of allowing—
 - (i) a person, home or property to be searched;
 - (ii) possessions to be seized;
 - (iii) information relating to a person's family or private affairs to be required or revealed;
or
 - (iv) the privacy of a person's communications to be investigated;
- (b) the freedom of expression to the extent of limiting the freedom to impart information for officers of the Prisons Service;
- (c) the freedom of the media;
- (d) the right to access to information to the extent of protecting the Service from—
 - (i) demands to furnish persons with information; and
 - (ii) publicizing information affecting the nation;
- (e) the freedom of association to the extent of limiting the right of officers of the Service from joining or participating in the activities of any kind of association other than those authorized under this Act;
- (f) the right to assemble, demonstrate, picket and

petition public authorities to the extent of ensuring discipline in the Service; and

- (g) the right to fair labour relations to the extent of prohibiting officers of the Service from joining and participating in the activities of a trade union and going on strike.

(4) An officer shall not be barred from voting at any election if eligible to vote under the law governing elections.

Prison officer
not to be
member of trade
union.

56. (1) A prison officer is prohibited from becoming a member of—

- (a) any trade union or any association or body affiliated to a trade union; or
- (b) any association or body, the objects or one of the objects of which is to control or influence conditions of employment in any trade or profession; or
- (c) any association or body the object or one of the objects of which is to control or influence the pay, pensions, or conditions of service of the Service, other than a staff association or Prison Council established and regulated by rules made under this Act.

(2) Any prison officer who contravenes the provisions of subsection (1) may be liable to a dismissal from the Prisons Service.

(3) Where a question arises as to whether a body is a trade union, or association to which this section applies, the question shall be determined by the Cabinet Secretary.

Prison Enterprise Fund

Prison enterprise
Fund.

57. (1) There is established a fund to be known as the Prison Enterprise Fund.

(2) The sources of the Fund shall be—

- (a) monies appropriated by Parliament for the purposes of the Fund;
- (b) other monies earned through collection of revenue from prison farms and industries;
- (c) grants, donations, bequests or other gifts made to the Fund;
- (d) monies from any other source approved by the Cabinet Secretary for the time being responsible for matters relating to finance.

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The Cabinet Secretary responsible for finance may pursuant to section 24(4) of the Public Finance Management Act, make regulations on the effective operations of the Fund.

PART III — ESTABLISHMENT AND MANAGEMENT OF CORRECTIONAL INSTITUTIONS

Institutions under the Kenya Prisons Service

Declaration of
prisons.

58. (1) The Cabinet Secretary may, by notice in the *Gazette*, declare any building, enclosure or place, or any part thereof, to be a prison for the purposes of this Act, and may, in a like manner, declare that any prison shall cease to be a prison for the purposes of this Act.

(2) Every prison shall include the grounds and buildings within the prison enclosure and also any other grounds or buildings belonging or attached thereto and used

by offenders or the staff of the prison.

(3) The establishment, design of a prison and its physical environment shall conform to safety, security, needs, rehabilitation and reintegration for offenders.

(4) Every prison shall provide at a minimum—

- (a) proper sanitary arrangements, water supply, food, clothing and bedding for offenders;
- (b) the means of providing offenders with educational, industrial, agricultural, or other training and psychosocial support programs;
- (c) health facilities or proper place for the reception and treatment of sick offenders;
- (d) space, installations and equipment for physical and recreational training;
- (e) relevant health and safety precautions; and
- (f) provisions of adequate facilities for offenders with special needs.

Temporary
prisons.

59. (1) The Commissioner-General, may with the approval of the Cabinet Secretary establish a temporary prison for the shelter and safe custody of the offenders, where—

- (a) it appears to the Commissioner-General that the number of offenders in any prison is greater than can be conveniently kept therein and that it is not convenient to transfer the excess number to some other prisons; or
- (b) owing to the outbreak of epidemic disease within a prison or for any other reason, it is

desirable to provide for temporary shelter or safe custody of any offenders

(2) A temporary prison established pursuant to subsection (1), shall be deemed to be a prison for purposes of this Act.

Declaration of
prison as a
protected area.

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60. The Cabinet Secretary may on the recommendation of the Commissioner-General and pursuant to the Protected Areas Act, by order in the *Gazette*, declare any prison, to be a protected area.

Declaration of an
open prison.

61. (1) The Cabinet Secretary may, by notice in the *Gazette*, declare any building, enclosure or place, or any part thereof, to be an open prison, and may, in a like manner, declare that any open prison shall cease to be an open prison.

(2) The Commissioner-General may commit an offender in an open prison where the offender—

(a) is due for release from prison;

(b) is ready to rejoin the community; or

(c) has undergone risk assessment and has been declared a low risk to the public

(3) The Cabinet Secretary may make regulations for proper management of open prisons

Training
institutions.

62. (1) There shall be established within the Prisons Service a training institution for the purposes of training prison officers.

(2) A training in the correctional service institutions shall be conducted in accordance with the training curriculum.

(3) The Kenya Prisons Service may collaborate with

other training institutions to provide training to its officers.

(4) A training institution established prior to the coming into force this Act shall be deemed to have been established under this Act.

Officer in
Charge of a
prison.

63. (1) The Commissioner-General may in writing, appoint a suitably qualified person from among the members of the Prisons Service to be in charge of a prison.

(2) An officer in charge of a prison shall be subject to such orders and directions as may be issued by the Commissioner-General from time to time.

(3) An officer in charge of prison shall supervise and control all matters in connection with the prison to which he or she is appointed, and shall keep or cause to be kept such records as the Commissioner-General may direct.

Institutions under the Kenya Probation Service

Probation
institutions.

64. (1) The Cabinet Secretary may, on the recommendation of the Director-General and by notice in the Gazette, establish other probation institutions for purposes of this Act.

(2) The institutions envisaged under subsection (1) include—

- (a) adult probation hostels;
- (b) halfway homes;
- (c) probation community resource and training centres; and
- (d) any other rehabilitative and aftercare facility.

(3) An offender held in the institutions referred to in

subsection (2) shall—

(a) be entitled to—

- (i) receive rehabilitative services including counselling, education and vocational training;
- (ii) have regular visits and communication with family members; and
- (iii) have access to medical care;

(b) undertake to—

- (i) follow all rules and regulations established by the probation institution;
- (ii) participate in rehabilitation programs, including counselling and work assignments;
- (iii) maintain good behaviour and respect for the staff and other probationers; and
- (iv) comply with the supervision orders;

(4) The probation institution shall offer rehabilitative interventions, programmes and vocational training based on—

- (a) assessment of risk of the individual offender; and
- (b) responsiveness of the offender to address the offending behaviour.

(5) The Director-General may, in collaboration with the ministry responsible for health, ensure healthcare

professionals are stationed in or made available in each probation institution.

(6) Each probation institution shall—

- (a) ensure there is an updated record of each offender in their custody;
- (b) prepare environmental adjustment reports for pre-release planning of offenders; and
- (c) keep a register of sanctions which shall be the official record of any sanctions imposed on an offender while in the probation institution.

(7) The functions, operations and management of the institutions established under subsection (2) shall be as provided in regulations.

(8) Where an institution established under this section is for accommodation of young persons, the provisions of [Part VII](#) shall apply with necessary modifications.

PART IV— YOUNG OFFENDER INSTITUTIONS

Interpretation of Part.

65. In this Part, unless the context otherwise requires—

Cap. 141.

“Children’s Court” means a Court designated as a Children Court in accordance with the Children’s Act;

“Manager” in relation to a young offender’s institution, means a person appointed to be the Manager of that institution under section 8;

“Management Committee” means.....

Cap. 253G.

“public health officer” has the meaning assigned to it under section 2 of the Public Health Officers (Training,

Registration and Licensing) Act;

“Visitor’s Board” means the Board of Visitor of Young Offender Institution established under section 125;

“young offender institution” or “institution” means a young offender institution established in accordance with sections 110 or 111;

Objects and
principles of this
Part.

66. (1) The objectives of this Part are to provide for—

- (a) the establishment and administration of young offender institutions;
- (b) the general principles of care, treatment, rehabilitation of young offenders;
- (c) the classification of young offenders;

(2) In the implementation of this Part, all responsible persons and agencies shall be guided by the following principles—

- (a) principle of best interest: the best interests of the child shall be the primary consideration when dealing young offender;
- (b) principle of rehabilitation and reconciliation: the young offender institution shall be managed with the primary purpose of rehabilitation of the young offenders and their reconciliation with the community, including with victims;
- (c) principle of compliance: young offender institutions shall be managed in compliance with Kenyan law and relevant international human rights standards;

Declaration
young offender
institution.

67. (1) The Cabinet Secretary may, on the recommendation of the Commissioner-General and by notice in the Gazette, declare any building, enclosure or place, or any part thereof, to be a young offender institution for the purposes of this Act.

(2) A young offender institution established under subsection (1) shall include the grounds and buildings within the institutions' enclosures and any other grounds or buildings belonging or attached thereto and used by young offenders or the staff of the institution.

(3) A young offenders institution shall be of such size as to allow individual treatment of young offenders and located so as to facilitate access and contact between young offender and his or her family.

Establishment of
temporary young
offender
institutions.

68. (1) The Cabinet Secretary may, on the recommendation of the Commissioner-General, establish a temporary young offender institution where—

- (a) owing to the outbreak of epidemic disease within a young offender institution or for other exceptional circumstances, it is desirable to provide for the temporary shelter or safe custody of any young offender;
- (b) the number of young offenders in an institution is greater than can be conveniently kept therein and it is not convenient to transfer the excess number to some other institution; or
- (c) the shelter and safe custody of young offenders cannot be conveniently or safely maintained in the specified young offender's institution;

(2) A temporary institution declared under subsection (1) shall be deemed to be a young offender institution for purposes of this Act.

Design of young offender institutions.

69. In the design of a young offender institution, the Cabinet Secretary shall ensure that the institution has —

- (a) adequate sanitary installations and arrangements for the number of young offenders;
- (b) adequate water supply, food, clothing and beddings for young offenders;
- (c) a means of providing young offenders educational, industrial, agricultural, psychosocial or other training;
- (d) adequate health facilities for the reception and treatment of young offenders who may be ill;
- (e) space, installations and equipment for physical and recreational activities.

Classification of young offender institutions.

70. (1) The Commissioner-General shall classify young offender institutions into such classes or categories as may be specified in the order, as is necessary for the proper administration of these institutions and achievement of the objects of this Part.

(2) In classifying an institution under subsection (1), the Commissioner General shall take into consideration —

- (a) the needs and risks of the different categories of young offenders;
- (b) the degree of security necessary for the respective classes of young offenders;
- (c) the gender and age of the different categories of young offenders; and
- (d) any other relevant consideration.

Management of
an institution.

71. (1) There shall be a person in-charge of each young offender institution who shall be designated the Manager of the respective young offender institution.

(2) A Manager of an institution shall, under the general supervision of the Commissioner General, be responsible for the following—

- (a) the supervision and control of the affairs of the young offender institution;
- (b) keeping or causing to be kept such records in respect of the institution as the Commissioner-General may direct;
- (c) accountable to the Commissioner General for the conduct of staff of the institution including their compliance with this Act and any legislation made hereunder;
- (d) accountable to the Commissioner General for the treatment of the young offenders committed to the institution;
- (e) performing such other duties as may be assigned by the Commissioner General in the furtherance of the objects of this Act.

Staff of a young
offender
institution.

72. (1) There shall be such number of officers including medical practitioners, specialists and other staff in a young offender institution as are necessary for the proper and efficient achievement of the purposes of establishment of the institution.

(2) The officers and other staff of a young offender institution shall be appointed or deployed—

- (a) based on their competences, ability and

professional capacity to work with young offenders; and

- (b) on such terms and condition as may be determined by the Kenya Prison Service in consultation with the Public Service Commission.

(3) The officers, medical practitioners and other staff of the Service shall exercise their functions under the general direction and supervision of the Commissioner General.

(4) The officers and other staff of a young offender institution shall be trained before and during their appointment or deployment to a young offender institution on child psychology, child welfare, child rights and any other relevant field.

(5) An officer of a young institution shall—

- (a) have such powers as may be specified in accordance with this Act;
- (b) exercise such powers judiciously in accordance with their respective function.
- (c) wear children-friendly clothing or uniform.

(6) Where a prison officer is a member of staff in a youthful offender institution, the prison officer shall —

- (a) have the powers, protections and duties conferred on him or her under this Act in relation to a prisoner and young offender; and
- (b) be subject to the prohibitions and restrictions imposed on a prison officer under this Act or any other relevant law;

- (c) be subject to the standards or requirements of discipline under this Act; and
- (d) comply with all provisions under this Act related to the treatment of prisoners.

