



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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MINISTRY OF SAFETY AND SECURITY

No. 330 2013

COMMENCEMENT OF THE CORRECTIONAL SERVICE ACT, 2012 (ACT NO. 9 OF 2012)

In terms of section 135(1) of the Correctional Service Act, 2012 (Act No. 9 of 2012), I determine that, the said Act comes into operation on 01 January 2014.

I. NGATJIZEKO

MINISTER OF SAFETY AND SECURITY

Windhoek, 6 December 2013

MINISTRY OF SAFETY AND SECURITY

No. 331 2013

NAMIBIAN CORRECTIONAL SERVICE REGULATIONS: CORRECTIONAL SERVICE ACT, 2012

Under section 132 of the Correctional Service Act, 2012 (Act No. 9 of 2012), I have -

(a) made the regulations set out in the Schedule; and

- (b) repealed the Regulations published under Government Notices Nos. 266 of 8 November 2001, 34 of 13 March 2009 and 134 of 5 June 2009.

I. NGATJIZEKO

MINISTER OF SAFETY AND SECURITY

Windhoek, 28 November 2013

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SCHEDULE

ARRANGEMENT OF REGULATIONS

CHAPTER 1
INTRODUCTORY PROVISIONS AND INTERPRETATION

Definitions

1. In these regulations, unless the context otherwise indicates, a word or expression defined in the Act has that meaning, and -

“chairperson” means the chairperson of the disciplinary board designated under section 51(3) of the Act;

“fixed establishment” means the posts created for the normal and regular requirements of the Correctional Service;

“head of office or work place” means an officer in charge of office or work place;

“initiator” means an officer assigned by the Commissioner-General to lead evidence during an inquiry;

“inquiry” means a disciplinary inquiry;

“legal representative” includes any person who can properly represent a charged officer;

“medical service personnel” means a medical officer or a nurse appointed, designated or engaged as such for a correctional facility;

“misconduct” means any contravention of, or failure to comply with, any provision of the Act or these Regulations, Commissioner-General’s directives, Institutional Orders, instructions issued by the officer in charge or head of office or work place or the commission of any other offence;

“next of kin” means the offender’s next of kin;

“officer” means a correctional officer;

“prescribed” means prescribed by the rules made under these regulations;

“prohibited article” means an article referred to in regulation 172(2);

“Public Service Act” means the Public Service Act, 1995 (Act No. 13 of 1995);

“Public Service Staff Rules” means the Public Service Staff Rules referred to in section 35 of the Public Service Act, 1995 (Act No. 13 of 1995);

“record” means to take down in writing or in shorthand or by mechanical means;

“Release Board” means the National Release Board established under section 104 of the Act;

“the Act” means the Correctional Service Act, 2012 (Act No. 9 of 2012);

“uniform” means buttons, badges of rank, distinctive badges and other badges, articles of uniform and equipment, clothing and accoutrement of any nature prescribed in terms of regulation 21;

“work place” means -

- (a) a department, directorate or division within the Correctional Service;
- (b) a Correctional Service training college;
- (c) the Correctional Service logistics; or
- (d) a Correctional Service regional command.

(2) Any expression appearing in Chapter 2 and not defined in this Chapter has, unless the context indicates otherwise, the same meaning as that assigned to it by the Public Service Act, the Public Service Regulations and Public Service Staff Rules.

(3) The provisions of the Public Service Act, the Public Service Regulations and Public Service Staff Rules applicable to officers apply to any aspect pertaining to personnel, which has not been dealt with in Chapter 2.

CHAPTER 2 PERSONNEL PROVISIONS

PART 1

DISTRIBUTION AND SERVICE OF OFFICERS AND RANKS IN CORRECTIONAL SERVICE

Determination of establishment and distribution of officers

2. (1) The fixed establishment of the Namibian Correctional Service is determined by the Commissioner-General with the concurrence of the Minister, for the normal and regular requirements of the Correctional Service.

(2) The Commissioner-General must make recommendations to the Minister as to the number, grading, re-grading, conversion or abolition of posts constituting part of the fixed establishment, including any reduction in or reorganization or readjustment of the Correctional Service.

(3) Any recommendation referred to in subregulation (2) which involves expenditure from the revenue, may not, if approved by the Minister, be carried out unless prior approval for such expenditure has been obtained from Treasury.

(4) The Commissioner-General determines the distribution of officers in all correctional facilities, offices and work places.

Officers liable for service anywhere in Namibia

3. Whenever the interests of the Correctional Service so require, an officer is liable to serve in any part of Namibia and he or she may be transferred from -

- (a) one correctional facility to another;
- (b) a correctional facility to an office or work place;
- (c) an office or work place to a correctional facility; or
- (d) one office or work place to another office or work place.

Ranks in Correctional Service

4. The ranks in the Correctional Service, in order of precedence, are as set out in Annexure 1.

Precedence and seniority in rank of officers

5. (1) Officers of the same rank take seniority of rank according to the respective dates of their appointments to such rank.

(2) If two or more officers of the same rank are appointed on the same date, their seniority of rank is, subject to subregulation (4), determined by the date of their appointment to the preceding lower ranks.

(3) If two or more officers of the same rank are appointed on the same dates even in the preceding lower ranks or are at the lowest rank, their precedence of rank is, subject to regulation (4),

determined by the Force Number of officers, whereby an officer with a small Force Number is senior to that with a big Force Number.

(4) An officer in charge of a particular correctional facility or a head of office or work place has command over all other officers under his or her command, irrespective of seniority in service or rank, and all such officers are to obey all lawful orders from such officer in charge or head of office or work place.

Retention of rank on leaving Correctional Service and award of honorary rank

6. (1) The Commissioner-General, on retirement, resignation, discharge on medical grounds or appointment by the President or Cabinet to another office to which the Act does not apply, retains his or her rank and subregulations (5), (6) and (7) apply with necessary changes.

(2) Subject to subregulation (3), an officer who leaves the Correctional Service for any reason, forfeits his or her rank.

(3) Despite subregulation (2), the Commissioner-General may permit a senior officer who has consistently fulfilled his or her functions and who has displayed an irreproachable character and exemplary conduct to retain his or her rank and in a specially deserving case may, subject to the following requirements, grant him or her a higher honorary rank as follows -

- (a) to a Superintendent, the honorary rank of Senior Superintendent if he or she has served at least five years as a Superintendent;
- (b) to a Senior Superintendent, the honorary rank of Assistant Commissioner if he or she has served at least 10 years as a senior officer or has held the rank of Senior Superintendent for at least five years;
- (c) to an Assistant Commissioner, the honorary rank of Deputy Commissioner if he or she has served at least 15 years as a senior officer or has held the rank of Assistant Commissioner for at least five years;
- (d) to a Deputy Commissioner, the honorary rank of Commissioner if he or she has served at least 20 years as a senior prison member or has held the rank of Deputy Commissioner for at least five years;
- (e) to a Commissioner, the honorary rank of Deputy Commissioner-General if he or she has served at least 25 years as a senior officer or has held the rank of Commissioner for at least five years.

(4) In an exceptional case, the Commissioner-General may grant the senior officer referred to in subregulation (3) who has rendered particularly meritorious or exemplary service, the next higher honorary rank, despite the fact that the relative requirements under paragraphs (a) to (e) of that subregulation have not been complied with.

(5) A person who, in terms of subregulation (3), has been granted permission to retain his or her rank or on whom a higher honorary rank has been conferred, is allowed to retain the ceremonial uniform applicable to his or her rank or higher honorary rank and may wear the uniform, on prescribed State and other occasions.

(6) The granting of permission to retain rank, or the conferring of a higher honorary rank, to a person in terms of subregulation (3), does not vest in such person any authority in terms of the Act or these regulations after he or she has left the Correctional Service.

(7) Despite subregulation (6), officers must give such compliments to a person who has been granted permission to retain his or her rank or on whom a higher honorary rank has been conferred in terms of subregulation (3) as are given to officers of the rank so retained or conferred.

PART 2

FUNCTIONS AND DUTIES OF COMMISSIONER-GENERAL AND OFFICERS

Commissioner-General

7. (1) The Commissioner-General is responsible for the effective performance of the functions of the Correctional Service as provided under section 3 of the Act, the maintenance of discipline, efficient administration and the proper use and care of state property under the control or use of the Correctional Service.

(2) In addition to any function or duty lawfully assigned to or imposed upon the Commissioner-General, he or she may -

(a) subject to sections 6 and 17 of the State Finance Act, 1991 (Act No. 31 of 1991) -

(i) establish offices, training centres or any other work places;

(ii) purchase or hire supplies, arms, ammunition, accessories and other equipment, means of transport required for the Correctional Service; and

(iii) generally incur such expenditure as he or she may deem necessary or expedient for the efficient administration and control of the Correctional Service;

(b) sub-divide the Correctional Service into different Departments, Directorates, Command areas, Divisions and subdivisions and assign such designation to such Departments, Directorates, Command areas, Divisions and subdivisions and the personnel attached thereto as he or she may consider fit.

(3) In the application of the Public Service Regulations to officers by virtue of section 36(b) of the Public Service Act -

(a) any power, duty or function conferred or imposed on a Permanent Secretary by those regulations is deemed to be a power, duty or function conferred or imposed on the Commissioner-General, and

(b) any reference in those regulations to a ministry is construed as including a reference to the Correctional Service.

(4) The Commissioner-General may make rules relating to personnel and to matters required or permitted to be prescribed under these regulations.

Duties of officer in charge or head of office or work place

8. (1) The officer in charge or head of office or work place is responsible to the Commissioner-General for the maintenance of efficient administration, discipline and proper use and care of State property at any correctional facility, office or work place under his or her command.

(2) In order to ensure the efficient administration, discipline and care of State property at the correctional facility, office or workplace, the officer in charge or head of office or work place may, in such form and manner as he or she may determine, issue institutional orders or guidelines but

such orders or guidelines may not contradict the Act, these Regulations or any rule, order or directive issued or made by the Commissioner-General, on a similar matter.

(3) Officers and other persons at the correctional facility, office or work place must obey the institutional orders or guidelines issued under subregulation (2).

Officers to place full services and time at disposal of State

9. (1) An officer must place his or her full services at the disposal of the State, and he or she may, as the Commissioner-General, officer in charge or head of office or work place generally or specially determines, be required to perform official duty on any day of the week or at any time during the day or night or to attend at his or her normal place of work or elsewhere for such duty.

(2) An officer may not, without the permission of the Commissioner-General, perform or engage himself or herself in any remunerative work outside his or her employment in the Correctional Service.

(3) Subject to subregulation (2), the provisions of section 17 of the Public Service Act apply in relation to an officer performing or engaging himself or herself in a remunerative work outside his or her employment in the Correctional Service.