(7) Where a medical practitioner is a member of staff in a youthful offender institution, the medical practitioner shall be responsible for the health of all young offenders in the institution, and in particular —

- (a) shall cause all young offender institution to be medically examined on such occasions as may be prescribed;
- (b) may take or cause to be taken such actions as may be necessary to safeguard or restore the health of the young offender or prevent the spread of a disease.

Record
management
system.

73. The Commissioner General shall establish an record management system for each young offender institution containing information on—

- (a) individual files for each young offender;
- (b) individual medical files for each young offender;
- (c) files on the management practices and processes of young offender institutions including records on—
 - (i) discipline and sanctions;
 - (ii) searches undertaken on young offenders within the respective institution;
 - (iii) the use of instruments of restraint;
 - (iv) the use of force;

- (v) the rate of occupancy in the institution;
- (vi) any death and serious injury that has occurred in the institution; and
- (vii) any other relevant matter.

Inspection of
institutions.

74. The Commissioner General shall cause every young offender institution to be inspected in the prescribed manner to ensure the institution is managed in accordance with this Act and any other relevant law, standards and policies.

(2) Without prejudice to subsection (1), the Commissioner General shall cause a public health officer to regularly inspect a young offender institution and make recommendations on —

- (a) the quantity, quality, preparation and service of food;
- (b) the hygiene and cleanliness of the young offender institution and the young offenders;
- (c) the sanitation, temperature, lighting and ventilation of the young offender institution; and
- (d) the suitability and cleanliness of the young offenders' clothing and beddings.

Collaboration
with other
stakeholders.

75. The Commissioner-General shall develop mechanisms to facilitate the involvement of relevant stakeholders on matters related to young offenders.

Committal to a
young offender
institutions.

76. (1) The Children's Court may order that a young offender be committed to a young offender institution where it is expedient for a young person's rehabilitation.

(2) Before committing a young offender to a young offender institution the Children's Court shall consider —

- (a) the age of the child and where the proof of age is not be available, cause a medical practitioner to ascertain the young person's age;
- (b) the evidence available relating to—
 - (i) the personal history of the young offender;
 - (ii) the character of the young offender;
 - (iii) the nature of the offence; and
 - (iv) the physical and mental health young offender.
- (c) the probation officer's social inquiry report on the young person;
- (d) any other relevant report or information on the young person.

(3) When making an order for committal under this section, the Court shall—

- (a) specify the institution that the young offender shall be committed to;
- (b) in writing, confirm whether accommodation for the young offender is available in the specified institution, before the committal.

(3) An order for committal to a young offender institution under this section shall be for a period of not exceeding three years.

(4) Where a young person is placed before a Court other than the Children's Court, that Court shall transfer the case to the Children's Court for determination in accordance with this section.

Committal of
young offender
undergoing
imprisonment to
an institution.

77. (1) Where the officer-in-charge of a prison suspects that a prisoner executing a sentence is a young person, the officer shall bring the young person before the Children's Court.

(2) Upon the Children's Court being seized of matter under subsection (1), the Court may, after considering the matters specified in section 119(2), order that the young person be committed to a young offender institution for the remainder of their sentence which period shall not exceed three years commencing on the date on which the sentence of imprisonment began.

Prerequisites for
admission.

78. (1) A young person shall not be admitted to a young offender institution—

- (a) unless the young person is below eighteen years;
- (b) without a valid order of committal issued by the Children's Court;
- (c) without a copy of the age assessment report submitted to the Court under section 119(2) or his or her birth certificate;
- (d) any other relevant reports or information.

Admission
procedure.

79. (1) Upon committal to a young offender institution, the young offender shall—

- (a) be deemed to be in the custody of the Manager of the institution;
- (b) undergo a medical examination in accordance

with section 123;

- (c) be facilitated to promptly inform his or her family members or any other designated contact person, of the committal to the young offender institution;
- (d) surrender any money, valuables, clothing and other effects belonging to them to the Manager or their designated representative for safe custody;
- (e) be assessed and classified in the prescribed manner to determine their placement needs include their security classification, and rehabilitation and reintegration needs;
- (f) be provided with information in the manner specified under section 124; and
- (g) be interviewed by the documentation officer and the information in the young offender's individual file in the record management system.

(2) Unless otherwise provided, the procedure for admission of a young offender into an institution shall be in the manner prescribed in Rules.

Medical
examination on
admission.

80. Within twenty-four hours after admission of a young offender into a young offender institution, and before integrating with other young persons in the institution, every young offender shall be examined by a medical practitioner to establish—

- (a) the healthcare needs of the young offender and any immediate treatment needs;
- (b) whether any medicine that a young offender seeks to bring into prison may continue to be

used and whether the young offender needs other essential medicine immediately;

- (c) any ill-treatment that he or she may have been subjected to prior to admission;
- (d) any signs of psychological or other stress, including, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol, which may require treatment;
- (e) any contagious disease that may require temporary clinical isolation and treatment; and
- (f) fitness to work, exercise and participate in other activities.

(2) Where the health-care professional establishes that the young offender requires medical treatment, the health-care professional shall ensure that the young offender promptly receives such treatment.

(3) The health-care professional shall record the information in the individual medical file of the young offender.

Information
provided upon
admission.

81. During admission of a young offender in a young offender institution, the young offender shall be promptly provided with oral and written information on the following matters—

- (a) the provisions of this Act and any Rules or Regulations made hereunder applicable to young offenders;
- (b) their rights including authorised methods of seeking information and accessing legal advice, including through legal aid schemes;

- (c) the procedure for making requests or complaints while in the institution;
- (d) their obligations, including applicable disciplinary offences and sanctions; and
- (e) any other relevant information to enable the young offender to adapt to the life at the young offender institution.

(2) The information under subsection (1) shall be provided in a language and manner that is accessible and understandable to the respective young offender.

Assessment and
classification of
offenders upon
admission.

82. (1) During admission of a young offender in an institutions, every young offender shall, be assessed to determine the factors that cause their offending and their individual rehabilitation and reintegration needs.

(2) Upon assessment under subsection (1), a young offender shall be classified taking into account the risk of absconding, the risk to public safety in the event of an absconding and the risk to the good order within the institution.

(2) As soon as practicable after admission into an institution, the Manager of an institution shall assess and obtain information on—

- (a) the circumstances of the offence that led to the committal;
- (b) the background of the young offender, including his or her social, economic and criminal history;
- (c) any reasons and recommendations relating to committal that are given by the court during committal or during appeal;

- (d) any other reports relevant to committal that were submitted to the court; and
- (e) any other information relevant to administering the committal of the young offender.

(3) The procedure for assessment and classification of a young offender under this section shall be prescribed in Rules.

Property of young offenders upon admission.

83. Any money, valuables, clothing and other effects belonging to or in the possession a young offender on admission, or received during the time the young offender is detained in an institution, shall be placed in safe custody and kept in good condition.

Custody of the young offender.

84. (1) The Manager shall keep and detain the young committed to the institution according to the terms of the warrant or order by which such young person have been committed, or until such young persons are discharged in accordance with this Act or any other relevant law.

(2) A young offender transferred from one young offender institution to another shall, while outside the institution, be kept in the custody of persons authorised to convey the young offender and shall be deemed to be in the custody of the Manager of the institution at which such person is serving.

Separation of young offenders.

85. (1) Male, female and intersex young offenders shall not be detained in the same institution unless such separation is not in their best interests of the young offenders for purposes of participation in supervised joint activities.

(2) Without prejudice to subsection (1) intersex young offenders may be detained with either male or female offenders if it is in the best interest intersex young offender or for purposes of participation in supervised joint activities.

Female young offenders.

86. (1) Where a female young offender is committed to an institution, there shall be female member of staff who shall be responsible for the care and superintendence of female young offenders and their discipline.

(2) No male officer shall enter any part of a young offender institution that is holding female young offenders unless on duty and accompanied by a female officer.

Young offenders with special needs.

87. Every Manager of a young offender institution shall take all reasonable measures to ensure that young offenders with special needs including physical, mental or other disabilities have equitable access to all available facilities within the institution.

Clothing.

88. (1) A young offender in a young offender institution shall wear such clothes, whether inside or outside the institution, as may be prescribed.

(2) The clothing of a young offender in an institution shall not be degrading or violate the dignity of the young offender.

Diet in an institution.

89. Every young offender institution shall provide an adequate diet to the young offender to promote their good health.

(2) The diet provided in an institution shall take into account the nutritional requirements of young person, pregnant and nursing female young offenders, children accompanying their detained mothers and any other category of young offenders whose physical condition require a specialised diet.

Board of Visitors.

90. (1) The Cabinet Secretary shall, by notice in the Gazette, appoint the Board of Visitors for Young Offender Institutions.

(2) The Visitor's Board shall be responsible for—

- (a) reviewing the sentences of young offenders on the recommendation of the respective Management Committee;
- (b) the appointment of the members of the Management Committees;
- (c) receiving and ensuring the implementation of reports from Management Committees;
- (d) hearing appeals on complaints by young offenders;

(2) The Visitor's Board shall consist of—

- (a) the Principal Secretary in the ministry responsible for matters relating to correctional services, who shall be the Chairperson;
- (b) the Commissioner General, who shall be the Secretary to the Visitor's Board;
- (c) the Director General of the Probation and Aftercare Service;
- (d) the Director of Children Services;
- (e) one Magistrate, nominated by the Chief Justice, to represent the Children's Court;
- (f) not more than four other persons with expertise in one or more of the following areas—
 - (i) correctional matters;
 - (ii) psychology or child psychology;

- (iii) medicine;
- (iv) child rights;
- (v) law;
- (vi) social work;
- (vii) religious studies.

(3) The members of the Board shall be paid such allowances as the Salaries Remuneration Commission may determine.

Ministers
of institutions.

91. (1) The Cabinet Secretary may, in consultation with the Commissioner General and by notice in the Gazette, appoint priests of any religious faith to be ministers of young offender institutions.

(2) A person appointed as a minister under this section shall be paid such allowances as the Salaries Remuneration Commission may determine.

(3) The Commissioner-General shall issue standing orders on the functions and responsibilities of such ministers.

Visiting justices
of institutions.

92. (1) The Cabinet Secretary may, by notice in the Gazette, appoint fit and proper persons to be visiting justices for each young offender institution.

(2) The Commissioner-General shall issue standing orders on the functions and responsibilities of visiting justices.

(3) Without prejudice to the functions of persons appointed under subsection the Cabinet Secretary or a judge may visit any institution for purposes of this Act including to observe the condition of the institution.

(4) Where the Cabinet Secretary or a judge visits an institution under subsection (3)—

- (a) her or she may enter their observations on the condition of the institution in a visitors' book to be kept for that purpose by the Manager of the institution; and
- (b) the Manager shall inform the Commissioner-General of any observations thereto.

Removal from
Custody.

93. A young offender person in respect of whom a young offenders order is in force may be removed from an institution —

- (a) under a young offender's order or under a removal order issued by a court;
- (b) to or from a hospital or mental health facility in accordance with section 128 or 129; or
- (c) to or from a Court in the custody of an authorized officer, and while being so removed, shall be deemed to be in the lawful custody of such officer.

Removal order.

94. (1) The Commissioner-General may, in writing, issue a removal order in respect of a young offender who has been committed to a young offender institution to another young offender institution.

(2) A removal order issued shall specify—

- (a) the institution from which the young offender is being removed;
- (b) the institution to which the young offender is being taken; and

(c) the reasons for the removal.

Removal to
hospital.

95. (1) Where a young offender is sick and he or she cannot be adequately cared for in the institution's infirmary, the Manager may, on the advice of a medical practitioner, order the removal of the young offender from the institution to a hospital or other healthcare facility for treatment.

(2) The medical practitioner in-charge of a hospital or facility where a young offender is admitted under subsection (1) shall take all reasonable precautions to prevent the escape of any young offender who is kept in the hospital under this section.

(3) Where a medical practitioner treating a young offender under this section determines that the offender no longer requires to be kept in the hospital or healthcare facility, the medical practitioner shall—

(a) notify the Manager of the institution in which the young offender was detained;

(b) cause the young offender to be returned to the institution where he or she is serving their detention.

(4) Nothing in this subsection shall authorise any act, which in the opinion of the medical practitioner in-charge of the hospital, is likely to be prejudice the health of the young offender concerned.

Removal to
mental hospital.

96. (1) Where a medical practitioner determines that a young offender committed to a young offender institution is mentally ill, the medical practitioner may, in writing and in the manner specified by the Commissioner General, direct that the young offender be removed from the institution to a mental health facility for treatment.