Officers not to employ, permit or authorise employment of other officers or staff members who are on duty in service of State

10. An officer may not, other than for the exclusive benefit of the State, employ or permit or authorise the employment of the services of another officer or a staff member as defined in the Public Service Act, during times when such other officer or staff member is on duty in the service of the State.

No right to claim for additional remuneration for services rendered

11. (1) An officer may not as of right claim any additional remuneration in respect of any official duty or work which is performed or is required to be performed by him or her in addition to his or her ordinary official duties or work.

(2) Where an officer is required to perform official duties or work after his or her official working hours, such officer must be compensated as prescribed.

PART 3 PARTICIPATION IN SPORT

Participation in sport and recreation

12. (1) The officer in charge or head of office or work place must give opportunity for officers and staff members under his or her command to participate in amateur sport on such conditions as the Commissioner-General may determine.

(2) Subject to subregulation (3), an officer may participate in any amateur sport which he or she may choose from a list of sports indicated by the Commissioner-General, the officer in charge or head of office or work place for that purpose.

(3) An officer may participate in any other sport that is not in the list referred to in subregulation (2) but such participation must be at the officer's own time, cost and risk.

(4) Subject to the other provisions of this regulation, an officer who serves in a full-time capacity is deemed to be on official duty during any period in which he or she

- (a) acting on instructions from the Commissioner-General or any senior officer authorised to give such instructions, travels to or from, or participates in an exercise, performance, display, contest or competition in connection with a form of sport approved in his or her particular case;
- (b) in an official capacity officiates at, or, acting on instructions, travels to or from an exercise, performance, display, contest or competition which is referred to in paragraph (a).

(5) An officer who, with permission from the Commissioner-General or any senior officer authorised to grant such permission, participates in an authorised sport as a member or official of a team selected at local, regional or national level, is, in the case of injury sustained as a member or official in the course of such competition, contest or exercise, deemed to be on official duty and such injury is deemed to be sustained in the course of duty.

PART 4 APPOINTMENT OF OFFICERS

Appointment of senior and junior officers

13. The appointment of senior and junior officers is done in accordance with section 8(1) of the Act and with due consideration of the prescribed recruitment policy of the Correctional Service.

Appointment of persons as officers on contract

14. (1) The Commissioner-General may appoint on contract a person who is a Namibian citizen as an officer in a vacancy on the fixed establishment or additional to the fixed establishment as the Commissioner-General may consider necessary.

(2) Subject to subregulation (4), the Commissioner-General may appoint on contract a person who is a non-Namibian citizen as an officer in a vacancy on the fixed establishment or additional to the fixed establishment where -

- (a) such non-Namibian citizen is having specialized knowledge and skill required in the Correctional Service and the Namibian job market cannot provide a Namibian citizen with the required knowledge and skills; or
- (b) there is a common knowledge that Namibian citizens with the required knowledge and skills are scarce or are not readily available.

(3) The appointment of persons on contract as officers is done in a prescribed manner and subject to prescribed conditions.

(4) The appointment of a non-Namibian citizen on contract is subject to the approval of the Minister.

Conditions of probation and confirmation of appointment of officers

15. (1) Subject to this regulation, the appointment of senior or junior officer under section 8(1) of the Act is on a permanent basis with effect from the date of his or her assumption of duty.

(2) The first year of service of a senior or junior officer must be on probation, but the probationary period of service of a senior or junior officer is extended by the number of days of leave taken by him or her during the period of probation or any extension of that period.

(3) The probationary period of a senior or junior officer may, on good and sufficient grounds, be extended by the Commissioner-General for such period as he or she considers to be necessary, but not exceeding one year.

(4) If, at any time during the probationary period or extended probationary period, it appears that a senior or junior officer is unfit or for any other reason unsuitable for further retention in the Correctional Service, the Commissioner-General may terminate his or her service on 30 days' written notice after being heard.

(5) If the officer in charge or head of office or work place certifies that the senior or junior officer concerned has been diligent and his or her conduct uniformly satisfactory during the period of probation or extended probation and that he or she is in all respects suitable for further retention in the service of the Correctional Service, the Commissioner-General may confirm the appointment of such officer.

(6) The monitoring of a senior or junior officer during the probationary period and his or her confirmation of appointment is done in a form and manner as prescribed.

Oath of office of officers

16. On appointment, the senior or junior officer must take oath of office in the prescribed form and manner.

Scope of appointment of temporary officers

17. The Commissioner-General in terms of, or the officer in charge subject to, section 11 of the Act, may appoint a temporary officer -

- (a) in a vacancy on the fixed establishment; or
- (b) additional to the fixed establishment -
 - (i) under a special contract, whether in a full-time or part-time capacity;
 - (ii) for the removal of an offender from one correctional facility to another or to and from court or other place;
 - (iii) for the safe custody of offenders -
 - (aa) whenever abnormal circumstances at a correctional facility require such appointment;
 - (bb) where that person is also the hirer of the offenders' labour;
 - (cc) where that person is the employee of the hirer of the offenders' labour concerned.

Conditions of appointment of temporary officers

18. The appointment of a temporary officer in terms of regulation 17 is subject to the conditions and the taking of an oath of office as prescribed.

Certificates of appointment

19. A certificate of appointment in the prescribed form with the officer's photo affixed thereto and duly signed as prescribed is issued to every officer.

PART 5
TRAINING AND UNIFORM

Prescribed courses of training for officers

20. The Commissioner-General may order an officer to undergo a prescribed course of training at the training college or at any other place and on the completion of the course of training to undergo such further training as determined by him or her.

Issuing, wearing, maintenance and return of articles of prescribed uniform and equipment

21. (1) The kind, quality, model, design or pattern and the quantity or articles of uniform and equipment and accoutrement of any nature, which an officer must possess and maintain in connection with the discharge of his or her duties and which may be supplied at the expense of the Correctional Service, as well as the time of issue and the periods of serviceability of such articles of uniform, equipment and accoutrement, are prescribed from time to time with due regard to such officer's functions and the rank which he or she holds.

(2) The uniform referred to in subregulation (1) must be worn only in accordance with the prescribed dress code.

(3) Unless exempted in terms of subregulation (4), an officer must at all times be dressed in a complete and serviceable article of uniform and equipment prescribed in terms of subregulation (1) in respect of the rank which he or she holds.

(4) The Commissioner-General may, on such conditions as he or she may determine, exempt an officer or category of officers from any of the provisions of subregulations (1) to (3).

(5) Any article of uniform and equipment and accoutrement issued to an officer in terms of subregulation (1), remains the property of the Correctional Service and is to be returned when replaced or when such officer, subject to regulation 6(5), resigns or retires, or is dismissed or discharged or dies.

Damage and abnormal wear and tear of uniform

22. Subject to Treasury Instructions, the Commissioner-General may approve the payment of full or partial compensation for the repair or replacement of any piece of uniform or private property of an officer, which has unavoidably been damaged or lost in the performance of duty by such officer, or which has had to be subjected to abnormal wear and tear in the performance of any special type of duty or work.

Additional personal equipment required for work

23. An officer employed as an artisan, hospital attendant, chauffeur may be supplied with a free issue of personal equipment necessary for such employment or work as determined by the Commissioner-General.

Reimbursement of officers on change of, or additions to, uniform

24. The reasonable cost of any articles of uniform or equipment, which an officer in consequence of a change of pattern or addition to the prescribed uniform, necessarily has had to

acquire, may be refunded to him or her by the Commissioner-General with the approval of Treasury, but such refund may only be made if prior written approval was given by the Commissioner-General to incur the cost.

Issuing of prescribed articles of uniform or equipment to officers on in-service courses

25. The Commissioner-General may authorise a free issue from stores of any prescribed articles of uniform or equipment to an officer who has been ordered to attend an in-service course.

Compensation of officers on change of work

26. If, in the opinion of the Commissioner-General, an officer, who has been transferred from one correctional facility or office or work place to another or assigned to a foreign mission, has in consequence of such transfer or assignment had to incur expense in acquiring additional articles of uniform or equipment, he or she may authorise a payment to such officer, from public funds, of an amount not exceeding the stores issue cost of such articles.

PART 6 PROMOTION, SALARY AND ALLOWANCES

Requirements for promotion of officers

27. (1) The Commissioner-General decides the promotion of an officer according to the personnel requirements of the Correctional Service and with due regard to the prescribed promotion policy of the Correctional Service.

(2) The promotion of an officer is on probation and regulation 15(2), (3) and (5), apply, with necessary changes, to such promotion.

(3) Unless otherwise decided by the Minister, on the recommendation by the Commissioner-General, where the promotion of an officer is not confirmed after the probation period and any extension of the period, such officer may -

- (a) revert to the post previously held by him or her or to any other post of an equivalent grade, and to the salary and salary scale he or she would have attained in his or her previous post and any equivalent benefits applicable to such previous post; or
- (b) be employed additional to the establishment on a suitable grade with an appropriate rank, salary and salary scale.

(4) The monitoring of an officer during the probation period and his or her confirmation of promotion is done in a form and manner as prescribed.

Promotion of officers within appropriate correctional facility, office or work place

28. (1) The Commissioner-General may limit the promotion of an officer to the correctional facility, office or work place to which he or she is assigned, but may, if the officer is suitable and qualified and otherwise eligible for appointment in another correctional facility, office or work place, promote him or her to a post in that other correctional facility, office or work place.

- (2) The Commissioner-General may transfer an officer from -
 - (a) one correctional facility to another;
 - (b) a correctional facility to an office or work place;

- (c) an office or work place to a correctional facility; or
- (d) one office or work place to another office or work place,

whether on promotion or otherwise.

Salary scales, increment and notches

29. The scales, increments, notches and other matters related to the salaries and allowances payable to an officer are dealt with in accordance with section 13 of the Public Service Act.

PART 7 MEDICAL PROVISIONS

Submission of officers to medical examination and treatment

- 30.** (1) The Commissioner-General may at any time require an officer -
- (a) who is alleged or suspected to be indisposed to submit himself or herself to an examination by a medical officer or other registered medical practitioner or dentist indicated by the Commissioner-General or to undergo such examination in the hospital or to be admitted to any hospital and to undergo medical or dental treatment there;
 - (b) to submit himself or herself to a medical examination referred to in paragraph (a) for the purpose of obtaining a report on his or her general state of health or with a view to the constitution of a medical board for the further examination of such officer;
 - (c) to submit to a medical or other examination to determine whether any infection of a contagious disease occurred or that an officer be immunised against a contagious disease to prevent an epidemic.

(2) An officer who does not make use of medical services on grounds of religious or conscientious objections, may be exempted on application from such examination or immunization.

(3) The cost of the examination, treatment or immunization referred to in subregulation (1) is paid from public funds.