(2) Where a medical practitioner treating a young

offender under this section determines that the offender is no longer of unsound mind—

- (a) the medical practitioner shall notify the Manager of the institution from which the young offender was detained;
- (b) cause the young offender to be returned to the institution where he or she was serving their detention.

(3) The period during which a young offender has been detained in a mental hospital under this section shall be deemed to be part of his or her detention period.

Cap. 248.

(4) For purposes of this section “mental health facility” has the meaning assigned to it under section 2 of the Mental Health Act.

Young offender
required as
witness.

97. Where a young offender committed to an institution is required to attend any court as witness, that court may issue an order addressed to the Manager requiring the young offender to appear in the court at such time and place as specified in the order.

(2) The Manager shall cause the young offender required in the order under subsection (1) to be brought before the Court as directed, and shall provide for the young offender’s safe custody during his or her absence from the institution.

Leave of absence.

98. (1) The Commissioner-General may grant leave of absence to any young offender committed to an institution for such period and on such conditions as may be specified by the Commissioner General.

(2) The form of the leave of absence under subsection (1) shall be in the manner prescribed in Rules.

Removal for
apprenticeship.

99. (1) The Manager of an institution may, on the recommendation of the After-Care Committee, facilitate an apprenticeship in accordance with the Industrial Training Act for a young offender who meets the specified disciplinary standards.

(2) The manner of apprenticeship, obligations and the conduct of young offenders while on apprenticeship shall be prescribed in Rules.

No interference
with control
or supervision.

100. (1) Where a person is removed or absent from an institution in accordance with this Part, no person shall interfere with the control or supervision conferred in respect of the absent person.

(2) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Discipline in an
institution.

101. Every young offender, whether within or outside an institution, shall be subject to the discipline and disciplinary measures of the institution made implemented in accordance with this Act and any Rules, orders or directions made thereunder during the period of his or her detention.

Segregation of
young offenders.

102. (1) The Manager of an institution may segregate a young offender from other young offenders, restrict their work or limit their association with other young offenders for the good order and discipline of the institution.

(2) The segregation under subsection (1) shall be for such period as may be necessary for achievement of the good order and discipline of the institution.

Register of
Punishment.

103. (1) Every institution shall keep a record of all punishments imposed upon the young offenders to be known as a Register of Punishments.

(2) The Register of Punishments shall specify the following information in respect of each young offender—

- (a) the name of each young offender in the institution;
- (b) the nature of the offence committed by the offender;
- (c) the extent of punishment imposed on the offender;
- (d) any other relevant information.

(3) The Register of Punishments shall be open to the inspection of the Board of Visitors.

Return of person
to an institution.

104. (1) Any young offender who—

- (a) escapes from an institution in which he or she is detained;
- (b) escapes from any hospital or other healthcare facility to which he or she has been admitted on account of his or her physical or mental condition;
- (c) runs away from the person into whose charge he or she has been entrusted; or
- (d) fails to return to an institution on the revocation of his or her licence or of his or leave of absence or on recall,

may be arrested without warrant by an authorised officer and returned to the young offenders institution.

(2) Where a young offender has committed any of the

acts under subsection (1), the period of his or her detention in the institution shall be increased by a period equal to the period during which he or she was unlawfully at large.

Assisting escape
and harbouring.

105. (1) Any person who knowingly—

- (a) assists or incites a young offender commit any of the acts specified under section 147 (1) of this Act;
- (b) harbours or conceals a person who has committed any of the acts specified under section 147 (1) of this Act; or
- (c) prevents a young offender from returning to an institution on revocation of their leave of absence or on recall,

commits an offence and is liable, on conviction, to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

Trespassing in an
institution.

106. (1) Any person who, without lawful authority, enters or remains within the boundaries of an institution or any place where young offenders are working commits an offence.

(2) Any person who, without authority from the Commissioner-General takes a photograph —

- (a) takes a photograph of any young offender; or
- (b) takes a photograph or makes a sketch, plan or other representation of any object or person within the precincts of an institution,

commits an offence.

(3) A person who fails or refuses to leave an institution or any place where young offenders are working when requested by an officer of the institution may be arrested without a warrant by a prison officer, or a police officer.

Prohibited
articles in an
institution.

107. (1) Any person who, without lawful authority, brings, introduces takes out or removes a prohibited article from an institution commits an offence and is liable, on conviction, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(2) The officers of a young offender institution may seize any article found to be unlawfully in the institution, whether or not any criminal or disciplinary proceedings are commenced against any person and the Manager may, in the specified manner, order the confiscation of the seized article.

(3) Every institution shall fix a list of all prohibited articles in a conspicuous place in the institution

(4) In this section, "prohibited article" includes any article specified by the Commissioner General as an article which is prohibited in young offender institutions.

Unlawful
possession of
prison articles.

108. Any person who, without lawful authority—

- (a) possesses, purchases or receives any article or property from any prison officer; or
- (b) aids or abets any prison officer to sell or dispose of any article or property,

commits an offence and is liable, on conviction, to a fine not exceeding five thousand shillings, or to imprisonment for a term not exceeding six months, or to both such imprisonment and such fine.

Determination of length of imprisonment institution offences.

109. Where a Court convicts a young offender of any offence under this Part, the court shall take into consideration the unexpired period of that offender's detention at the time of such finding or conviction.

Committal of young offender to prison.

110.(1) A young offender detained in an institution may be committed to a prison where he or she is of such character that render their detention no longer effective in the institution.

(2) An application for committal of a young offender to a prison under subsection (1) shall be made by the Commissioner General, to the Children's Court, in the prescribed manner.

(3) In making a determination of an application under subsection (2), the Court shall issue such directions as may be necessary to achieve the purposes of the detention

(4) An order to commit a young offender to a prison under this section shall be for a term of imprisonment not exceeding three years commencing on the day when the young offender began his or her detention in an institution.

Establishment of Youth Corrective Training Centres.

111. (1) The Cabinet Secretary may, by notice in the Gazette, declare any building, enclosure or place, or any part thereof, to be a youth corrective training centre for the for the purposes of this Act.

(2) A youth corrective training centre shall be used to detain a person age seventeen years but not more than twenty-one years.

(3) A person shall not be committed to corrective training in a youth corrective training centre if the person—

- (a) is convicted of an offence punishable by death;
- (b) has previously been detained in a prison;

- Cap. 470.
- (c) has previously been sentenced to corrective training in a youth corrective training centre; or
 - (d) where over the age of eighteen years, has committed an offence under the Income Tax Act.

(4) Every youth corrective training centre shall be deemed to be a prison for the purposes of this Act.

Rules under this Part.

112. (1) The Cabinet Secretary may make Rules generally for the better carrying out of the provisions of this Part.

PART V — PROBATION INSTITUTIONS FOR YOUNG OFFENDERS

Interpretation of Part.

113. In this Part, unless the context otherwise requires—

“Hostel Manager” in relation to a probation hostel, means a person appointed to be the Manager of a probation hostel under section 161;

“order” means a probation order issued by the Court under this part placing a young person under the supervision of a probation officer;

“probation hostel” or “hostel” means a probation hostel for young offenders established in accordance with section 158.

“young offender under probation” or “young probationer” means a young person who the Court has issued probation order for him or her to be placed in a probation institution for young persons;

Objects and principles of this

114. (1) The overall objectives of this Part are to provide for—

Part.

- (a) the establishment and administration of probation institutions for young offenders;
- (b) the general principles of care, treatment, rehabilitation of young offenders under probation;

(2) In the implementation of this Part, the Probation and Aftercare Service shall be guided by the following principles—

- (a) principle of best interest: the best interests of the child shall be the primary consideration when dealing young offender;
- (b) principle of rehabilitation and reconciliation: the probation institutions for young offenders shall be managed with the primary purpose of rehabilitation of the young offenders under probation and their reconciliation with the community, including with victims;
- (c) principle of reintegration: promoting smooth reintegration and resettlement of the probationer back to the community and to forestall recidivism.
- (d) principle of non-discrimination: young probationers shall be treated equitably without discrimination on the basis of race, sex, language, religion, nationality, or any other status;
- (e) principle of respect: the dignity of young probationers shall be respected
- (f) principle of participation: the young probationer

shall participate and be involved in decisions that affect them.

(3) Unless otherwise provided, a young offender under probation shall have all rights of a child provided in the Constitution and the Children Act and in particular shall have the right to—

- (a) receive education and vocational training;
- (b) access counseling and psychological services to address any emotional, mental health, or behavioral issues that may contribute to their offending behavior;

Declaration
probation hostel
for young
offenders.

115. (1) The Cabinet Secretary may, on the recommendation of the Commissioner-General and by notice in the Gazette, declare any building, enclosure or place, or any part thereof, to be a probation hostel for young offenders for the purposes of this Act.

(2) A probation hostel established under sub-section (1) shall include the grounds and buildings within the institutions' enclosures and any other grounds or buildings belonging or attached thereto and used by young probationers or the staff of the hostel.

(3) A probation hostel shall—

- (a) be used to offer rehabilitative programmes responsive to assessed criminogenic needs of young probationers; and
- (b) provide temporary accommodation for probationers;
- (c) used to prepare the probationer for reintegration in the community.

Design of young
offender
institutions.

116. In the design of a probation hostel, the Cabinet Secretary shall ensure that the hostel —

- (a) is of such size as to allow individualised treatment of probationers including counselling and accommodation rooms;
- (b) has adequate safety and security for both probationers and staff with secure entrances, effective surveillance systems, and protocols to prevent unauthorized access;
- (c) has space, installations and equipment for physical and recreational activities;
- (d) has sufficient accommodation water supply, food, clothing, and beddings for the number of probationers;
- (e) has sanitary installations and arrangements that are adequate and decent for the number of probationers;
- (f) provides adequate facilities for probationers with special needs;
- (g) contains a means of providing young offenders educational, industrial, agricultural, psychosocial or other training; and
- (h) contains space and facilities for visits and other communications with the probationers.

Classification of
hostels.

117.(1) The Director-General shall, by notice in the Gazette, classify probation hostels into such classes or categories as may be specified in the order and is necessary for the proper administration of probation hostels and achievement of the objects of this Part.

(2) In classifying a hostel under subsection (1), the Director-General shall take into consideration —

- (a) the gender and age of the different categories of probationers;
- (b) the rehabilitation needs of the different categories of probationers; and
- (c) any other relevant consideration.

Management of hostels.

118. (1) There shall be a person in-charge of each probation hostel who shall be designated as the Hostel Manager of the respective probation hostel.

(2) A Hostel Manager designated under subsection (1) shall, under the general supervision of the Director-General, be responsible for—

- (a) the day-to-day management of the affairs of the hostel;
- (b) keeping or causing to be kept such records in respect of the hostel as the Director-General may direct;
- (c) implementation of the rehabilitation programs and activities at the hostel;
- (d) implementation of security and general safety protocols to secure the hostel environment
- (e) performing such other duties as may be assigned by the Director-General in the furtherance of the objects of this Act.

Staff of probation hostel.

119.(1) There shall be such number of officers and other staff in a probation hostel as are necessary for the proper and efficient achievement of the purposes of establishment of the

institution.

(2) The officers, medical practitioners and other staff of the Service shall exercise their functions under the general direction and supervision of the Director-General.

(3) The directors, officers, medical practitioners and other staff of the Service shall be selected, appointed or deployed—

- (a) based on their competences and qualities to work with young persons; and
- (b) on such terms and condition as may be determined by the Probation and Aftercare Service in consultation with the Public Service Commission.

Record
management
system.

120. The Director-General shall establish an electronic record management system for each probation hostel containing information on the probation and the hostel and in particular information on—

- (a) the individual files for each young probationer;
- (b) the personal and demographic information of the probationer;
- (c) rehabilitation records of the probationer;
- (d) visitation records and medical records of the probationer;
- (e) any other relevant information.

Inspections.

121. The Director-General shall cause every probation hostel to be inspected in the prescribed manner to ensure the hostel is maintained in a safe, supportive, and rehabilitative manner in compliance with this Act, other relevant laws,

policies, and standards.

PART VI— MANAGEMENT OF CUSTODIAL OFFENDERS

Admission of
offenders.

122. (1) A person shall not be admitted to a prison for purposes of depriving the person of his or her liberty without a valid warrant or order

(2) An offender confined in any prison shall be deemed to be in the lawful custody of the officer in charge of the prison.

(3) A person who has been committed into a prison shall be kept and detained according to the terms of the warrant or order by which such person has been committed, or until such person is discharged by due course of law.

(4) An officer in charge shall immediately cause an offender admitted with visible signs of injuries or serious illness to be examined by a healthcare professional and where necessary be taken to hospital for treatment.

(5) An offender shall in the manner prescribed, be facilitated to inform immediate family members, or any other person designated as a contact person, about his or her imprisonment or transfer to another prison.

(6) An offender who is being removed or transferred from one prison to another shall, while outside the prison, be kept in the custody of the prison officer directed to convey him or her and shall be deemed to be in the lawful custody of the officer in charge of the prison at which such prison officer is serving.

(7) Where a person admitted or in the process of being admitted to a prison makes claim to, or is suspected of, being a child, the prison administration shall take the suspected child to court for an order to ascertain their age for the

purposes of committal to an appropriate institution.

Allocation
offenders.

of **123.** (1) An offender shall be allocated, or transferred, to a prison or part of a prison based on their legal category, security classification and rehabilitation needs.

(2) The allocation under subsection (1) shall to the extent possible, be made to a prison closer to the home or places of social rehabilitation and reintegration of an offender.

(3) The Commissioner-General may remove an offender from one prison to any other prison.

Separation
offenders.

of **124.** (1) The officer in charge of a prison shall ensure that offenders are held as follows—

- (a) male, female and intersex offenders are kept separate from each other;
- (b) pre-trial detainees are kept separate from sentenced offenders;
- (c) civil offenders are kept separate from pre-trial detainees and sentenced offenders; and
- (d) persons charged or convicted under the Prevention of Terrorism Act are kept separate from other offenders.

(2) The Cabinet Secretary shall make rules for the effective implementation of this section.

Female offenders.

125. (1) In any prison in which any female offender is held, there shall be a female prison officer who shall have the care and the superintendence of female offenders, and who shall be responsible for their discipline.

(2) Where a prison is designed to hold both male and

female offenders, the part of the prison set aside for female offenders shall be under the authority of a female prison officer who shall have the custody of the prison.

(3) A male shall not enter any part of a prison that is holding female offenders unless accompanied by a female staff member.

Special needs offenders.

126.(1) The Prison Service shall make the necessary reasonable accommodation and adjustments to ensure that special needs offenders have full and effective access to prison life on an equitable basis.

(2) The Commissioner-General may for the purposes of this Act, prescribe a category of special needs offenders.

Information to offenders.

127.(1) An offender shall on admission to a prison, be provided with oral and written information, in a language that the offender understands, about—

- (a) this Act, rules and regulations applicable to offenders;
- (b) their rights, including authorized methods of seeking information, access to legal advice, including through legal aid schemes, and procedures for making requests or complaints;
- (c) their obligations, including applicable disciplinary offences and sanctions; and
- (d) all other matters necessary to enable the offender to adapt to the life of the prison.

(2) The information under subsection (1) shall be made available to all offenders in a manner that is and understood by all, including special needs offenders, and summaries shall be displayed in common areas accessible to all offenders.

Communication
with offenders.

128. Where an offender cannot communicate in English or Kiswahili, the officer in charge shall make all efforts to facilitate access to the information including through Kenyan Sign language, Braille and other communication formats accessible to persons with disabilities.

Admission of
intersex
offenders.

129.(1) The Commissioner-General shall facilitate the introduction of a marker for the purposes of the recognition of an intersex offender, where an offender is found to be intersex.

(2) An intersex offender shall be accorded equal treatment, respect and protection of their dignity.

(3) An intersex offender shall choose the sex of the prison officer to conduct body searches for purposes of confinement.

Children
accompanying
mothers.

130.(1) Subject to such conditions as may be prescribed, a child of a female offender may be received into prison together with the mother and shall be supplied with food, clothing, education, accommodation and healthcare at public expense.

(2) A decision to allow a child to remain with the mother in prison shall be guided by the principle of the best interests of the child as provided under the Children Act.

Cap. 141.

(3) A child accompanying a mother is not an offender and steps shall be taken to make them comfortable while in prison environment.

(4) An offender who has a child accompanying the offender in prison shall be provided with opportunities to spend time with the child.

(5) Where a child is allowed to accompany the mother in prison, the Prisons Service shall make provision for—

- (a) internal or external childcare facilities staffed by qualified persons, where the children shall be placed when they are not in the care of their mother; and
- (b) child-specific health-care services for the children, including health screenings upon admission, necessary vaccinations and ongoing monitoring of their development by specialists.

Contact with the
outside world.

131.(1) An offender may communicate with their family, friends, legal counsel, relevant agencies, diplomatic representatives and other relevant persons—

- (a) by corresponding in writing and using, where applicable, telecommunication, electronic, digital and other means; or
- (b) by receiving visits.

(2) Communications under subsection (1) may where there is an ongoing criminal investigation, be restricted in the manner prescribed.

Requests and
complaints.

132.(1) An offender shall have the opportunity to make requests or complaints orally or in writing to the officer in charge or the prison staff authorized to represent the officer in charge.

(2) Every request or complaint shall be dealt with promptly.

Access to legal
aid services.

133.(1) An offender is entitled to receive legal aid and shall be provided with adequate opportunity, time and facilities to access such aid.

(2) All offenders shall freely have access or keep in their possession, in full confidentiality, documents relating to their legal affairs.

(3) The Prison Service shall bring to the attention of all offenders the provision of legal aid which is available to them.

Death of an offender.

134.(1) An officer in charge of a prison shall promptly report, any death in the prison custody to the nearest police station.

(2) The officer in charge of a police station where a report under subsection (1) has been made, shall inform the family of the deceased or next of kin of the death.

Pre-trial detainees.

135.(1) Pre-trial detainees may, subject to exceptional restrictions which may be necessary to prevent interference with the course of justice, enjoy such rights available to other offenders.

(2) Pre-trial detainees who do not have suitable clothing of their own may be provided with clothing which is of a different colour from those worn by offenders serving their sentence.

Civil offenders.

136.(1) Civil offenders shall be held in prison at the expense of the complainant and at such rate as may be prescribed.

(2) Civil offenders shall not be subjected to any greater restriction from other offenders.

Maintenance of certain offenders from private sources.

137.(1) A civil offender or a pre-trial detainee may subject to such examination and conditions as may be prescribed, be permitted to maintain themselves.

(2) No food, clothing or other necessities belonging to a civil offender, or a pre-trial detainee shall be given, hired, loaned or sold to any other offender.

(3) An offender who contravenes the provisions of

subsection (2) may on proof of the contravention, lose the privilege of purchasing or receiving food, clothing or other necessities from private sources for such time as the officer in charge may determine.

Production of offenders in court.
Cap. 75.

138.(1) A court may subject to section 148 of the Criminal Procedure Code, issue an order for the production of an offender whose attendance in court is required.

(2) An offender who has been taken to court subject to an order issued under subsection (1), shall while outside the prison, be kept in such custody, including police custody, as the officer in charge may direct.

Record management system for the Prison Service.

139. The Prisons Service shall establish a record management system, consisting of—

- (a) individual files for each offender;
- (b) separate individual medical files for each offender;
- (c) files on prison management practices and processes as required under this Act; and
- (d) any other information as may be prescribed.

Healthcare services.

140.(1) The Commissioner-General may, in collaboration with the ministry responsible for health ensure the provision of healthcare service in prison.

(2) Every offender shall enjoy the same standards of health care available in the community and shall have access to necessary preventive, promotive, curative and emergency health care services free of charge.

(3) Medical examinations and information relating to offender's health shall be confidential, unless maintaining such confidentiality would result into a real and imminent threat to the health of the patient or other offenders.

Cap. 248. (4) The management of offenders with mental illness shall be in accordance with the Mental Health Act.

Health care professionals. **141.** (1) The Commissioner-General may, in collaboration with the ministry responsible for health, ensure healthcare professionals are stationed in or made available in each prison.

(2) A healthcare professional shall be responsible for the health of all offenders in prison and shall cause all offenders to be medically examined within forty-eight hours after admission or at such other interval as may be prescribed.

(3) A healthcare professional shall have access to sick offenders daily, and provide referral to specialists, including psychological, psychiatric and dental specialists, as required.

(4) A healthcare professional shall report to the officer in charge whenever the healthcare professional considers that an offender's medical, physical or mental health has been or likely to be injuriously affected.

Medical examination on admission. **142.**(1) Within twenty-four hours after admission in prison, and before integrating with the prison population, every offender shall be examined by a health-care professional to establish—

- (a) the healthcare needs of the offender and any immediate treatment needs;
- (b) whether any medicine that an offender seeks to bring into prison may continue to be used and whether the offender needs other essential medicine immediately;
- (c) any ill-treatment that the offender may have been subjected to prior to admission;

- (d) any signs of psychological or other stress, including, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol, which may require treatment;
- (e) any contagious disease that may require temporary clinical isolation and treatment; and
- (f) fitness to work, exercise and participate in other activities.

(2) Where upon examination under subsection (1), the health-care professional establishes that an offender requires medical attention, the health-care professional shall ensure that the offender promptly receives such medical attention.

(3) The healthcare professional shall record the information obtained pursuant to subsection (1), in the offender's individual medical file.

Removal of
offenders with
mental illness.

143.(1) Whenever a health care professional is of the opinion that any offender is of unsound mind, the healthcare professional may, direct that such an offender be removed to a mental hospital and be there detained, until removed or discharged.

(2) Where a healthcare professional is of the opinion that an offender who has been removed to a mental hospital under subsection (1) is no longer of unsound mind, the healthcare professional shall notify the officer in charge of the prison from where the offender was removed, and the offender shall then be delivered into the custody of the officer in charge of that prison if the offender is still liable to be confined in prison.

(3) The period during which an offender has been detained in a mental hospital under this section shall be considered as part of the term of imprisonment.

Removal of sick
offender to
hospital.

144.(1) An offender who is ill and has been detained in a prison where there is no suitable accommodation for such offender, the officer in charge, on the advice of a healthcare professional, may order the removal of such offender to hospital, and in case of emergency such removal may be ordered by the officer in charge without the advice of the healthcare professional.

(2) An offender who has been removed to a hospital pursuant to subsection (1), shall be deemed to be under detention in the prison from which the offender was so removed.

(3) Whenever a healthcare professional who is in charge of a hospital considers that the health of a offender removed to that hospital under this section no longer requires his or her detention, the healthcare professional may notify the officer in charge of the prison from which the offender was removed and the officer in charge of that prison shall cause such offender to be returned to the prison if he or she is still liable to be confined.

(4) Every reasonable precaution shall be taken by the healthcare professional in charge of a hospital to prevent the escape of any offender who may at any time be under treatment.

(5) The period during which an offender has been detained in a hospital under this section shall be considered as part of his term of imprisonment.

Measures for
further security
of an offender in
hospital.

145.(1) Where an officer in charge of a prison considers that the gravity of the offence for which any offender may be in detention or for any other reason the officer in charge considers it desirable to take special measures for the security of such offender while under treatment in hospital, it shall be lawful to give such offender into the charge of fit and proper persons, not being less than

two in number, one of whom shall always be with such offender day and night.

(2) A person who is in custody of an offender pursuant to subsection (1), persons shall be vested with full power and authority to do all things necessary to prevent such offender from escaping and shall be answerable for his or her safe custody until such time as the offender is handed over to the officer in charge on discharge from hospital or until such time as the sentence expires, whichever shall first occur.

Security
classification of
offenders.

146.(1) An offender shall in the manner prescribed, be assessed and classified taking into account the risk of escape, the risk to public safety in the event of an escape and the risk to the good order within the prison.

(2) The Prisons Service shall take the necessary steps to ensure that offenders are held in prisons corresponding to their security classification, rehabilitative and reintegration needs.

(3) An officer in charge shall ensure that offenders are regularly re-assessed and reclassified as prescribed.

(4) The classification of offenders under this section shall be updated regularly and recorded in the offender's management system.

Needs based
classification of
offenders.

147.(1) The Prisons Service shall in the manner prescribed, assess sentenced offenders, to determine the factors that cause their offending and develop plans to meet their individual rehabilitation and reintegration needs.

(2) The officer in charge shall seek to obtain all relevant information from courts, police, probation service and any other relevant body, including—

(a) relevant information about the circumstances of the offence that led to the conviction; relevant

information about the background of the offender, including his or her social, economic, criminal history;

- (b) information relating to reasons and recommendations on sentencing that are given by the court during conviction, sentencing or committal or during appeal;
- (c) reports relevant to conviction, sentence that were submitted to court; and
- (d) any other information relevant to administering the sentence or committal, including existing information from the police or victim.

Sentence
planning.

148.(1) An individualised sentence plan shall be developed for offenders serving sentences of more than six months to address their rehabilitation and reintegration needs.

(2) The sentencing plans referred to under subsection (1), shall be designed to address the individual root causes of an offender's criminal behaviour, and treatment programmes provided accordingly.