Submission of reports of unfitness of officers to Commissioner-General

31. Whether a medical officer or other medical practitioner reports that, in his or her opinion, an officer has become or is likely to become medically unfit to remain in the Correctional Service, such report must be submitted without delay to the Commissioner-General.

Conducting of examination by medical board

32. (1) The Commissioner-General may at any time require that an officer submit himself or herself at a given time and place for an examination by a medical board constituted by the Permanent Secretary: Health and Social Services.

(2) The cost of the examination referred to in subregulation (1) is paid from public funds.

(3) The officer referred to in subregulation (1) may, if he or she so desires, arrange at his or her own expense for his or her private medical practitioner to be present at the proceedings of the medical board.

Record of proceedings, submission of record of proceedings and submission of report

33. (1) The proceedings of the medical board referred to in regulation 32(3) must be recorded and signed by the medical practitioners constituting such board and must include the board's report, findings, recommendation and any subsidiary medical or other reports, as well as any minority report and the representations or recommendations by the private medical practitioner, if any, of such an officer.

(2) The record of the proceedings of the medical board referred to in subregulation (1), must be transmitted without delay to the Commissioner-General who may decide whether the officer examined by a medical board in terms of regulation 32(1) must be -

- (a) discharged as medically unfit for further service;
- (b) granted leave of absence; or
- (c) medically re-examined.

Medical, dental and hospital treatment of officers

34. The cost of any medical, dental and hospital treatment or aid rendered to an officer due to an injury sustained in an accident arising out and in the course of his or her duties or due to a disease contracted in the course of and as a result of his or her duties, is paid from public funds in accordance with the tariffs laid down in terms of the Employees' Compensation Act, 1941 (Act No. 30 of 1941).

PART 8 OFFICIAL RESIDENTIAL QUARTERS

Occupation of official quarters by officers

35. The occupation of official quarters by officers is in accordance with the Regulations made by the Prime Minister under section 34(1)(c) of the Public Service Act.

Commissioner-General to prescribe certain matters relating to official quarters

36. The Commissioner-General may prescribe any matter relating to occupation of official quarters which is not provided for in the Regulations referred to in regulation 35 or, if provided for, is not applicable to officers.

PART 9 LEAVE

General provision

37. The leave conditions of officers are as prescribed.

Leave applications of officers

38. The leave application of an officer must be made on a prescribed form.

Channelling of leave applications of officers

39. (1) The leave application of an officer, not being an officer in charge or the head of office or work place is channelled through and approved by the officer in charge or the head of office or work place or his or her delegate.

(2) The leave application of the officer in charge or the head of office or work place is channelled to and approved by the Commissioner-General or his or her delegate.

PART 10**OFFICIAL JOURNEYS, TRANSPORT AND SUBSISTENCE ALLOWANCE****Approval and control of official journeys of officers**

40. Every official journey of an officer must be approved by the Commissioner-General, the officer in charge or head of office or work place who must ensure that the journey is necessary and in the interest of the Correctional Service.

Economical means of transport of officers and shortest route

41. (1) An officer must travel by the most economical means of transport as expeditiously as circumstances permit and by the shortest route.

(2) The reason of non-observance of any of the requirements of subregulation (1) must be furnished in writing by the officer and the explanation must be attached to the claim form.

(3) If an officer has travelled in a manner involving greater expenditure on transport than necessary, the Commissioner-General, or his or her delegate, must limit the amount payable to him or her as reimbursement of his or her travelling expenses, to the amount it would have cost had he or she observed the requirements of subregulation (1).

Commissioner-General to prescribe certain matters relating to official journeys and transport of officers

42. The Commissioner-General may prescribe any other matter relating to the official journeys and transport of officers.

Rates and conditions of subsistence allowance of officers

43. An officer who is absent from his or her working station on official duty must be paid subsistence allowance at rates and conditions as may be determined in the relevant Public Service Staff Rules.

PART 11**TRANSFER OF OFFICERS****Transfer of officers at State expense**

44. (1) Subject to subregulation (2), an officer may be transferred and he or she and his or her household and personal effects moved at State expense from any correctional facility or work place to another correctional facility or work place within the Republic of Namibia.

(2) If an officer is transferred at his or her own request, no expenditure in connection with the transfer is paid from public funds except as provided for under regulation 46.

(3) Subregulation (2) does not apply to an officer who is transferred at his or her request, if the Commissioner-General is satisfied that such transfer -

- (a) is in the interest of the Correctional Service; or
- (b) is necessary for the officer's health or that of his or her spouse or their child, including a legally adopted child or stepchild, in which case the Commissioner-General may, at his or her discretion, require the submission of supporting medical certificate.

Transport of household and personal effects from one correctional facility, office or work place to another and compensation for damages

45. The removal, from one correctional facility to another or to an office or work place or from one office or work place to another or to a correctional facility, of the household and personal effects of an officer transferred in terms of regulation 44 and the compensation of any damages to the personal effects are on such conditions as prescribed.

Privileges and subsistence allowance of transferred officers

46. An officer who is transferred in terms of regulation 44 is regarded as travelling on official duty and is granted such privileges and paid such subsistence allowance as provided in the Public Service Staff Rules and as prescribed.

PART 12

TRANSPORT ON TERMINATION OF SERVICE OR DEATH OF OFFICERS

Transport privileges on retirement or termination of service of officers

47. (1) The Commissioner-General may approve that the household and personal effect of an officer -

- (a) who is retired owing to attainment of pensionable age;
- (b) who is retired on early retirement; or
- (c) whose services are terminated on medical grounds, be conveyed at State expense to any place in Namibia, where he or she intends to reside, subject to such limitations and conditions as may from time to time be prescribed by the Commissioner-General.

(2) If an officer who is retired on attaining the pensionable age is reemployed, without a break in service, in a temporary capacity in the Correctional Service, the Commissioner-General may grant the prescribed privileges to such officer on the termination of such temporary employment, whether on discharge or resignation.

Transport privileges on death or discharge of officers

48. If an officer dies while in the service of the Correctional Service or is discharged therefrom owing to continued ill-health which has not been occasioned by his or her fault, the benefits for which provision is made in regulation 47(1) are granted.

PART 13
DISCIPLINARY INQUIRY RULES OF PROCEDURE AND EVIDENCE

Sub-part 1: General

Action on commission of disciplinary offences by officers

49. (1) Whenever it is suspected or alleged that an officer has committed a disciplinary offence, an investigation must be conducted and the investigation report submitted in accordance with the prescribed procedure.

(2) Where there are adequate grounds for a charge for committing a disciplinary offence, the decision to charge the officer is done in accordance with the prescribed procedure.

Appointment of initiators

50. (1) The Commissioner-General or a senior officer authorised by the Commissioner-General must specifically or generally designate an officer with a rank equal to or higher than that of the charged officer as an initiator to attend the inquiry and to adduce evidence and make argument in support of the charge for committing a disciplinary offence and to cross-examine any person called as a witness by the defence.

(2) The Commissioner-General or a senior officer authorised by the Commissioner-General may at any time before or during the inquiry designate any other officer to conduct the inquiry as initiator if the designated officer referred to in subregulation (1) is not available or cannot for some good reason appear.

(3) In the event of being necessary for the initiator to give evidence not merely of a formal nature for the complainant, the initiator must, as far as possible, give evidence before any other witnesses are called.

(4) Despite subregulation (3), the initiator may give evidence at any stage of the inquiry immediately when the need for him or her to give such evidence arises.

Duties of initiators

51. The initiator must -

- (a) consult with the chairperson or presiding officer to determine the place, date and time when the inquiry will be held;
- (b) make arrangement for the appearance of the charged officer by causing to be served upon him or her, at least 14 days before the fixed date of the inquiry, the written notice referred to under section 51(5) or section 54 (2) of the Act;
- (c) subpoena all officers required to give evidence at the inquiry, and any other person required as a witness for the complainant and ensure their attendance; and
- (d) arrange for an interpreter to interpret for the charged officer and witnesses called by both parties who do not understand the official language.

Issuing and service of subpoena

52. A subpoena in a prescribed form, served on a person required to give or to produce any book, record, document or thing at any disciplinary inquiry is issued under the signature of an

officer, and the rules of the magistrates' court in regard to the service of the subpoena apply with necessary changes.

Uniform at inquiry

53. (1) All officers attending an inquiry must wear uniform of their respective ranks.

(2) Despite subregulation (1), an officer may, for good reasons, be allowed to attend the inquiry without wearing uniform by -

(a) the officer in charge or head of office or workplace, in case of the member of a disciplinary board or the presiding officer; or

(b) the chairperson or the presiding officer, in case of other officer;

but that such officer must wear civilian clothes as prescribed in the Code of Conduct for Officers.

Persons entitled to be present at inquiry of charged officer

54. Unless the prior consent of the chairperson of a disciplinary board or the presiding officer has been obtained, a person or officer other than the initiator, the charged officer and his or her legal representative, a witness while under examination, a secretary, stenographer or an interpreter, if any, may not be present at the inquiry, but that consent may not be denied to an officer with a rank equal to or higher than that of the charged officer without reasonable grounds if the attendance of such officer does not interfere with his or her official duties.

Removal of person disturbing inquiry

55. (1) If any person, other than the charged officer, who is present at the inquiry, disturbs the peace and order of the inquiry, the chairperson or the presiding officer may order that such person be removed from the place where the inquiry is being conducted.

(2) Where a person ordered under subregulation (1) to leave refuses to leave the place where the inquiry is being conducted, the chairperson or the presiding officer, may order that, such person be removed from such place by an officer or member of police.

Charging of officers

56. If a person removed under regulation 55 is an officer, he or she may be charged for committing a disciplinary offence under section 50(e)(vi) of the Act.

Removal of charged officer for disturbing inquiry

57. (1) If the charged officer disturbs the peace and order of the inquiry, the inquiry must be adjourned for such a period of time as the chairperson or the presiding officer thinks fit.

(2) If after such adjournment, the charged officer still disturbs the inquiry, the chairperson or the presiding officer must order that the charged officer be removed from the place where the inquiry is being conducted, and the inquiry must proceed in the absence of that charged officer.

(3) The chairperson or the presiding officer, may, at any stage of the inquiry, allow the charged officer to come back to the place where such inquiry is being conducted.

Adjournment of inquiry

58. The chairperson or the presiding officer may from time to time during the inquiry, if the chairperson or the presiding officer considers it necessary or expedient, adjourn the inquiry to any time, date or place.

Witnesses to attend inquiry and remain in attendance

59. (1) A witness who is subpoenaed to attend an inquiry must attend the inquiry and remain in attendance at that inquiry unless he or she is excused by the chairperson or the presiding officer.

(2) A person who is in attendance at the inquiry, though not subpoenaed as a witness, and who is warned by the chairperson or the presiding officer to remain in attendance at the inquiry, must remain in attendance at the inquiry, unless that person is excused by the chairperson or the presiding officer.

(3) The chairperson or the presiding officer may, at any time during the inquiry referred to in subregulation (1) or (2), order that any person, other than the charged officer, who is to be called as a witness, to leave the place of inquiry until he or she is called, and that he or she may remain at the inquiry after he or she has given evidence.

Failure by officers to attend or to remain in attendance

60. An officer, other than the charged officer, who -

- (a) is subpoenaed to attend an inquiry and who fails to attend or to remain in attendance at the inquiry; or
- (b) is warned by the chairperson or the presiding officer to remain in attendance at the inquiry and who fails to remain in attendance at the inquiry; or
- (c) being so subpoenaed or so warned, fails to appear at the place and on the date and at the time to which the inquiry in question may be adjourned,

is guilty of a disciplinary offence of disobeying lawful order.

Failure by charged officer to appear for inquiry

61. (1) Failure by charged officer to appear for the inquiry without leave of the chairperson or the presiding officer does not invalidate the conduct of the inquiry in question.

(2) Where the charged officer fails without leave of the chairperson or presiding officer to appear at the place and on the date and at the time to which the inquiry maybe adjourned, the inquiry must proceed in the absence of that charged officer, unless the chairperson or the presiding officer for any good reason decides otherwise.

Charge for disobeying lawful order

62. The charged officer who fails to appear for an inquiry as provided under regulation 61, may further be charged with a disciplinary offence of disobeying a lawful order, if the chairperson or the presiding officer considers it necessary or expedient.

Inquiry of officers implicated in same disciplinary offence

63. The conduct of any number of officers implicated in committing the same disciplinary offence may be inquired jointly and each such officer may be charged at the inquiry with the relevant substantive disciplinary offence against him or her.

Joinder of charged officers

64. (1) A charged officer may be joined with any other charged officer in the same inquiry at any time before any evidence has been led in respect of the charge in question.

(2) Where the charged officers joined under subregulation (1) are a senior officer and a junior officer, the inquiry against both officers must be conducted by the disciplinary board appointed to conduct inquiry against the senior officer.

Separation of inquiries of officers charged jointly

65. Where two or more officers are charged jointly with the same disciplinary offence, the chairperson or the presiding officer may at any time during the inquiry, upon the application of the initiator or of any of the charged officers, direct that the inquiry of any one or more of the charged officers must be held separately from the inquiry of the other charged officers, and the chairperson or the presiding officer may decline from giving the finding in respect of any of the charged officers.

Power of stopping inquiry

66. (1) Whenever an officer pleads to a charge of a contravention of, or failure to comply with, any provision of the Act or these regulations or any directive or instruction issued by the Commissioner-General, the officer in charge or the head of office or work place, the inquiry of that charge must proceed until a verdict is given.

(2) The Commissioner-General or a senior officer authorised thereto by the Commissioner-General, or with the consent of the Commissioner-General or the authorised senior officer, the initiator, may for good and sufficient reasons, at any time after the charged officer has pleaded and before a verdict is given, stop the inquiry referred to in subregulation (1), in which event the charged officer is entitled to a verdict of acquittal in respect of that charge.

Record of proceedings

67. The chairperson or the presiding officer must keep, or cause to be kept, the record of the proceedings at the inquiry in a prescribed manner.

Effecting disciplinary measures and orders

68. (1) Subject to subregulation (2), where the charged officer did not lodge an appeal, all disciplinary measures and orders imposed upon that officer during the inquiry are effected on the day immediately following the day of expiry of the period of 14 days referred to in section 52(1) or 55(1) of the Act.

(2) Where the charged officer lodged an appeal or is allowed, under section 52(2) or 55(2) of the Act to lodge an appeal after the expiry of the 14 days period, the disciplinary measures and orders imposed are effected on the day immediately following the day the appeal was dismissed by the Minister.

(3) Subject to subregulation (4), a disciplinary measure of fine or, subject to regulation 156, an order to pay money imposed upon an officer is effected by deducting money from that

officer's salary in one instalment or in such number of instalments as the Commissioner-General, or senior officer authorised thereto by the Commissioner-General, may determine.

(4) Where the service of the charged officer is terminated, the disciplinary measure of fine or the order to pay money is effected by deducting the fine or the money from the benefits of that officer.

Sub-part 2: Charging

Essentials of charge

69. A charge must set forth the relevant disciplinary offence in such manner and with such particulars as to the time and the place at which the disciplinary offence is alleged to have been committed and the person, if any, against whom and the property, if any, in respect of which, the offence is alleged to have been committed, as may be reasonably sufficient to inform the charged officer of the nature of the charge.

Charge where it is doubtful what disciplinary offence committed

70. If by reason of any uncertainty as to the facts which can be proved or if for any other reason it is doubtful which of several disciplinary offences is constituted by the facts which can be proved, the charged officer may be charged with the commission of offence by any number of charges or any number of alternative charges.

Charge need not state manner or means of act

71. A charge need not set out the manner in which or the means or instrument by which any act was done, unless that manner, means or instrument is essential in order to disclose the nature of the disciplinary offence.

Issuing and service of notice and copy of charge sheet

72. (1) A written notice referred to in section 51(5) or 54(2) of the Act is issued under the signature of the initiator in duplicate and in the prescribed form.

(2) The initiator must give the notice referred to in subregulation (1), together with the copy of the charge sheet to the officer in charge, or head of office or workplace.

(3) The officer in charge, or head of office or workplace must serve the notice and copy of charge sheet or cause them to be served to the charged officer, 14 days before the date fixed for the inquiry.

(4) The notice and the copy of the charge sheet referred to in subregulation (3) must be given to the charged officer in person and if he or she cannot be found, the notice and copy of charge sheet must be left at his or her last known residence and a note to that effect must be made on the copy of the notice.

Objection by charged officer

73. (1) The charged officer may, on receiving the notice to appear for an inquiry, object against the presiding officer or any member of a disciplinary board on the fact that he or she will not receive a fair inquiry and must give reasons for that to the Commissioner-General, or senior officer authorised thereto by Commissioner-General, seven days before the date of the inquiry.

(2) The Commissioner-General or the senior officer authorised thereto by the Commissioner-General must consider the reasons given by charged officer and decide whether he or she sustains or overrules the objection by the charged officer.

Procedure where objection sustained

74. (1) If the Commissioner-General or the senior officer authorised thereto by the Commissioner-General, sustains the objection raised by the charged officer under regulation 73, the Commissioner-General must authorise or appoint another officer to be a presiding officer or a member of disciplinary board and in writing inform the charged officer of such authorisation or appointment.

(2) Upon the appointment of a new presiding officer or member of the disciplinary board, the inquiry must take place as scheduled, unless the charged officer and the initiator agree on another date.

Procedure where objection overruled

75. If the Commissioner-General or the senior officer authorised thereto by the Commissioner-General overrules the objection raised by the charged officer under regulation 73, he or she must in writing inform that charged officer of that fact and the inquiry must take place as scheduled.

Disclosure

76. (1) The charged officer or his or her legal representative may, upon receiving the notice in terms of section 51(5) or section 54(2) ask the initiator to disclose all gathered documents relevant to the charge the initiator intends to use during the disciplinary inquiry.

(2) Failure by the charged officer to ask for disclosure before the expiry of the 14 day period may not prevent the inquiry to proceed on the fixed date.

(3) If the chairperson or the presiding officer is satisfied that the initiator has omitted to disclose the document upon request in terms of subregulation (1), the chairperson or the presiding officer must adjourn or postpone the inquiry to allow the charged officer a reasonable time to prepare for his or her defence.

Request for clarification to charge

77. (1) The charged officer may, not less than seven days before the date of the inquiry, in writing inform the initiator of his or her need for clarification to the charge against him or her if he or she feels that-

- (a) the charge does not disclose the disciplinary offence; or
- (b) that the charge does not contain sufficient particulars of any matter alleged in the charge; or
- (c) that the charged officer is not correctly named or described in the charge.

(2) The charged officer referred to in subregulation (1) must state clearly the factors upon which he or she bases his or her need for clarification.

Clarification by initiator and amendment of charge

78. (1) On receipt of the application from the charged officer requesting clarification to the charge in terms of regulation 77(1), the initiator must supply the charged officer with the necessary clarification and may, if necessary, amend the charge in which case he or she must send a new notice as provided for in section 51(5) or 54(2) of the Act and a copy of the amended charge sheet to the charged officer.

(2) The new date of inquiry is fixed not less than 14 days after the charged officer has been served with the notice to appear for an inquiry and the copy of the amended charge sheet, unless the charged officer, in writing, chooses to waive such right and indicates readiness to continue with the inquiry on the already fixed date or any other earlier date.

Joining charges

79. Any number of charges may be joined in the same inquiry against the charged officer at any time before any evidence has been led in respect of any particular charge, and where several charges are so joined, each charge is numbered consecutively.

Separation of inquiries where charges joined

80. (1) The chairperson or the presiding officer may, if in his or her opinion, it is in the interest of justice to do so, direct that the conduct of the charged officer be inquired into separately in respect of any charge joined with any other charge.

(2) An order under subregulation (1) may be made before or during the inquiry and the effect of that order is that the charge against a charged officer which has not been then inquired into is proceeded with in all respect as if the charged officer had in respect of that charge been charged separately.

Sub-part 3: Pleas

Right to legal representation

81. (1) Subject to subregulation (2), the chairperson or the presiding officer must remind the charged officer of his or her right to legal representation before administering the plea and ascertain whether the charged officer requires legal representation or he or she chooses to conduct own defence

(2) The omission by the chairperson or the presiding officer to remind the charged officer of his or her right to legal representation in terms of subregulation (1) is not an error in the inquiry as the charged officer was already informed of the rights through the notice referred to in section 51(5) or 54(2) of the Act.

(3) A charged officer who wishes to be represented by a legal representative, but who fails to make such arrangement during the period of 14 days from the date of receiving the notice to appear for the inquiry, must give reasonable grounds why he or she should be afforded time to make such an arrangement.

(4) If, after hearing the grounds referred to in subregulation (3), the chairperson or the presiding officer is of the opinion that the charged officer has no intention of acquiring a legal representative but is just delaying the inquiry, the chairperson or the presiding officer may order the inquiry to continue.

(5) If the chairperson or the presiding officer is satisfied by the grounds given by the charged officer in terms of subregulation (3), he or she must postpone the inquiry to a different date and order the charged officer to arrange for his or her legal representative.

(6) Where a legal representative is unable to attend an inquiry on the fixed date, he or she must communicate such fact to the initiator at least 48 hours before the fixed date and a new date for inquiry must be arranged.

(7) If the legal representative fails to communicate to the initiator in terms of subregulation (6), the inquiry must continue, unless the chairperson or the presiding officer for good reasons, decides otherwise.