(3) An offender whose sentences is below six months shall be given a treatment programme as determined by the officer in charge.

(4) An offender's future after release shall, from the beginning of his or her sentence, be given consideration and shall be encouraged and provided assistance to maintain or establish relations with persons or agencies outside the prison as to promote the offender's rehabilitation and reintegration into the community as prescribed.

Rehabilitation
programmes.

149.(1) The Commissioner-General shall put in place rehabilitation programmes in each prison to addresses rehabilitation needs of offenders.

(2) A convicted offender shall, subject to a determination of physical and mental fitness by a qualified healthcare professional, participate in approved programmes and actively participate in his or her rehabilitation.

(3) The Prisons Service shall develop and incorporate gender-responsive rehabilitation programmes designed to address the individual needs of offenders as may be prescribed.

(4) As far as possible, and subject to individual assessment, an offender shall be afforded an opportunity to choose the type of programmes they wish to engaged in.

Offenders work.

150.(1) An offender shall be accorded an opportunity to undertake work for which they are physically and mentally fit.

(2) The work provided under subsection (1) shall as far as possible—

(a) be such work as will maintain or increase the offenders' ability to earn a living after release; and

(b) aim at reducing reoffending by the offender.

(3) The Cabinet Secretary may in consultation with the Commissioner-General, prescribe the conditions under which an offender may be engaged in a government and private project.

Earning scheme.

151.(1) The Cabinet Secretary may prescribe equitable remuneration for offenders' work.

(2) An offender may be allowed to spend at least a part of their earnings on approved articles for their own use and to send a part of their earnings to their family.

(3) The Prisons Service may set aside a part of an

offender's earnings in a savings scheme to be handed over to the offender on his or her release.

Education and training.

152.(1) All offenders shall be provided with the opportunity for education, conforming with the national educational curriculum.

(2) Special education programmes shall be provided for illiterate offenders and offenders with learning disabilities.

(3) Educational and training certificates awarded to offenders shall not indicate that the certificate was obtained while the offender was serving a sentence.

(4) Every prison may have a library, adequately stocked with approved recreational and instructional books and other media.

Recreational and cultural activity.

153. The Prisons Service may provide recreational and cultural activities and facilities in all prisons for the benefit of the mental and physical health of offenders.

Custody of persons under arrest.

154. A person arrested pursuant to a warrant or order of any court, if the court is not sitting, may be delivered to an officer in charge, for custody and such officer shall cause such person to be brought before the court at its next sitting.

Offenders to be subject to prison discipline.

155. An offender shall be subject to prison discipline pursuant to this Act and all rules, orders and directions made thereunder during the term of his or her imprisonment, whether he or she is, or is not within the precincts of any prison.

Prison officer not liable for escape of offender in hospital.

156. A prison officer shall not be held responsible for the escape of an offender while the offender is in any hospital, mental hospital, unless such offender has been in the personal custody of such officer.

Release of offenders.

157.(1) An officer in charge of a prison shall be

responsible for the due release of all offenders immediately upon the offender becoming entitled to release.

(2) An offender who due for release but is still under treatment by a healthcare professional shall not be released from hospital except at his or her own request or if the healthcare professional considers it necessary that such an offender be released.

Remission of
part of sentence
of certain
offenders.

158.(1) A convicted criminal offender sentenced to imprisonment, whether by one sentence, consecutive sentences or concurrent sentences for a period exceeding one month, may by industry and good conduct earn a remission of one third of their sentence or sentences.

(2) Remission under subsection (1), may only be granted after an offender has served one calendar month of the sentence.

(3) For purpose of giving effect to the provisions of subsection (1), each offender on admission may be credited with the full amount of remission to which the offender would have been entitled to at the end of his or her sentence if the offender lost no remission of sentence.

(4) An offender may lose remission as a result of commission of an offence against prison discipline, and shall not earn any remission in respect of any period—

(a) spent in hospital through his or her own fault or while malingering; or

(b) while undergoing confinement as a punishment in a separate cell.

(5) An offender may be deprived of remission—

(a) where the Commissioner-General considers that it is necessary for the purposes of reformation

and rehabilitation of the offender;

(b) where the Cabinet Secretary considers that it is in the interests of public security or public order.

(6) Notwithstanding the provisions of subsection (1), on the recommendation of the Commissioner-General, the Cabinet Secretary may grant a further remission on the grounds of exceptional merit, permanent ill-health or other special grounds.

(7) The Cabinet Secretary may restore forfeited remission in whole or in part.

Punishment of offenders by officer in charge.

159. An officer in charge, being a senior prison officer or an administrative officer, may punish any offender found, after due inquiry, to have committed an offence against discipline, by—

(a) confining the offender in a separate cell on a diet for a term not exceeding such period as may be prescribed;

(b) forfeiting remission not exceeding such period as may be prescribed; or

(c) reducing in stage, or forfeiting privileges, or postponement of promotion in stage, or forfeiture of all or part of earnings, or removal from any earnings, or removal from any earnings scheme, or reduction in earnings grade, for such period as may be prescribed.

Punishment of offenders by the Commissioner-General.

160.(1) The Commissioner-General may punish any offender found, after due inquiry, to be committed an offence against discipline.

(2) An officer in charge may on finding an offender guilty of an aggravated offence against discipline, transfer the case to the Commissioner-General for punishment.

(3) Where a case is transferred under subsection (2), the officer in charge, shall forward to the Commissioner-General—

- (a) a copy of the charge;
- (b) the record of all the evidence taken, including the evidence of the offender;
- (c) the grounds upon which the offender was found guilty; and
- (d) any representations the offender wishes to make to the Commissioner-General in regard to punishment.

(4) The Commissioner-General may on receipt of a record forwarded under subsection (3)—

- (a) punish the offender;
- (b) reverse the findings of the officer in charge and find the offender not guilty; or
- (c) require the officer in charge to take further evidence and submit it to him or her prior to the decision.

(5) The Commissioner-General may, on determination of a case—

- (a) confine the offender in a separate cell for such period as may be prescribed;
- (b) order a forfeiture of remission not exceeding such period as may be prescribed;

(c) order a reduction in stage, or forfeiture of privileges, or postponement of promotion in stage, or forfeiture of all or part of earnings, or removal from any earnings scheme, or reduction in earnings grade, for such period as may be prescribed.

(6) For purposes of this section—

“reduction in stage” means the removal of an offender to a lower stage in the prescribed progressive stage system; and

“postponement of promotion in stage” means the postponement of promotion to a higher stage, in the prescribed progressive stage system.

Offender’s
defence.

Cap. 7L.

161. An offender shall not be punished for an offence against discipline unless the offender has been accorded an opportunity to be heard pursuant to Article 47 of the Constitution and the Fair Administrative Action Act.

Segregation of an
offender.

162. The officer in charge may segregate an offender, where it appears to the officer in charge that it is desirable for the good order and discipline in prison, for the offender to be segregated and not to work or be associated with other offenders.

Register of
Punishment
sanctions.

163. The officer in charge shall cause to be entered in a register, which shall be open to the inspection of the visiting justices, a record of all punishments imposed upon offenders, showing in respect of each offender punished, the name, the nature of his offence, and the extent of the punishment.

Harbouring
offenders.

164. A person who knowingly harbours in or about his or her house or land, or who knowingly employs any person under sentence of imprisonment and illegally at large, shall commits an offence and shall on conviction be liable to a fine

not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Appointment of
prison ministers.

165. (1) The Cabinet Secretary may, from time to time, appoint by notice in the *Gazette*, a person to be a prison minister.

(2) The conduct of a prison minister appointed pursuant to subsection (1), shall be as prescribed.

Appointment and
powers of
visiting justices.

166. (1) The Cabinet Secretary may, from time to time, appoint by notice in the *Gazette* fit and proper persons to be visiting justices for each prison.

(2) The visiting justices shall comprise—

(a) the County Commissioner;

(b) the Resident Judge;

(c) a representative of the Probation Service;

(d) a representative of the Kenya National Commission on Human Rights; and

(e) a representative of the Director of public Prosecutions.

(3) The visiting justices may at any time and with the approval of the Commissioner-General, visit a prison in respect of which he or she is a visiting justice

(4) A visiting justice may inspect the several wards, cells, yards, punishment cells and other apartments and divisions of the prison, inspect and test the quality and quantity of the offenders' food, hear the complaint, if any, of any offender, and question any offender or prison officer, and shall ascertain so far as compliance with this Act or rules as made under this Act.

(5) The visiting justices to any prison may appoint a chairperson and may act as a Board of Visiting Justices and may, at the end of each year or at any other convenient time, submit a report to the Cabinet Secretary on the state of the prison to which they are visiting justices.

PART VII—MANAGEMENT OF NON-CUSTODIAL OFFENDERS

Management of
non-custodial
offenders.

167. (1) The management of non-custodial offenders shall be vested in the Kenya Probation Service.

(2) For purposes of sub section (1), the Kenya Probation service shall manage non-custodial offenders through—

(a) supervision—

- (i) at the various stages of trial;
 - (ii) upon committal to non-custodial orders;
and
 - (iii) upon placement on post sentence supervised dispositions;
- (b) assessment of risk, need, responsivity and classification to inform any action taken on the offender;
- (c) variation of orders and institution of action upon breach of orders or license by the offender;
- (d) programmes intended to rehabilitate, re-integrate and resettle offenders back to the community; and
- (e) after-care service following release from a prison facility or a young offender institution.

(3) In enforcing non- custodial orders, the Kenya Probation service shall ensure that—

- (a) consideration of community safety in management of the offenders is paramount;
- (b) the offender management program is designed to assist in offender rehabilitation and reintegration into the community;
- (c) offenders are informed of their obligations under the law and consequences of breach of orders; and
- (d) facilities and programs developed for the care, rehabilitation, training and treatment of offenders is evidence based and tailor-made to the needs of the offender.

Probation Service reports.

168.(1) A probation officer shall, upon receipt of a court order or a written request from a penal institution or a relevant state agency, with respect to an offender—

- (a) conduct a social inquiry; and
- (b) generate the social inquiry report.

(2) The reports in sub section (1) shall include—

- (a) pre-sentence reports;
- (b) bail and bond assessment reports;
- (c) sentence review reports;
- (d) resentencing reports;
- (e) victim impact statements;
- (f) final home reports;
- (g) power of mercy reports;
- (h) environmental adjustment reports;
- (i) special category offender reports;

- (j) plea-bargaining reports;
- (k) diversion reports;
- (l) restorative justice reports; and
- (m) any other general social inquiry reports.

(3) The reports under subsection (2) shall be in such form and cover such matters as may be prescribed.

Assessment and
classifications.

169.(1) The Kenya Probation Service shall undertake assessment and classification of non-custodial offenders, in order to determine their suitability for release on supervised non-custodial sentences or post sentence supervised dispositions.

(2) for purposes of sub section (1) where the Kenya Probation service considers an offender suitable for supervision, a probation officer—

- (a) shall prepare an individualized offender treatment plan to address the criminogenic needs of the offender; and
- (b) may upon reassessment make variations to the offender treatment plan or supervision plan as appropriate.

(3) The modalities of assessment and classification of offenders may be as prescribed.

Execution of
probation orders.

170. The Kenya Probation Service shall, for purposes of enforcing probation orders ensure that—

- (a) supervision of the order promotes community safety;
- (b) the offender is informed of his rights and obligations under the order;
- (c) the intervention programme addresses the criminogenic needs of the offender based on

assessment of the risk, needs and responsivity of the offender; and

- (d) where the order is to be served in a probation institution, the intervention programs administered on the offenders is evidence based and practical.

Supervision of
non-custodial
offenders.

171.(1) The Kenya Probation Service shall, in accordance with this Act, provide supervision to non-custodial offenders.

(2) For purposes of subsection (1), the supervising probation officer shall prepare a supervision plan which shall take into consideration—

- (a) the diversity and distinct needs, risks and responsiveness of offenders in order to ensure compliance; and
- (b) the need to advise, assist and motivate an offender without imposing control.

(3) The Cabinet Secretary shall, in consultation with the Kenya Probation service, make regulations to determine the forms of supervision for non-custodial offenders.

(4) Notwithstanding subsection (3), supervision may be undertaken—

- (a) upon conditional release pending trial or bail supervision;
- (b) during execution of probation orders and community service orders;
- (c) upon conditional or suspended sentence;
- (d) during provision of aftercare services;

- (e) during electronic monitoring and early releases on license;
- (f) for parole releases;
- (g) for power of mercy releases; and
- (h) for offenders on diversion.

Electronic monitoring of non-custodial offenders.