Charged officer to plead to charge

82. (1) Before the chairperson or the presiding officer asks the charged officer to plead to the charge, the initiator must put the charge to the charged officer.

(2) The chairperson or the presiding officer must ensure that the charge sheet is free of error and ask the charged officer to plead to the charge.

(3) When the charged officer pleads to a charge he or she may plead -

(a) that he or she is guilty; or

(b) that he or she is not guilty.

(4) The charged officer has no disciplinary offence to answer if he or she has proof that -

(a) he or she has already been convicted of the disciplinary offence with which he or she is charged; or

(b) he or she has already been acquitted of the disciplinary offence with which he or she is charged.

(5) Where the chairperson or the presiding officer finds that there is an error on the charge sheet and the error does not necessarily require the amendment of the charge, the chairperson or the presiding officer may adjourn the inquiry for a period he or she may determine after consulting the parties and order the initiator to rectify the error.

(6) Where an error on the charge sheet requires the amendment of the charge, regulation 78, as relating to the amendment of the charge sheet, applies, unless the parties agree otherwise.

Refusal by charged officer to plead

83. Where the charged officer refuses to plead to a charge, the chairperson or the presiding officer must record a plea of not guilty on behalf of the charged officer and a plea so recorded has the same effect as if it had been actually pleaded by the charged officer.

Plea of guilty by charged officer

84. Where the charged officer pleads guilty to a charge during the inquiry, the procedure as provided under section 51(6) and (13) or section 54(3) and (10) of the Act is followed.

Questioning to confirm plea of guilty

85. (1) Where the charged officer, during the inquiry, pleads guilty to the charge, the chairperson or the presiding officer must question him or her with reference to the alleged elements of the disciplinary offence in order to ascertain whether he or she admits the allegations in the charge to which he or she has pleaded guilty.

(2) If the chairperson or the presiding officer is satisfied that the charged officer does not admit any element of the alleged disciplinary offence to which he or she pleaded guilty, he or she must enter the plea of not guilty and require the initiator to proceed with adducing evidence.

(3) If the chairperson or the presiding officer is satisfied that the charged officer does admit all elements of the alleged disciplinary offence to which he or she pleaded guilty, he or she must find the charged officer guilty upon his or her own plea of guilty.

Summary disposal on admission of guilt

86. (1) If the charged officer, after being furnished with the particulars of the charge, submits in terms of section 51(6) or 54(3) of the Act an admission of committing the disciplinary offence in question, the chairperson or the presiding officer, must submit the admission to the initiator.

(2) Upon receipt of the written admission referred to in subregulation (1) the initiator must confirm to the charged officer the receipt of the written admission and inform the charged officer to appear on the fixed date of inquiry to confirm his or her written submission admitting the commission of the disciplinary offence in question and for mitigation.

(3) Where during the inquiry, the charged officer confirms his or her written submission admitting the commission of the disciplinary offence in question, the chairperson or the presiding officer must find the charged officer guilty and the inquiry must continue from the stage of previous convictions.

Plea of not guilty where charged officer fails to appear for inquiry

87. Where the charged officer fails to appear for the inquiry and the chairperson or presiding officer decides the inquiry to continue in the absence of the charged officer, the chairperson or the presiding officer, must unless the charged officer had already submitted a written admission to the commission of the disciplinary offence in question, record a plea of not guilty on behalf of the charged officer, and a plea so recorded has the same effect as if it had been actually pleaded by the charged officer.

Sub-part 4: Adducing evidence

Witnesses to testify orally

88. Subject to regulation 89, a witness at an inquiry must give his or her evidence orally.

Procedure when impossible to secure attendance of witness

89. Where the chairperson or the presiding officer is satisfied that it is practically impossible to secure the attendance of a witness at an inquiry, the written statement of that witness may be accepted as evidence, if that witness made his or her written statement before a justice of peace or a commissioner of oaths.

Reading of documentary evidence

90. (1) Where any document is received in evidence during the inquiry upon its mere production, the party that produced the document must read out the document during the inquiry unless the other party is in possession of a copy of, or dispenses with the reading out of, that document.

(2) If the document produced in evidence is a written statement, it must comply with regulation 130.

Objection to questions or actions

91. Where, during the inquiry, one party objects to any question or action by another party, the chairperson or the presiding officer must -

- (a) in case the nature of the question or action is clear to the chairperson or presiding officer sustain or overrule the objection immediately; or
- (b) in case the nature of the question or action is not clear to the chairperson or presiding officer afford the party which posed the question or acted an opportunity to clarify the question or action, then afford the objecting party an opportunity to respond to the clarification and then afford the first party opportunity to respond to what was raised by the objecting party and thereafter, the chairperson or the presiding officer must, before proceeding with the inquiry, make the ruling as to whether the objection is sustained or overruled.

Administering of oath or affirmation

92. (1) Any witness called by the initiator, defence, chairperson or the presiding officer is required by the chairperson or the presiding officer to state his or her full name and take an oath as follows:

“I swear that the evidence I give, is the truth, the whole truth and nothing but the truth, so help me God”.

(2) Where a witness, for good reasons, objects to taking the oath, he or she must make an affirmation in the following words instead of the oath and at the direction of the chairperson or the presiding officer:

“I solemnly affirm that the evidence I give is the truth, the whole truth and nothing but the truth, so I affirm”.

and the affirmation has the same legal force and effect as if the person making it had taken the oath.

(3) Any person who, for any reason, is found not to understand the nature and import of the oath or affirmation, may be admitted to give evidence in an inquiry without taking an oath or an affirmation.

(4) The person referred to in subregulation (3) must, instead of the oath or affirmation, be admonished by the chairperson or the presiding officer, to speak the truth, the whole truth and nothing but the truth.

(5) Where the witness is to give evidence through an interpreter, the oath, affirmation or admonition in terms of subregulation (1), (2) or (4) respectively, must be admitted by the chairperson or the presiding officer through the interpreter or by the interpreter in the presence of the chairperson or the presiding officer.

Initiator to adduce evidence on plea of not guilty

93. (1) Whenever the charged officer pleads not guilty or a plea of not guilty is recorded in terms of regulation 83 or 87, the initiator must proceed on proving that the charged officer committed the disciplinary offence referred to in the charge by calling and examining the witnesses for complainant and adduce any other evidence relevant to the charge.

(2) The initiator may call to give evidence any of the witnesses he or she had subpoenaed under regulation 51(c) or any other person who was never issued with a subpoena under that regulation, but whom according to the knowledge of the initiator has evidence to prove the alleged disciplinary offence or whose name was mentioned during the inquiry by other witnesses.

Examination of complainant witnesses by initiator

94. (1) The initiator must examine-in-chief each complainant witness he or she calls by asking him or her to give his or her testimony regarding the disciplinary offence in question and to submit any documentary evidence, but leading questions during examination-in-chief are not allowed.

(2) Subject to subregulation (3), the initiator must adduce all documentary evidence during examination-in-chief of complainant witnesses as no documentary evidence must be introduced during re-examination of the witnesses.

(3) The initiator may introduce documentary evidence during re-examination but only for the purpose of proving a matter raised during cross-examination of complainant witnesses.

(4) Where any complainant witness testifies in an inquiry contrary to what he or she previously stated in his or her written statement on the matter at issue, such testimony may not be considered, unless that witness proves that, the signature appearing on the mentioned statement is not his or her signature, in which case, his or her oral evidence must be considered.

(5) If the complainant witness whose testimony is not considered as provided for under subregulation (4) is an officer and it is proved that, the signature on the written statement is his or her signature, the chairperson or the presiding officer must order that, that officer be charged for committing a disciplinary offence of deception under section 50 (i) of the Act.

Cross-examination of complainant witnesses by defence

95. (1) After the examination-in-chief of each witness by the initiator in terms of regulation 94(1), the chairperson or the presiding officer must inform the charged officer of his or her right to cross-examine that complainant witness as follows:

“Charged officer you have now the right to cross-examine the complainant witness by putting questions to him or her. You may put questions to him or her on those aspects of his or her evidence that you do not agree with and put to him or her your version in that regard, so that he or she can answer thereto. If during the course of his or her evidence, he or she omitted to mention any facts, which you feel are important, you should also put questions to him or her about that so that he or she can answer thereto. You may also put questions to the witness generally in order to show that he or she should not be believed or that he or she is mistaken or unreliable as to the events he or she testified about.”

(2) The charged officer may cross-examine any witness who testifies on behalf of the complainant at an inquiry or any co-charged officer who testifies at the inquiry.

Re-examination of complainant witnesses by initiator

96. (1) Subject to subregulation (2), the initiator may, on any matter raised during cross-examination of the complainant witness at an inquiry and for the purpose of clarifying evidence that has been left in a confused state, or placing in context evidence that may have left the chairperson or the presiding officer with a misleading impression, after cross-examination, re-examine that witness.

(2) Re-examination of complainant witness takes place only when that witness was cross-examined and when re-examination takes place, no new facts or evidence, subject to regulation 94(3), is allowed during such re-examination.

Closure of complainant case and rights of charged officer

97. (1) After re-examination of the last complainant witness, the initiator must inform the disciplinary board or the presiding officer that he or she has no other witness to call and that he or she closes the complainant case.

(2) After the closure of the complainant's case, the chairperson or the presiding officer must inform the charged officer of his or her rights to call witnesses for his or her defence or to testify himself or herself as follows:

“The initiator has now closed the complainant’s case and will not call any more witnesses. You now have the opportunity to put your case before the inquiry, should you wish to do so. You have the right to give evidence under oath yourself. If you decide to give evidence, the initiator has the right to cross-examine you to test your credibility and a member of the disciplinary board or the presiding officer may put questions to you. Irrespective of whether you give evidence or not, you have also the right to call witnesses to testify on your behalf. Your witnesses may also be cross-examined by the initiator and a member of the disciplinary board or the presiding officer may also put questions to them. You are not obliged to give evidence or to call witnesses. You may choose to present no evidence and to remain silent. However, you must bear in mind that, if you choose to do so, the disciplinary board or the presiding officer have to consider the case solely on the evidence presented thus far.”

Charged officer may adduce evidence

98. After the chairperson or the presiding officer has explained to the charged officer his or her right to adduce evidence, the charged officer may adduce evidence on behalf of defence and he or she may be called as a witness himself or herself if he or she so wishes, in which case, he or she must be called as witness before any other witness for defence.

Examination of defence witnesses

99. (1) The charged officer or his or her legal representative must examine-in-chief each defence witness he or she calls by asking him or her to give his or her testimony regarding the disciplinary offence in question and to submit any documentary evidence, but leading questions during examination-in-chief are not allowed.

(2) Subject to subregulation (3), the charged officer or his or her legal representative must adduce all documentary evidence during examination-in-chief of defence witnesses, as no documentary evidence must be introduced during reexamination of the witnesses.

(3) The charged officer or his or her legal representative may introduce documentary evidence during re-examination but only to prove a matter raised during cross-examination of defence witnesses.

Cross-examination of defence witnesses by initiator

100. (1) After the examination-in-chief of each witness by the defence in terms of regulation 99, the chairperson or the presiding officer must give opportunity to the initiator to cross-examine that defence witness.

(2) The initiator may cross-examine any witness, including the charged officer, who testifies on behalf of the defence at the inquiry.

Re-examination of defence witnesses by defence

101. (1) Subject to subregulation (2), the charged officer or his or her legal representative may, on any matter raised during cross-examination of the defence witness at an inquiry and for the purpose of clarifying evidence that has been left in a confused state or placing in context evidence that may have left the chairperson or the presiding officer with a misleading impression, after cross-examination, re-examine that witness.

(2) Re-examination of defence witness takes place only when that witness was cross-examined and when re-examination takes place, no new facts or evidence is, subject to regulation 99(3), allowed during such re-examination.

Closure of defence case

102. After re-examination of the last defence witness, the charged officer or his or her legal representative must inform the presiding officer or the disciplinary board that he or she has no other witness to call, thus, he or she closes the defence case.

Examination by disciplinary board or presiding officer

103. A member of the disciplinary board or the presiding officer may at any stage of the disciplinary inquiry examine any person, other than the charged officer, who has been subpoenaed to attend such inquiry or who is on attendance at such inquiry, and may recall and re-examine any person, including the charged officer, already examined at that disciplinary inquiry, and the chairperson or the presiding officer must examine, or recall and re-examine the person concerned if his or her evidence appears to the disciplinary board or the presiding officer essential to the just decision of the case.

Subpoena of witnesses by chairperson or presiding officer

104. (1) The chairperson or the presiding officer may at any stage of the disciplinary inquiry subpoena or cause to be subpoenaed any person as witness at such inquiry and the chairperson or the presiding officer must so subpoena a witness or so cause a witness to be subpoenaed if the evidence of such witness appears to the disciplinary board or the presiding officer essential to the just decision of the case.

(2) Where the witness subpoenaed by the disciplinary board or the presiding officer, is to adduce evidence to clear any doubt in favour of any of the parties, such witness must testify after the closure of the defence case.

(3) A witness subpoenaed under subregulation (1) is examined by the chairperson or the presiding officer.

(4) After examining the witness under subregulation (3), the chairperson or the presiding officer must give opportunity to the initiator and the charged officer, or his or her legal representative, to cross-examine such witness.

Address by initiator and defence at conclusion of evidence

105. (1) After all the evidence has been adduced by both parties, the initiator may make closing submission, and thereafter the charged officer may make closing submission.

(2) The initiator may reply to any matter raised by the charged officer in his or her closing submission but only on points of law.

*Sub-part 5: Findings***Procedure where charged officer found guilty**

106. (1) After the closing submission by both parties and the reply by the initiator, if any, the chairperson or the presiding officer must pronounce the finding whether the charged officer is found guilty or not guilty.

(2) Where the disciplinary board or the presiding officer finds the charged officer guilty of the disciplinary offence, the inquiry continues with the stage of previous convictions.

Procedure where charged officer found not guilty

107. (1) Where the disciplinary board or the presiding officer finds the charged officer not guilty of the disciplinary offence, the disciplinary board or the presiding officer must submit the record of proceedings to the Commissioner-General or to a senior officer authorised thereto by the Commissioner-General.

(2) The Commissioner-General or the senior officer authorised thereto by the Commissioner-General, may, on consideration of the record of proceedings submitted under subregulation (1), confirm, alter or quash the finding of not guilty as per section 51(14) and (15) or section 54(13) and (14) of the Act.

Finding may be corrected

108. When by mistake a wrong finding is pronounced, the chairperson or the presiding officer may, before or immediately after it is recorded, amend the finding.

*Sub-part 6: Disciplinary measures***Previous convictions**

109. (1) When the presiding officer or the disciplinary board finds the charged officer guilty, the initiator must, subject to regulation 115(2), produce an extract of previous disciplinary convictions, if any, and the presiding officer or the chairperson must call upon the charged officer to admit or deny such convictions.

(2) If the charged officer denies any previous disciplinary conviction, the initiator must adduce evidence to prove such conviction.

(3) The production of a copy of a letter duly signed by the Commissioner-General or a senior officer authorised thereto by the Commissioner-General confirming a disciplinary measure on the previous conviction is sufficient proof of that previous conviction.

(4) The admitted or proved previous conviction must be considered as from the date when the charged officer was convicted of that previous conviction.

Representations in mitigation and aggravation

110. (1) After submissions on previous convictions under regulation 109, the chairperson or the presiding officer must inform the charged officer of his or her right to mitigation before the imposition of disciplinary measure and give him or her the opportunity to make representation in such mitigation, including the right to call witnesses to mitigate on his or her behalf.

(2) If the charged officer fails to make representation in mitigation or to call witnesses to mitigate on his or her behalf, the chairperson or the presiding officer may lead the charged officer by putting questions to him or her in relation to personal circumstances, education and work.

(3) After the mitigation by the charged officer under subregulation (1) or (2), the chairperson or the presiding officer must give the initiator opportunity to make representation in aggravation which may include calling witnesses for that purpose.

(4) After representation in aggravation under subregulation (3), the chairperson or the presiding officer must give the charged officer an opportunity to reply on any factors brought up during aggravation under subregulation (3).

(5) If the charged officer, during his or her reply under subregulation (4), denies any fact on the factors brought up during aggravation, the chairperson or the presiding officer must require the initiator to adduce evidence to prove such fact.

Imposing disciplinary measures

111. (1) Before the disciplinary board recommends disciplinary measure, that disciplinary board must indicate the grounds upon which the disciplinary measure is to be recommended, in case of the charged officer being a senior officer.

(2) Before the presiding officer imposes disciplinary measure, that presiding officer must indicate the grounds upon which the disciplinary measure is to be imposed, in case of the charged officer being a junior officer.

(3) When recommending, in terms of section 51(13) of the Act, the disciplinary measure to be imposed upon the charged senior officer in terms of section 51(14), the disciplinary board must take into consideration any matter raised by the initiator and admitted by the charged officer as provided under regulation 110.

(4) When imposing a disciplinary measure upon the charged junior officer in terms of section 54(10) of the Act, the presiding officer must take into consideration any matter raised by the initiator and admitted by the charged officer as provided under regulation 110.

Right to appeal

112. (1) After pronouncing the recommended disciplinary measure, the chairperson must inform the charged senior officer about his or her right to appeal as follows:

“The recommendation of this disciplinary board for you to be found guilty and the disciplinary measure to be imposed upon you is not final. The Commissioner-General or senior officer authorised by the Commissioner-General will notify you in writing of the finding of guilty and the disciplinary measure that is imposed upon you. If you are aggrieved by the finding of guilty or the disciplinary measure imposed upon you, you have the right to appeal in which case you will have 14 days from the date of receiving the notification from the Commissioner-General or senior officer authorised thereto by the Commissioner-General to lodge your appeal to the Minister through your officer in charge or head of office or work place. Take note that the disciplinary measure will be put into effect after the expiry of the mentioned 14 days if you did not appeal.”

(2) After pronouncing the disciplinary measure imposed, the presiding officer must inform the charged junior officer about his or her right to appeal as follows:

“The finding of guilty and the disciplinary measure imposed upon you at this inquiry are not final, they are subject to the written confirmation by Commissioner-General or senior officer authorised thereto by the Commissioner-General. If you are aggrieved by the finding of guilty or the disciplinary

measure imposed upon you, you have the right to appeal in which case you will have 14 days from the date of receiving the written confirmation from the Commissioner-General or senior officer authorised thereto by the Commissioner-General to lodge your appeal to the Minister through your officer in charge or head of office or work place. Take note that the disciplinary measure will be put into effect after the expiry of the mentioned 14 days if you did not appeal.”.

Sub-part 7: Confirmation of disciplinary measures and record of convictions and disciplinary measures

Submission of record of proceedings

113. (1) The chairperson or the presiding officer must, within 21 days from the date on which the inquiry was finalized, submit to the Commissioner-General or the senior officer authorised thereto by the Commissioner-General, the typed record of proceedings at the inquiry.

(2) In case the chairperson or the presiding officer is not able to submit the typed record of proceedings within the period mentioned in subregulation (1), that chairperson or presiding officer must inform the Commissioner-General or the senior officer authorised thereto by the Commissioner-General of the reason thereof and a period within which the record of proceedings will be submitted must be agreed upon.

Confirmation of disciplinary measures

114. A disciplinary measure imposed upon a junior officer is subject to written confirmation as per section 54(12) of the Act.

Record of convictions

115. (1) A conviction of an officer must be entered on a record of disciplinary offences of the officer concerned and on any subsequent conviction of a disciplinary offence, subject to subregulation (2), must be proved or accepted as a previous conviction.

(2) If the officer has not been convicted of a disciplinary offence for a period of three years from the date of his or her last conviction, all the previous convictions of that officer, for the purpose of inquiry, lapse.

Record of disciplinary measures

116. A disciplinary measure imposed in terms of section 51(14) or 54(10) of the Act, must be entered on the record of disciplinary offences of the officer concerned.

Sub-part 8: Lodging of appeals

Right to record of proceedings

117. After receiving the letter confirming or imposing a disciplinary measure from the Commissioner-General or the senior officer authorised thereto by the Commissioner-General, the officer who wants to appeal to the Minister must, on his or her request in writing to the initiator, be furnished with a copy of the record of the proceedings of the inquiry.

Procedure on appeal to Minister

118. (1) An officer who desires to appeal to the Minister in terms of section 52 or 55 of the Act must within 14 days from the date of receiving the notice referred to in section 51(14) of the Act or the written confirmation referred to in section 54(12), lodge, through the officer in charge

or head of office or work place, with the Commissioner-General or a senior officer authorised thereto by the Commissioner-General, a written notice of appeal in which the grounds of appeal are clearly and specifically set out.

(2) The Commissioner-General, or the senior officer authorised thereto by the Commissioner-General, must immediately after the noting of the appeal, submit such notice of appeal to the chairperson of the disciplinary board or the presiding officer that conducted the inquiry and such chairperson or presiding officer must within ten working days of receipt thereof in writing furnish the Commissioner-General, or the senior officer authorised thereto by the Commissioner-General, the following-

- (a) the facts the disciplinary board or the presiding officer found and proved;
- (b) the reasons of the disciplinary board or the presiding officer for any finding in relation to the facts in respect of which, according to the appellant's statement, an appeal is lodged; and
- (c) the reasons of the disciplinary board or the presiding officer for any ruling on any question of law or in regard to the admission or rejection of evidence against which, according to such statement, an appeal is lodged.