172. (1) The Court or Kenya Probation Service may set a condition of electronic monitoring of a non-custodial offender, based upon information including—

- (a) assessment of the level of risk of reoffending; and
- (b) public safety.

(2) The probation officer assigned to supervise the non-custodial offender shall—

- (a) ensure that the electronic monitoring device communicates with the Kenya Probation Service headquarters;
- (b) ensure that use of the electronic device does not infringe on the dignity and privacy of the non-custodial offender; and
- (c) the monitoring device is only used for the purpose for which it is intended.

(3) The Cabinet Secretary in consultation with the Kenya Probation Service shall prescribe the procedure for electronic monitoring of non-custodial offenders.

Rehabilitation of non-custodial offenders.

173. (1) The Kenya Probation Service may, in accordance with regulations made under this Act and subject to any other law, put in place rehabilitation programmes for

non-custodial offenders which ensure—

(a) the non-custodial offender is provided with training and skills including—

- (i) life skills training;
- (ii) vocational training; and
- (iii) formal education; and

(b) individual based non-custodial management that addresses the risk needs and responsivity of the offender.

(2) The Cabinet Secretary shall, on the advice of the Kenya Probation Service, establish institutional linkages to coordinate the rehabilitation of non-custodial offenders.

Reintegration of
non-custodial
offenders.

174.(1) The Kenya Probation Service shall take measures to ensure that reintegration programmes for non-custodial offenders—

(a) are designed to facilitate smooth transition to the community;

(b) provide non-custodial offenders with assistance they require to desist from crime; and

(c) promote public safety.

(2) For purposes of sub section (1), the reintegration programmes may include—

(a) provision of counselling;

(b) assisting the non-custodial offender to secure accommodation;

(c) linkage to job placement services;

- (d) coordinated community support;
- (e) creating awareness in the community;
- (f) victim-offender reconciliation processes; and
- (g) monitoring and follow up sessions with the non-custodial offender.

(3) The Cabinet Secretary, shall in consultation with the Kenya Probation Service, prescribe regulations on the management of the re-integration programmes.

Resettlement of
offenders.

175. The Cabinet Secretary shall, on the advice of the Kenya Probation Service, establish institutional linkages to coordinate the resettlement of offenders.

After-care
service.

176.(1) The Kenya Probation Service shall provide after-care services to offenders who have been released from a penal institution.

(2) The after-care services referred to in sub section (1) include—

- (a) access and accommodation in halfway houses;
- (b) coordinated associations of offenders receiving after-care services;

(3) The Cabinet Secretary shall, on the advice of the Kenya Probation Service and in collaboration with relevant agencies, make regulations to govern the management of aftercare services.

Pre-release
reports and
assessment.

177.(1) The Kenya Probation Service shall regularly assess non-custodial offenders to ensure effective, planned and individualised treatment plans for offenders, including by providing for the assessment of the risks they pose to the

community, their needs and the development, implementation and review of management plans based on such assessments.

(2) Despite sub section (1), a probation officer shall, prior to release of an offender from a penal institution and committal to a non-custodial measure, assess the offender and his or her circumstances and prepare a pre-release report on the circumstances under which the offender should be released into the community.

(3) In carrying out an assessment under this section, the probation officer shall have regard to—

- (a) any representations made by the offender to the referral agencies;
- (b) the age, gender and the social, medical, psychological, vocational background and history of the offender;
- (c) the aptitude or suitability of the offender for any particular form of training or work;
- (d) the nature of the offence, or offences, in respect of which the offender is imprisoned and the length of sentence;
- (e) the information contained in any file held by a court in respect of the offender;
- (f) the needs of the offender in respect of education or training or medical or psychiatric treatment;
- (g) the behaviour of the offender while in prison;
- (h) the security of and availability of accommodation in the community upon release and maintenance of family ties;

- (i) any proposed plans in respect of the release of the offender and his or her social rehabilitation; and
- (j) such other matters as the probation officer considers relevant.

Victim support.
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178. Subject to the Victim Protection Act, the Kenya Probation Service shall ensure that the victim receives services including—

- (a) assessment of the needs of the victim;
- (b) notification and information to the victim;
- (c) preparation of a victim impact statement for purposes of the court process;
- (d) psycho-social services; and
- (e) offering a linkage to other support services.

Social crime
prevention.

179. (1) The Kenya Probation Service shall oversee the establishment of programs and strategies to prevent and reduce crime including—

- (a) public education programmes on crime prevention;
- (b) creating public awareness on the programmes and interventions in place with regard to non-custodial offender management;
- (c) mentorship programmes for the youth; and
- (d) assessment of criminogenic risks in the community to inform policy.

(2) For purposes of sub section (1), the Kenya

Probation Service shall have regard to the need to collaborate with state agencies on prevention of violent extremism and radicalization of vulnerable persons within the community.

Restorative
justice.

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180. Subject to the Victim Protection Act, the Kenya Probation service shall provide a victim with information about the restorative justice programmes and services and on the request of the victim, or offender take measures to provide the restorative justice services.

(2) For purposes of sub section (1) the Kenya Probation Service shall supervise the enforcement of the order of the Court, which constitutes any agreement for restoration or other redress agreed between the victim and the offender.

(3) The restorative justice services may only be provided with the consent of the victim and the offender.

PART VIII — KENYA CORRECTIONAL SERVICE COLLEGE

Establishment of
the Kenya
Correctional
Service College.

181. (1) There is established a college to be known as the Kenya Correctional Service College,

(2) The College which shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) entering into contracts;
- (d) receiving grants and gifts in support of projects, programs and actions designed to promote and

rehabilitate offenders; and

- (e) performing all such other functions necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

Functions of the College.

182. The College shall be an institution of excellence in teaching, training, innovation research and development in education and training on correctional matters.

Headquarters and campuses of the College.

183. (1) The headquarters of the College shall be in Nairobi.

(2) Despite subsection (1), the College shall ensure access to its services in all parts of Kenya to the extent that is practicable to do so.

(3) The College may establish campuses in any region in Kenya to ensure access to its services in all parts of Kenya.

Council of the College.

184. The management of the College shall vest in a Council which shall consist of—

- (a) a non-executive chairperson, who shall be a person with experience in correctional service, appointed by the President;
- (b) the Principal Secretary in the Ministry responsible for matters relating to correctional service;
- (c) the Principal Secretary in the Ministry responsible for matters relating to finance or a representative designated in writing;
- (d) the Principal Secretary in the Ministry responsible for higher education or a representative designated in writing;

- (e) the Commissioner-General of Prisons;
- (f) the Director-General of Probation and Aftercare Service;
- (g) the Secretary to the Commission for Higher Education;
- (h) one person nominated by the Kenya Institute for Public Policy Research and Analysis;
- (i) one person nominated by the Public Service Commission
- (j) the Director-General of the College who shall be the Secretary to the Council;

(2) A person shall not be appointed as member of the Council of the College unless that person—

- (a) possesses a minimum of a bachelor's degree;
- (b) has experience of at least five years in a senior management position; and
- (c) has demonstrated leadership skills.

(3) The Chairperson and the members of the Council appointed under subsection (1) shall hold office for a term not exceeding five years and shall be eligible for re-appointment for one further term.

(4) A person appointed as a chairperson or member of the Council under subsection (1) shall cease to be a member of the Council of the College, if that person—

- (a) resigns, in writing, through a notice addressed

to the chairperson of the Council;

(b) is adjudged bankrupt;

(c) is convicted of a criminal offence and sentenced to imprisonment;

(d) dies;

(e) conducts himself in a manner inconsistent with membership of the Council and that brings the Council of the College into disrepute; or

(f) is incapacitated by physical or mental illness preventing the person from performing his or her duties as a member of the Council.

Functions of the
Council of the
College.

185. (1) The Council shall—

(a) approve, monitor and evaluate the implementation of policies, programs and plans of the College;

(b) approve curricula and programs for offered by the College;

(c) approve the appointment criteria and the terms and conditions of service of the Director General of the College and other staff of the College;

(d) mobilise resources for the College;

(e) approve the establishment of campuses and faculties in the College;

(f) consider and approve the budget of the College;

(g) perform such other functions as may be necessary for the implementation of its mandate

(2) In the performance of its functions under subsection (1), the Council of the College shall have all powers necessary proper performance of its functions, and in particular shall have power to—

- (a) administer the property and funds of the College in such manner and for such purpose as shall promote the interests of the College;
- (b) receive on behalf of the College, any grants-in-aid, donations, fees, gifts, grants or other monies in accordance with the relevant law;
- (c) enter into association with such other bodies or organisations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the College is established.

Conduct of
business and
affairs of the
Council of the
College.

186. (1) The Council of the College may establish committees, consisting of members of the Council, for the effective discharge of its functions.

(2) The Board may co-opt any person into any committee established under subsection (1), whose knowledge and skills are considered necessary for the effective discharge of the functions of the College

(3) The Council of the College shall not co-opt more than three persons at any given time to its committees and the persons shall not have a right to vote.

(4) The Chairperson of the Council of the College shall preside at all meetings of the Council of the College and in the absence of the chairperson, the members present shall appoint one member from among themselves to preside at the meeting.

(5) The quorum for the conduct of business of a meeting of the Council of the College shall be five members.

(6) Unless otherwise provided, the Council of the College—

(a) may regulate its own procedure; and

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(b) shall comply with the provisions of the State Corporations Act governing the meetings and proceedings of Boards of State Corporations.

Director General
of the College

187. (1) There shall be a Director General of the College who shall be competitively recruited and appointed by the Council, with the approval of the Cabinet Secretary, on such terms and conditions as shall be specified in the instrument of appointment.

(2) The Director General appointed under subsection (1) shall be the chief executive officer of the College and shall be responsible to the Council of the College for—

(a) the day-to-day administration of the College;

(b) the implementation of the decisions of the Council;

(c) the developing and implementing the objectives, strategies, policy direction, organization, administration and programs of the College;

(d) performing such other duties as may be assigned by the Council of the College.

Staff of the
College.

188. The College may, in consultation with the Public Service Commission, appoint such staff as may be necessary for the proper discharge of its functions under this Act, on such terms and conditions of service as the Council of

College may determine.

Academic Board.

189. (1) There shall be an Academic Board of the College which shall consist of—

- (a) the Director-General, who shall be the chairperson;
- (b) the Director in charge of finance and administration;
- (c) the Director in charge of academic affairs who shall be the Secretary of the Academic Board;
- (d) the Directors of the College's Campuses;
- (e) persons in charge of academic affairs in the College's Campuses; and
- (f) the head of the College's library services.

(2) The Academic Board shall be responsible for the—

- (a) development, review and delivery of learning and development programs;
- (b) determination of entry levels for learning and development programs; and
- (c) determination of the standards and criteria for certification.

(3) The Academic Board of the College may—

- (a) establish committees as may be necessary for the effective discharge of its functions; and
- (b) coopt not more than three persons into the membership of the committee.

(4) The conduct of business and affairs of the Academic Board of the College shall be as specified by the Academic Board.

Financial
provisions on the
College.

190. (1) The funds of the College shall consist of—

- (a) such sums as may be appropriated by Parliament for the purposes of the College;
- (b) tuition fees and such monies as may accrue or vest in the College in the course of the exercise of its powers or the performance of its functions under this Act or any other written law;
- (c) gifts, grants or donations made to the College;

(2) The Board may invest any of the funds of the College which are not immediately required for its purposes in such manner as the National Treasury may direct.

(3) The Board shall cause to be kept all proper audit books and records of accounts of the income, expenditure, assets and liabilities of the Academy.

(4) The accounts of the Academy shall be audited and reported upon in accordance with the Public Audit Act and the Public Finance Management Act.

(5) The provisions of the Public Finance Management Act shall apply to the preparation and submission of the annual estimates of revenue and expenditure of the College in every financial year.

Fees and other
charges of the
College.

191. The Director-General shall, with the approval of the Council of the College, determine the fees and other charges payable for any service, facility or program offered by the College.

Seal of the
College.

192. (1) There shall be a seal of the College which shall be kept in such custody as the Council of the College may direct and shall not be used except in the manner authorized.

(2) Any deed, instrument, contract or other documents shall be considered to be duly executed by or on behalf of the College—

(g) where they are required to be under seal, or sealed with the common seal of the College and authenticated by the chairperson of the Council and the Director-General; or

(h) where they are not required to be under seal, if executed in that behalf by a member authorized by the Council for that purpose.

(3) Where the common seal of the College is affixed to any document in accordance with subsection (2), it shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization of the Council of the College shall be presumed to have been duly given.

Protection of
personal liability.

193. The Chairperson or members of the Board and the staff of the College shall not be personally liable for any act or omission done or omitted to be done in good faith in carrying out the functions of the College under this Act.