(3) The Commissioner-General, or the senior officer authorised thereto by the Commissioner-General, must, within ten working days of receipt by him or her of the statement referred to in subregulation (2) submit it, together with the record of proceedings to the Minister.

Decision by Minister

119. (1) The disciplinary board, initiator or appellant may only submit to the Minister written arguments or representations in connection with the appeal and the Minister may not accept oral arguments or representation.

(2) The Minister may after consideration of the documents referred to in regulation 118 make such decision as he or she considers appropriate in terms of section 52(5) or 55(5) of the Act.

Sub-part 9: Witness allowances and copying fees

Officers attending inquiries

120. Subject to regulation 124, an officer who is required to attend any disciplinary inquiry is regarded as being on duty and is entitled to subsistence and transport allowances and travelling facilities in accordance with the relevant Public Service Staff Rules.

Witnesses for complainant

121. A person, other than an officer, who is required to attend an inquiry to give evidence or to produce any record, document, book or other thing for the complainant, is entitled to such witness fees and travelling allowances as are prescribed by the rules of court in respect of the attendance of witnesses in a criminal trial in a magistrate's court.

Witnesses for defence

122. Subject to regulation 124, a person, other than an officer, who is required to attend any disciplinary inquiry to give evidence or to produce any record, document, book or other thing for the defence, is not entitled to any allowances, fees and travelling facilities at State expense.

Witnesses subpoenaed by disciplinary board or presiding officer

123. If the chairperson or the presiding officer requires the attendance of an officer or subpoenas any other person to give evidence or produce a document, book or other thing, regulation 120 and 121 in regard to allowances, fees and travelling facilities apply with necessary changes.

Recovery of allowances and witness fees

124. If the chairperson or the presiding officer is of the opinion, and reports to the Commissioner-General or the senior officer authorised thereto by the Commissioner-General, that the evidence of an officer subpoenaed on the request of the charged officer was unnecessary or immaterial, the Commissioner-General or the senior officer authorised thereto by the Commissioner-General, may order the recovery from the charged officer, of the fees, allowances and cost of travelling facilities paid or granted to the subpoenaed officer by the State.

Allowances for person's services and for using mechanical means and copying fees

125. Whenever the services of any person or any mechanical means are used to record the evidence and proceedings at an inquiry under these regulations, the rules of procedure in a magistrate's court in criminal proceedings in regard to the fees or allowances, if any, payable for the use of such services or mechanical means, and for the transcription and copy of the notes taken down apply with the necessary changes.

*Sub-part 10: Rules of evidence***Evidence of single witness**

126. A charged officer may be found guilty of any disciplinary offence on the evidence of any single witness.

Evidence following conviction in court of law

127. Where the facts of a disciplinary offence for which an officer is charged arise from that officer's conviction in a court of law for committing a criminal offence, such conviction is prima facie evidence during an inquiry for that disciplinary offence.

Irrelevant evidence inadmissible

128. No evidence as to any fact, matter or thing is admissible which is irrelevant to the proof of any point or fact at issue in an inquiry.

Admissibility of written statements and other documents

129. (1) In an inquiry, a written statement by any person, other than the charged officer at the inquiry, is, subject to regulation 130, admissible as evidence to the same extent as oral evidence by that person, and such statement must be admitted as evidence upon its mere production at an inquiry.

(2) In an inquiry, a document, other than a written statement referred to in subregulation (1), is admissible as evidence upon its mere production at the inquiry if such document -

- (a) purports to bear a signature of the owner of the document, or, if the owner is an office, of an official from that office;
- (b) bears a seal or stamp purporting to be a seal or stamp of the office to which the document belongs;

- (c) is the official document, purporting to be the official document from the office to which such document belongs; or
- (d) being a copy, is certified to be a true copy of the original.

Requirements of written statements

130. (1) The statement referred to in regulation 129(1) must -

- (a) be signed by the person who made it; and
- (b) must contain a declaration by that person to the effect that -
 - (i) it is true to the best of his or her knowledge and belief; and that
 - (ii) he or she made the statement knowingly that, if it were tendered in evidence, he or she would be liable to prosecution if he or she wilfully stated in it anything which he or she knew to be false or which he or she did not believe to be true.

(2) If the person who makes the statement cannot read it, it must be read to him or her before he or she signs it, and an endorsement must be made on it by the person who read the statement to the effect that it was so read.

(3) A copy of the statement, together with a copy of any document referred to in the statement as an exhibit, or with such information as may be necessary to enable the other party to inspect such document or a copy thereof, must, before those copies are tendered in evidence, be served on the other party to the inquiry.

Oral evidence by persons who made written statements

131. Despite that a written statement made by a person may be admissible as evidence -

- (a) a party by whom or on whose behalf a copy of the statement was served may call that person to give oral evidence; and
- (b) the chairperson or the presiding officer, on his or her own motion or upon the application of the other party to the inquiry, may cause such person to be summoned to give oral evidence at the inquiry in question.

Treatment of exhibits referred and identified in written statements

132. A document or object referred to as an exhibit and identified in a written statement tendered in evidence under regulation 129(1), is treated as if it had been produced as an exhibit and identified in the inquiry by the person who made the statement.

Evidence of disputed writings

133. Comparison at an inquiry of a disputed writing with any writing proved to be genuine may be made by a witness and that writing and the evidence of any witness with respect thereto, may be submitted as proof of the genuineness or otherwise of the writing in dispute.

Evidence of signatures

134. A document -

- (a) which purports to bear the signature of any officer; and
- (b) which bears a seal or stamp purporting to be a seal or stamp of, or is the official document purporting to be the official document from, the office to which such officer is attached,

is, upon the mere production thereof at disciplinary inquiries, be prima facie proof that the officer signed that document.

Articles may be proved in evidence by means of photographs thereof

135. (1) A photograph of any article, other than a document, may be admitted, instead of that article, as evidence at an inquiry despite that the article is available and can be produced in evidence.

(2) The chairperson or the presiding officer may on good reason require the production of the article in question.

Presumption that charged officer possessed particular qualification or acted in particular capacity

136. Where a disciplinary offence can only be committed by an officer when the officer possesses a particular qualification or quality, or is vested with a particular authority or is acting in a particular capacity, an officer charged with such disciplinary offence, is, at the inquiry, deemed to -

- (a) have possessed that qualification or quality; or
- (b) have been vested with that authority; or
- (c) have been acting in that capacity at the time of the commission of the disciplinary offence, unless the presumption is disproved.

Evidence by complainant

137. If evidence is led to disprove the presumption referred to in regulation 136 after the initiator has closed his or her case, the initiator may adduce evidence and submit any argument in support of the allegation as if he or she had not closed his or her case.

PART 14 PRIVILEGES FOR OFFICERS

Special rates for, and free, services

- 138** The Commissioner-General may prescribe -
- (a) special rates to be paid by officers for the services rendered by offenders or the corrections workshops; and
 - (b) the type of services to be rendered to officers free of charge.

Reduced prices for products

139. Officers can buy workshop and agricultural products produced in the Correctional Service at such reduced prices as Treasury may, on the recommendation of the Commissioner-General, approve.

Medical services

140. Officers may receive such preliminary medical services from the available services at the corrections hospitals and clinics.

Personal protection

141. The Commissioner-General may, in such manner and on such conditions as he or she may determine, approve the issuing of a Correctional Service weapon to an officer for his or her personal protection and the protection of his or her household and property.

PART 15
GRIEVANCES AND REQUESTS BY OFFICERS

Grievances by officers

142. Grievances by officers must be dealt with as prescribed.

Duty of officers in charge or heads of offices or work places in relation to requests by officers

143. The officer in charge or head of office or work place must investigate or cause to be investigated every request by an officer and, as far as possible, dispose of it.

Submission of requests to Commissioner-General or senior officers

144. The officer in charge or head of office or work place must without delay submit, with his or her comments, any request which he or she is unable to dispose of, to the Commissioner-General or relevant senior officer.

Requests for audience and disposal thereof

145. (1) If an officer has valid grounds for requesting audience with the Commissioner-General or a relevant senior officer, the officer may submit a written request for such audience, together with the grounds in support of the request, to the officer in charge or head of office or work place.

(2) The officer in charge or head of office or work place must forward, together with his or her comments, the request referred to in subregulation (1) to the Commissioner-General or the relevant senior officer.

(3) On receipt and consideration of the request forwarded under subregulation (2) -

(a) the Commissioner-General or any senior officer nominated by him or her; or

(b) the relevant senior officer or any other senior officer nominated by him or her,

may, as soon as practicable, grant the audience.

PART 16
AWARDS IN CORRECTIONAL SERVICE

Establishment and introduction of awards

146. Awards in the Correctional Service in the form of decorations, medals and certificates are hereby established and introduced as in Annexure 2.

Awarding of decorations, medals or certificates

147. (1) Decorations, medals and certificates, as well as bars, clasps and ribbons in respect of such decorations and medals may be awarded by the President, the Minister or the Commissioner-General, as the case may be, to any person who is or was an officer in respect of his or her services as such officer or to any other person who has rendered exceptional services to the Correctional Service.

(2) The criteria and conditions for the awarding of the awards established and introduced under regulation 146 and any other matter arising from or incidental thereto must be dealt with as prescribed.

Consideration of previous convictions before awarding decorations or medals

148. Despite the lapse of any conviction of an officer in terms of regulation 115(2), the Commissioner-General must take into account and give full consideration to such convictions before, in terms of regulation 147, recommending the award of, or awarding, any decoration or medal to such officer.

PART 17**CERTIFICATES OF SERVICE AND DEATH OF OFFICERS****Certificates of service**

149. A certificate of service in the prescribed form, duly completed and signed by or on behalf of the Commissioner-General as proof of its being in accordance with the official records of the Correctional Service must, on the discharge of an officer, be issued to such officer in every case where he or she has completed not less than three month's continuous service.

Authenticity of certificates of service

150. A certificate of service, strictly in accordance with the official records of the Correctional Service, must contain only a factual and accurate statement of the conduct, diligence, zeal, sobriety and efficiency of the officer concerned.

Copy of certificate of service

151. A copy of the certificate of service which has been destroyed or lost, may be issued in exceptional circumstances and only under the authority of the Commissioner-General.

Notification of death

152. (1) The officer in charge or head of office or work place must report the death of an officer without delay to the Commissioner-General.

(2) Upon the receipt of the report referred to in subregulation (1), the Commissioner-General must cause all correctional facilities, offices or work places to be informed of such death.

Burial of deceased officers

153. The burial of the deceased officer is done in accordance with the prescribed procedure.

PART 18
GENERAL

Liability of officers for deficiency and loss of, or damage to, State property

154. An officer may be held liable to make good any deficiency, loss, damage or other expenditure suffered by the State as a result of his or her negligence or carelessness or unlawful act or his or her failure to carry out a specific duty, and, if more than one officer is responsible and liable in terms of this subregulation, they must be jointly and severally liable.