PART IX—PAROLE

Meaning of
parole.

194. For purposes of this Part “parole” means the conditional release of an offender before full completion of the sentence.

Establishment of
the National
Parole Board.

195. (1) There is established an administrative board to be known as the National Parole Board, with the mandate to grant, deny and revoke parole, including deciding on the appropriate release conditions.

(2) The National Parole Board shall comprise of no less than thirty members appointed in accordance with section 202 of this Act.

Appointment of
members of the
Parole Board.

196. (1) For the purposes of this Act, and on the recommendations of the selection panel, the President shall, by notice published in the *Gazette*, appoint qualified persons to be members of the National Parole Board.

(2) A person is qualified for appointment as a member of the National Parole Board, if the person—

- (a) is a citizen of Kenya;
- (b) holds a degree in from a university recognized in Kenya;
- (c) has at least seven years' proven knowledge and experience in matters relating to any of the following fields—
 - (i) law;
 - (ii) correctional services;
 - (iii) social sciences;
 - (iv) law enforcement ;
 - (v) community corrections;
 - (vi) human rights;
 - (vii) psychology or counselling; or
 - (viii) alternative dispute resolution; and
- (d) meets the requirements of Chapter Six of the

Constitution.

(3) A person shall not be qualified for appointment as a member of the Parole Board if the person –

- (a) is a serving public officer;
- (b) is a member of a governing body of a political party;
- (c) is an undischarged bankrupt;
- (d) has been convicted, whether in Kenya or elsewhere, of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (e) is unable to perform the functions of office due to mental incapacity; or
- (f) has been removed from public office for contravening the provisions of the Constitution or any other law.

(4) Despite subsection (2), members of the National Parole Board shall have the necessary skills and training to allow them to make reasonable and fair parole decisions.

(5) A person shall be appointed as a member of the National Parole Board for a term of three years and shall not be eligible for renewal.

(6) Members of the Parole Board shall serve on an *ad hoc* basis as may be required given the volume and distribution of applications for parole and the hearing requirements at any given time, to be determined by the Registrar.

Procedure for
appointment of

197. (1) Upon commencement of this Act, and at any

members.

time thereafter that the Registrar of the National Parole Board determines it necessary for the efficient and effective discharge of the Parole Board's functions, the selection panel shall, by advertisement in at least two daily newspapers of national circulation, invite applications from persons who qualify for appointment as members of the National Parole Board under this Act.

(2) The selection panel shall—

- (a) consider the applications received under subsection (1) to determine their qualification in accordance with the provisions of the Constitution and this Act;
- (b) short list the applicants;
- (c) publish the names of the shortlisted applicants in at least two daily newspapers of national circulation;
- (d) conduct interviews of the shortlisted applicants in a process that is open to the public; and
- (e) recommend to the President a sufficient number of suitably qualified persons for appointment.

(3) In recommending and appointing members of the National Parole Board, the selection panel and the President shall—

- (a) have regard to ethnic and regional diversity of the people of Kenya; and
- (b) ensure that the full membership of the National Parole Board is in compliance with the two thirds gender principle.

(4) Within seven days of receipt of the list of persons nominated by the selection panel under (2), the President shall by notice in the published in the *Gazette*—

(a) appoint qualified persons to be members of the National Parole Board in such sufficient number to address the need as determined by the Registrar; and

(b) in accordance with Article 132(3)(b) of the Constitution and section 7 of the National Government Co-ordination Act, assign through the Cabinet Secretary responsible for correctional services, the responsibility of discharging the executive function of exercising the power of mercy under Article 133(1)(b) of the Constitution to the members of the National Parole Board.

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(5) Prior to assuming office, members of the National Parole Board shall, before the Chief Registrar, each make and subscribe to the oath or affirmation prescribed in the [Schedule to this Act](#).

Remuneration.

198. (1) Members of the National Parole Board shall be paid a sitting allowance for each petition that they hear, in an amount to be determined by the Registrar, taking into consideration the time and any expenses required for—

(a) preparation in advance of a hearing, including reviewing all reports submitted in support of the petition;

(b) hearing the petition, including any witnesses and victims;

(c) deliberations with the other members of the panel, and preparing a written decision; and

(d) travel to and from the prison where the hearing shall be held.

(2) The Registrar shall, in consultation with the Salaries and Remuneration Commission, cause a rate schedule to be prepared for this purpose.

Functions and
Powers of the
Parole Board.

199. (1) The functions of the National Parole Board shall be to—

- (a) receive, consider and grant or deny applications for parole from eligible offenders;
- (b) impose and vary conditions on the grant of parole;
- (c) revoke a grant of parole if a parolee re-offends;
- (d) hold hearings and make recommendations to the Committee in respect of conditional pardons;
- (e) undertake such other activities as may be necessary for the discharge of its functions and the exercise of its powers under this Act; and
- (f) carry out any other function as may be necessary for the proper discharge of its function.

(2) Except as provided for under this Act, the National Parole Board shall, in the performance of its functions, not be subject to the direction or control of any person or authority.

(3) For the purposes of carrying out the functions under subsection (1), members of the National Parole Board shall have the power to—

- (a) issue summons requiring the appearance before it of any person it considers necessary; and

- (b) issue a warrant of committal in respect of an offender whose parole is revoked.

Eligibility for Parole.

200. (1) The Parole Board shall in making a determination on petitions consider—

- (a) the age of the offender at the time of the commission of the offence;
- (b) the circumstances surrounding the commission of the offence;
- (c) whether the person, for whose benefit the petition is made, is a first offender;
- (d) the nature and seriousness of the offence;
- (e) risk and Needs assessment post-conviction on conduct, character and reputation of the convicted criminal offender;
- (f) the length of period so far served in prison by the offender;
- (g) the personal circumstances of the offender at the time of making the petition, including mental and physical health and any disabilities;
- (h) the interest of the State and community;
- (i) recommendations and reports from Kenya Prison Service and Probation Service; and
- (j) views of the victim where applicable.

(2) For the purpose of subsection (1), “eligibility period” means the minimum period of time that an offender

must serve the sentence imposed before becoming eligible to apply for parole in accordance with this Act.

(3) For greater certainty, offenders become eligible to apply for parole on the day after their eligibility period expires, and remain eligible to apply at any time after that, during the remainder of their sentence.

Parole for high-risk offenders.

201. (1) An offender who has been convicted of an offence that attract the possibility of life imprisonment but who is sentenced to a determinate period, where the offence is aggravated by one or more factors including—

- (a) a degree of violence, including the use of a weapon;
- (b) causing harm to multiple victims;
- (c) hate;
- (d) discrimination; or
- (e) the particular vulnerability of the victim, is liable for designation by the court as a high risk offender in accordance with the Criminal Procedure Code

(2) Designated high risk offenders are eligible to apply for parole, but are subject to strict supervision and conditions based on assessed risk factors, as set out in this Part.

Petition process.

202. (1) The Parole Board Case Management Committee at the prison where the offender is serving their sentence shall be responsible for assisting an eligible offender to petition for parole once the offender becomes eligible to apply for parole in accordance with this Part.

(2) Despite subsection (1), the Parole Board Case Management Committee, shall—

- (a) communicate with offenders once their period for parole eligibility approaches;
- (b) conduct interviews with offenders to obtain information required to satisfy the criteria considered in granting parole under this Part;
- (c) gather information from prison records and official to obtain information required to satisfy the criteria considered in granting parole;
- (d) carry out any investigation required to obtain information from persons outside of the prison;
- (e) identify any person who may be entitled to present a victim impact statement or otherwise participate in the hearing, and facilitate their participation;
- (f) prepare a Parole Report for submission to the National Parole Board.
- (g) undertake, or arrange to be undertaken, a Parole Risk Assessment or a Mental Health Report as may be applicable; and

(3) The Parole Report referred to in subsection (2)(f), shall contain information on—

- (a) the offence for which the offender has been serving a sentence;
- (b) the previous criminal record of the offender, if any;
- (c) the conduct of the offender during the sentence, including any record of discipline;

- (d) any rehabilitation programs or training undertaken by the offender during the sentence;
- (e) the offender's physical and mental health status;
- (f) the offender's plans post release, for example employment, schooling, or other activities;
- (g) any other information that is relevant to the offender's potential for successful reintegration into society; and
- (h) recommendations on the granting of parole or otherwise, including recommendations regarding any conditions to be imposed on a grant of parole.

(4) The Parole Risk Assessment referred to in subsection (2)(g), is based on a review of all available information about the offender with the objective of identifying risk factors in order to protect society after a parolee is released, and shall contain information on—

- (a) the social history of the offender and relationships including family and community ties;
- (b) the opinion of the victim regarding the possible release of the offender; and
- (c) the likelihood of recidivism and any other risk posed if the offender is released, and the manner in which any risk can be mitigated.

(5) In the case of an offender with a mental disability who has applied for parole, a Mental Health Report shall be prepared, which shall contain information on—

- (a) the nature of the mental illness and the effect, if any, it has on the ability of the offender to carry out daily activities;
- (b) any treatment that the offender is receiving, including any prescribed medication; and
- (c) the ability of the offender to continue accessing treatment if released, including the availability of rehabilitation services.

(6) The Probation Board Case Management Committee shall, in addition to the functions provided for in subsection (2), coordinate all cases to be placed before the National Parole Board for hearing, by ensuring that all the necessary documentation, including, the Parole Report, the Parole Risk Assessment and any Mental Health Report, is submitted to the National Parole Board prior to the hearing, and that all persons required to be in attendance are present during the hearing, including arranging for summons by the National Parole Board as necessary.

Guiding
principles for
decision- making.

203. (1) The National Parole Board shall be guided by—

- (a) consideration of community safety;
- (b) consideration of input from stakeholders such as victims and the offender's family members;
- (c) transparency and accountability, which includes provision of all relevant information to offenders, victims and the public, and clearly indicating reasons for decisions;
- (d) continuous skills development and training on risk assessment and other matters pertaining to parole to improve decision making;

- (e) information sharing with other stakeholders in the criminal justice sector for a coordinated system; and
- (f) collaboration and engagement with other stakeholders whenever required or appropriate.

Parole Board
Hearings.

204. (1) Parole hearings shall be conducted by a three-member panel of the National Parole Board, selected by the Registrar on an *ad hoc* basis from the *Gazetted* National Parole Board members who are available at the location and time set for a hearing.

(2) The panel as constituted in accordance with subsection (1), shall sit at a prison to hear petitions from the offenders serving sentences in that prison.

(3) The offender shall be entitled to be present, to make submissions including calling any person to be a witness in support, and to be represented by counsel or any other person as the offender may wish.

(4) At a hearing, the National Parole Board case manager shall be responsible for presenting the various reports to the National Parole Board, and for ensuring the attendance of any witness including parole or probation officers, victims, and any other person who has relevant information to be considered by the National Parole Board.

(5) The Parole Board shall have the power to determine and control its own procedure and shall not be bound by the strict rules of evidence.

(6) Parole hearings shall be open to the public except in circumstances where there is a demonstrated need to protect the privacy of any individual, in particular a vulnerable victim such as a child, if the specific privacy interests of the individual outweigh the public interest in an

open hearing.

(7) In cases where a vulnerable victim is involved, measures may be taken to protect privacy interests, including holding the whole or part of a hearing in camera.

(8) In appropriate circumstances and subject to available resources and facilities, hearings may be held virtually, so long as facilitation is made for participation of all persons who are entitled to be participate.

(9) All hearings shall be recorded, and recordings shall be maintained and stored by the Registrar in a secure manner.

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(10) Recordings of hearings, or transcripts thereof, may be made available upon request through access to information procedures, for free or at a reasonable cost for transcription, pursuant to the Access to Information Act.

(11) The Probation Board Case Management Committee may retain legal counsel to advise the National Parole Board on any procedural aspect of a parole hearing, including requests by any person for a closed hearing, as may be necessary in the circumstances, but any such counsel may not participate in the substantive decision making by the National Parole Board.

*Victim
Participation.*

205. (1) A Victim shall be entitled to participate in the parole hearing and submit either orally or in writing, a victim impact statement containing information on—

- (a) the physical and emotional harm caused to them as a result of the offence, including any ongoing disability and medical needs;
- (b) the financial and social harm caused, including effects on the victim's personal relationships; and

- (c) any safety concerns in the event that the offender is released.

(2) The National Parole Board case manager shall be responsible for—

- (a) identifying victims of offenders who have applied for parole;
- (b) sensitizing the victim on the process and implications of parole; and
- (c) facilitating victim participation in the process including—
 - (i) informing the victim of the date, time and location of a parole hearing, including arranging for access to the prison or facilitating participation in any virtual hearing by the victim and any representative or support person, who shall be identified by the victim in advance;
 - (ii) ensuring the submission of any victim impact statement; and
 - (iii) liaising with the Victim Protection Board or the Witness Protection Agency for identification and coordination of such assistance for the victim as may be relevant and appropriate in the circumstance.

Factors to be considered.

206. The National Parole Board shall consider all relevant information prior to making a decision to grant or deny parole, including—

- (a) the circumstances of the offence;
- (b) the perspective and attitude of the offender towards the offence, including any remorse shown and efforts to make restitution to the victim;
- (c) the relationship of the offender with family, peers and others in the community;
- (d) the employment history or previous economic engagements of the offender;
- (e) criminal record of the offender and any other history of previous antisocial behaviour;
- (f) social issues such as a history of family violence and alcohol or substance abuse;
- (g) the mental status of the offender and potential impact on the ability to re-offend, including whether the offender has received treatment for mental illness, in the form of a Mental Health Report from qualified professionals;
- (h) opinions from professionals that have direct contact with or knowledge of the offender such as correctional service staff, police or probation officers;
- (i) the conduct of the offender, post-conviction, including prison disciplinary records and participation of the offender in rehabilitation programs while incarcerated such as skills training or formal education that could aid rehabilitation and reintegration post-release;
- (j) views of victims and the family offender and community members concerning the proposed

release of the offender; and

- (k) any other information that could be indicative of the risk that the offenders could pose to the community in the case of release.

Parole conditions
and
release criteria.

207. (1) Pursuant to section 212, and on supervision of the offender by a parole officer, the National Parole Board may grant parole and order that the offender be released to serve the remainder of the sentence in accordance with conditions individually tailored to address the rehabilitation and reintegration needs of the particular offender.

(2) Despite subsection (1), the National Parole Board may impose other conditions upon the offender to the effect that the offender shall—

- (a) spend a specified period of time in a halfway house or similar structured interim release program, before full release with conditions;
- (b) report to their parole officer at specified times and place;
- (c) live at a specified location or with a specified person;
- (d) avoid taking or abusing alcohol or drugs;
- (e) avoid contact with the victim or former criminal associates;
- (f) refrain from committing any other criminal offence;
- (g) participate in a rehabilitation program or educational activities;

(h) actively seek employment or other income generating opportunities; and

(i) be supervised by a social worker, where the offender is under the age of twenty-two or as otherwise deemed to be in the best interests of the rehabilitation and reintegration of the offender.

(3) In determining the conditions to impose on a parolee, the National Parole Board shall have regard to any recommendations made by the Court at the time of sentencing that are tailored to the specific offender and circumstances of the offence.

(4) Where an offender is designated as a high risk offender, the National Parole Board shall not grant parole if it determines that there is a reasonable likelihood that the offender will commit a further violent offence.

(5) In making a determination under subsection (4), the National Parole Board may take into account any violent behaviour of the offender while in prison, including the absence thereof.

(6) In addition to the conditions that may be imposed in (3), further conditions may be imposed for high-risk offenders, as appropriate in the individual circumstances, which may include—

(a) reporting directly to the police on a regular basis, in addition to regular reporting to a parole officer; or

(b) a requirement for periodic risk assessments by a mental health professional.

(7) A parole officer assigned to supervise a high risk offender, may revoke a grant of parole and apply for the offender to be committed in custody, where the parole

officer, is of the opinion at any time, that the parolee poses a great risk to the community.

(8) An offender released on parole must comply with all conditions imposed, failure to which, may result into a revocation of parole in accordance with section 183.

(9) Where the parole of a high risk offender is not revoked for the entire time remaining in the sentence, the offender shall thereafter be considered as having completed the sentence, and shall be entitled to enjoy full freedom.

(10) An offender sentenced to life imprisonment who is granted parole shall remain on parole for the remainder of his or her life, unless parole is revoked in accordance with section 183.

Decisions of
the
Parole
Board.

208. (1) A decision of the National Parole Board shall be by consensus or by a majority of the panel hearing the petition.

(2) The decision shall be in writing and include substantive reasons for the decision made, including a decision to deny parole, impose conditions, or make any other orders such as holding a hearing in camera.

(3) A member of the panel who disagrees with the majority decision may provide their own reasons in dissent, but shall not be required to do so.

(4) Copies of the Parole Board decision shall be provided to—

(a) the offender;

(b) any other person who made submissions at the parole hearing, including victims; and

(c) any person who is responsible for

implementing any aspect of the decision, including a parole officer.

Review of
Parole Board
Decisions.

209. (1) A decision of the National Parole Board are subject to review by a review sub-committee.

(2) Despite subsection (1), a denial of parole shall be reviewed by the National Parole Board annually, including holding a hearing and considering any updated information about the offender, until the offender is granted parole or serves the remainder of his or her sentence.

Revocation of
Parole

210. (1) A parole may be revoked at any time by the National Parole Board—

- (a) on the recommendation of the assigned parole officer, if the parolee re-offends or otherwise breaches any of the conditions imposed; or
- (b) without such recommendation, where the National Parole Board considers it necessary in the interest of the parolee or public safety.

(2) Prior to revoking a grant of parole, the National Parole Board shall—

- (a) inform the parolee in writing of its intention to consider revocation, including the reasons therefore; and
- (b) provide the parolee an opportunity to make representations in this respect to the Board, and may hold a hearing for this purpose.

(3) The National Parole Board shall in writing, provide reasons for such revocation.

Secretariat of the
National Parole
Board.

211. The Secretariat of the National Parole Board shall be the Ministry for the time being responsible for

correctional services

Supervision of
Parolees.

212. The Kenya Probation Service shall be responsible for supervision of all parolees.

PART X—MISCELLANEOUS PROVISIONS

Powers of the
Cabinet
Secretary.

213. (1) The Cabinet Secretary may at any time visit any prison and exercise all or any of the powers of a visiting justice, and may enter any observations necessary to make in reference to the condition of the prison and the offenders, in a visitors' book to be kept for that purpose by the officer in charge.

(2) The officer in charge shall inform the Commissioner in writing, of any observations so entered in the visitors' book

Power to make
rules.

214. (1) The Cabinet Secretary may make rules for the better carrying into effect of the provisions and purposes of this Act and, without prejudice to the generality of the foregoing, may make rules providing for—

- (a) the classification of prisons and offenders into categories, and their separation accordingly;
- (b) the duties and responsibilities of prison officers, including the duties and responsibilities of particular classes of such officers;
- (c) the disciplinary control of prison officers;
- (d) the duties and powers of visiting justices;
- (e) the duties of medical officers; the medical inspection of prisons and offenders; and the prevention of contagious diseases in prisons;
- (f) the safe custody, management, organization,

hours, mode and kind of labour and employment, clothing, maintenance, instruction, discipline, treatment, restraint, correction and discharge of offenders and the manner in which prison offences shall be tried;

- (g) the provision of a suitable diet and dietary scales, including punishment diet for offenders and prescribing the conditions under which such diet and scale may be varied;
- (h) the construction, description, equipment and supervision of cells and wards;
- (i) the payment of offenders for work done while in prison;
- (j) the establishment of a prisons' rewards and fines fund and the method of administration of such fund by the Commissioner;
- (k) the establishment of offenders' aid associations and societies in connection with discharged offenders and the appointment of officers responsible for the aftercare of offenders;
- (l) the medical examination, measuring, photographing and taking of fingerprint impressions, footprints and casts thereof, palm prints or other records of offenders, detained in any prison or otherwise detained in custody, including detailed personal statistics and histories, and for requiring full and truthful answers to all questions put to such persons with the object of obtaining such statistics and histories; and the person, if any, to whom such measurements, photographs, fingerprint impressions, footprints and casts thereof, palm prints or other records are to be sent or supplied;

- (m) the disposal of products of prison labour;
- (n) the disposal of offenders' property left unclaimed for a prescribed period, including its sale and the disposal of the proceeds of such sale
- (o) the manner in which the remission of sentences, including any period of public work, shall be calculated;
- (p) the manner in which petitions by offenders to the President shall be presented;
- (q) suitable diet and dietary scales or ration allowances for persons employed on public work;
- (r) guidelines and parameters for engaging with partners or stakeholders of the Service; and
- (s) any other matter which by this Act may or is required to be prescribed, and generally for the good management and government of correctional services.

(2) Notwithstanding anything to the contrary in this section contained, the Cabinet Secretary may make different rules in respect of different classes, categories or groups of prisons, offenders or prison officers, or in respect of particular prisons.

PART XI — REPEALS, TRANSITIONAL AND SAVING PROVISIONS

Repeal of Cap.
90.

215. The Prisons Act is repealed.

Saving and
transitional
provisions (Cap.
90.)

216. (1) In this section—

“Commissioner” means the Commissioner-General of Prisons appointed under the repealed Act;

“former Service” means the Kenya Prisons Service established under the repealed Act;

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“repealed Act” means the Prisons Act.

(2) Upon the commencement of this Act—

- (a) any reference to the repealed Act under any written law shall be construed as a reference to this Act;
- (b) Any rights, obligations, assets and liabilities of the former Service existing at the commencement of this Act are vested in the Kenya Prison Service established under this Act;
- (c) any funds, assets and other property, movable and immovable which immediately before the commencement of this Act, were held by or on behalf of the former Service shall vest in the Kenya Prison Service.
- (d) any action, suits or legal proceedings by or against the former Service shall be carried on or prosecuted by or against the Kenya Prison Service;
- (e) any rights and obligations vested in or enforceable by or against the Commissioner under the repealed Act shall, unless otherwise provided, vest in the Commissioner General under this Act;
- (f) any person who immediately before the commencement of this Act was an officer or

employee serving at the former Service shall be deemed to be an employee of the Kenya Prison Service established under this Act;

(g) any instruction, directive, order, licence or other administrative measures taken or issued under the repealed Act shall—

(i) be deemed to be an instruction, directive, order, licence or other administrative measures taken or issued under this Act; and

(ii) continue to have effect as if it had been issued under this Act until otherwise revoked.

(2) Any statutory instrument issued by the Cabinet Secretary of the Commissioner General under the Borstal Institutions Act before the commencement of this Act shall be deemed to be a statutory instrument issued under this Act and shall remain in force until revoked by an instrument made in accordance with this Act.

Repeal of Cap.
92.

217. Subject to [section 230](#), the Borstal Institutions Act is repealed.

Saving and
transitional
provisions (Cap.
92).

218. (1) In this section—

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“borstal institution” means an institution established as a borstal institution under the repealed Act;

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“Commissioner” means the Commissioner General of Prisons appointed under the Prisons Act;

“repealed Act” means the Borstal Institutions Act;

(2) Upon the commencement of this Act—

- (a) any reference to the repealed Act under any written law shall be construed as a reference to this Act;
- (b) any rights and obligations vested in or enforceable by or against the Commissioner under the repealed Act shall by virtue of this subsection vest in the Commissioner General under this Act;
- (c) any reference in any written law, document or instrument to a borstal institution shall be deemed to be a reference to a young offender institution established under this Act.
- (d) any instruction, directive, committal order or licence issued under the repealed Act shall—
 - (iii) be deemed to be an instruction, directive, committal order or licence issued under this Act;
 - (iv) continue to have effect as if it had been issued under this Act until otherwise revoked.
- (e) any person who immediately before the commencement of this Act was—
 - (i) member of the Board of visitors of a borstal institution shall be deemed to be a member of the Board of the respective young offender institution for the unexpired period of that person's tenure;
 - (ii) an officer or employee of a borstal institution shall be deemed to be a

member of staff of the Kenya Prison Service.

(2) Any statutory instrument issued by the Cabinet Secretary of the Commissioner General under the repealed Act before the commencement of this Act shall be deemed to be a statutory instrument issued under this Act and shall remain in force until revoked by an instrument made in accordance with this Act.

Transition and
saving provisions
for the former
Probation
Service.

219. (1) Upon the commencement of this Act—

- (a) any reference to the former Probation Service shall be deemed to be a reference to the Kenya Probation Service;
- (b) any rights and obligations of the former Probation Service existing before the commencement of this Act shall, by virtue of this section, vest in the Kenya Probation Service;
- (c) any assets and liabilities which, immediately before the commencement of this Act, vested in or were held for and on behalf of the former Probation Service shall, by virtue of this section, vest in the Kenya Probation Service;
- (d) any person who immediately before the commencement of this Act was serving as an officer or employee of the Government in the former Probation Service shall be deemed to be an officer or employee of the Kenya Probation Service.

(2) In this section “former Probation Service” means

the Probation and After Care Service established as a Department within the Ministry responsible for matters relating correctional Services.

SCHEDULES