Determination of liability

155. The determination of liability of an officer in terms of regulation 154 and the sum of money involved is determined by such investigation and in such manner as are specially and generally prescribed, except in the case where such liability and the sum of money involved have been determined -

- (a) by a court of law in connection with a conviction of any offence arising wholly or partly from such deficiency, loss, damage or other expenditure;
- (b) in an inquiry under the Act and these regulations in connection with a conviction on a contravention or finding of guilty, on a charge of misconduct or inefficiency or unfitness arising wholly or partly from such deficiency, loss, damage or other expenditure;
- (c) by way of a voluntary undertaking on the part of the officer to make good such deficiency, loss, damage or expenditure.

Recovery of determined amount for liability

156. Whenever the liability of an officer and the sum of money involved have been determined in terms of regulation 155, the recovery of that sum is made in accordance with section 11 of the State Finance Act, 1991 (Act No. 31 of 1991) and Chapter E of Treasury Instructions issued in terms of section 24(1) of that Act.

Liability and recovery after dismissal, retirement or discharge

157. Despite that an officer who is liable for any deficiency, loss, damage or other expenditure in the circumstances set out in regulation 156, has been dismissed, discharged or has retired from, or otherwise left the service of the Correctional Service, regulations 154 to 156 apply to such person.

Membership to political parties by officers

158. Subject to the provisions of regulation 159 and 160, an officer may be a member of a political party.

Officers not eligible for certain political activities and offices

159. To ensure the impartiality and professionalism of the Correctional Service, an officer may not -

- (a) preside at a political meeting or draw up or publish any writing or deliver a speech or make a statement with the intention to promote or prejudice the interest of any political party;

- (b) be an office-bearer of whatever designation of a political party.

Restrictions on carrying out political activities by officers

160. (1) An officer may not use his or her position in the Correctional Service or utilise any property of the State to promote or prejudice the interests of any political party.

(2) While on duty, an officer may not leave his or her official duties in the Correctional Service in order to attend to any political activity.

Submission of progress reports

161. The officer in charge or head of office or work place must submit to the Commissioner-General progress reports of officers under his or her command in the form and on such intervals as may be prescribed.

Submission of special reports as required by Commissioner-General

162. The officer-in-charge or head of office or work place must submit to the Commissioner-General a special report in respect of an officer under his or her command in the manner and as often as the Commissioner-General may require.

Channel of communication

163. A request, communication or complaint from an officer in connection with any matter falling within the scope of the powers, functions or duties of the Correctional Service must be channelled as prescribed.

Use of force and weapons

164. (1) The Commissioner-General must prescribe the manner of use of force and weapons by officers.

(2) For the purpose of corrections administration “weapon” includes prescribed firearm, baton, ammunition, tear gas and any other implement as the Commissioner-General may determine.

CHAPTER 3 OFFENDERS

PART 1 GENERAL PROVISIONS

Application of regulations

165. The regulations contained in this Part and in Parts 2 and 3 of this Chapter apply to all offenders, unless inconsistent with any special provisions applicable to a particular category of offenders.

Prohibition on documents or writings

166. Except as provided in the Act, these regulations or the rules or directives of the Commissioner-General, no offender may compile or write any document or writing without the permission of the Commissioner-General or a senior officer authorised thereto by the Commissioner-General.

Receipt and safe-keeping of private property

167. (1) The officer in charge or any other officer duly authorised by the officer in charge, must take into safekeeping all money, valuables or any other authorised private property belonging to an offender on admission or during his or her detention and must make an inventory of all the money, valuables or other authorised private property, the correctness of which is certified by the offender.

(2) A copy of the inventory referred to in subregulation (1) is given to the offender concerned.

Disposal of private property

168. The private property of offenders must be disposed of in accordance with section 63 of the Act.

Use or disposal of private money

169. The Commissioner-General must determine the circumstances under which an offender may use his or her private money or the manner in which he or she may dispose of that money.

Disposal of unclaimed private property

170. The unclaimed private property of an offender who has been released must, after six months from the date of his or her release, be disposed of in accordance with subsections (7) and (8) of section 63 of the Act.

Disposal of perishable or valueless private property

171. Despite regulations 170, 183 and 187, any item of clothing or other article of a released, escaped or deceased offender, which is unclaimed and of no or little value or of no apparent sales value or of a perishable nature, may be destroyed or otherwise disposed of as the Commissioner-General may direct.

Bringing in and removal of prohibited articles

172. (1) A prohibited article may not be brought or removed from a correctional facility, office or work place by any person without the permission of the officer in charge, head of office or work place or any other senior officer authorised to grant such permission.

- (2) For the purpose of corrections administration, “prohibited article” means -
- (a) an intoxicant;
 - (b) a firearm or component thereof
 - (c) ammunition for a firearm;
 - (d) anything that is designed to kill, injure or disable a person or that is altered so as to be capable of killing, injuring or disabling a person, when possessed without prior authorization;
 - (e) an explosive or a bomb or a component thereof;

- (f) any communication device or component thereof, when possessed without prior authorization;
- (g) currency, when possessed without prior authorization;
- (h) medication, when possessed without prior authorization or used for unintended purpose;
- (i) any real or imitated habit forming substances;
- (j) any real or imitated intoxicating substances;
- (k) any item that could jeopardize the security of the correctional facility or the safety of persons, when that item is possessed without prior authorization;
- (l) any other article, object, item or thing that is not authorised by the Commissioner-General's directive or written order of the officer in charge, or head of office, or work place, when possessed or brought into or removed from the correctional facility, office or work place without prior authorization.

PART 2

ADMISSION, DETENTION, REMOVAL, ESCAPE AND DEATH OF OFFENDERS

Personal and physical particulars

173. The name, age, height, weight, full address, distinctive marks and such other particulars as may be required from time to time must, in respect of every offender, be recorded in the admission register and in any other relevant prescribed registers or forms or other recording manner.

Fingerprints and photographs

174. Whenever required, the fingerprints and photographs of an offender must be taken on admission and as often thereafter as is necessary, but a person who is not officially authorised may not access, or inspect, any such fingerprints or photographs or their copies, and details or information contained in them may not be divulged or furnished to any such person.

Bath on admission

175. Unless the medical service personnel otherwise determines, every offender must bath as soon as possible after admission and as often thereafter as is necessary.

Medical examination on admission

176. Every offender as soon as possible after admission must be examined by a medical service personnel, who must report fully on the physical and mental condition of that offender and other medical information, which may be required or prescribed.

Custody during removal

177. (1) An offender who is removed on the instructions of the Commissioner-General, the officer in charge or any other officer authorised to issue such instruction, must be in the safe custody of an officer.

(2) An offender who is required to appear before a court that is not held at a correctional facility, may be placed in the safe custody of a member of police for that purpose.

Protection from public exposure

178. When an offender is removed from or taken to a correctional facility he or she must be subjected to a minimum of exposure to the public, and all necessary precautionary measures must be taken to protect him or her from public abuse or curiosity.

Interview before removal

179. The officer in charge, or other officer authorised thereto by the Commissioner-General or the officer in charge, must interview an offender before the offender is removed from the correctional facility.

Medical certificate on removal

180. A medical service personnel must examine an offender as quickly as possible prior to his or her transfer to another correctional facility, and he or she may not be so transferred unless the medical service personnel has certified, in writing, that he or she is fit for removal.

Notification of escape and re-arrest of offenders

181. (1) Upon the escape of the offender, the officer in charge must immediately give notice of the escape to the Commissioner-General, any designated senior officer and the commander of the nearest police station.

(2) Immediately after the escape of the offender, the officer in charge must ensure that an orderly search of the escaped offender is being carried out.

(3) Upon the re-arrest of the escaped offender, the officer in charge must immediately give notice of the re-arrest to the Commissioner-General, any other designated senior officer and the commander of the nearest police station.

Investigations into escape of offenders

182. (1) Unless the Commissioner-General decides otherwise, immediately after the escape of the offender, the officer in charge must institute an investigation into the escape of such offender and submit his or her finding to the Commissioner-General or the designated senior officer.

(2) Upon the receipt of the notice of escape referred to in regulation 181(1), the Commissioner-General or the designated senior officer, despite the investigation to be instituted by the officer in charge in terms of subregulation (1), may constitute an investigation team to investigate into the escape of the offender.

(3) The investigation team referred in subregulation (2) may include persons who are not officers as the Commissioner-General or the designated senior officer may find appropriate.

Disposal of private property of escaped offenders

183. The inventory of private property of an offender who has escaped and has not been recaptured must, after six months from the date of escape, be submitted to magistrate's court by the officer in charge for disposal in accordance with subsections (7) and (8) of section 63 of the Act.

Notification of death of offenders and investigations thereof

184. (1) Upon the death of the offender, whether from natural or unnatural causes, the officer in charge must immediately give notice of the death to the Commissioner-General, designated

senior officer, medical officer and the magistrate of the district in which the correctional facility is situated, and also to the next-of-kin, or, if particulars of such next-of-kin are unknown, such officer in charge must, as far as is practicable, notify any other relative or friend of the death of the offender.

(2) Unless the Commissioner-General decides otherwise, immediately after the death of the offender, the officer in charge must institute an investigation into the death of such offender and submit his or her finding to the Commissioner-General or the designated senior officer.

(3) Upon the receipt of the notice of death referred to in regulation (1), the Commissioner-General or the designated senior officer, despite the investigation to be instituted by the officer in charge in terms of subregulation (2), may constitute an investigation team to investigate into the death of the offender.

(4) The investigation team referred in subregulation (3) may include persons who are not officers as the Commissioner-General or the designated senior officer may find appropriate.

Particulars of death

185. The medical officer must record, in writing, all the relevant particulars of the death of an offender which must include -

- (a) the time and date of illness;
- (b) the time and date when the illness came to the notice of the medical officer;
- (c) the nature of the illness referred to in paragraph (a);
- (d) the time and date of death;
- (e) the cause of death;
- (f) the findings at the post mortem, if any; and
- (g) any other relevant particulars as the medical officer may consider necessary.

Burial or cremation of deceased offenders

186. (1) When an offender dies due to an accident or of unnatural cause but not due to such offender's own negligence, the body of the deceased offender must, at the cost of the State, be transported to and buried or cremated at a burial or cremation place the family, relative, next of kin or friend may indicate.

(2) When an offender dies of natural cause or of unnatural cause but due to such offender's own negligence, and the family, relative, next of kin or friend decides to bury or cremate the body of the deceased offender, the Correctional Service must provide a coffin and transport the body of the deceased offender to the nearest correctional facility where the family, relative, next of kin or friend resides.

(3) Despite subregulation (2) the Commissioner-General may authorise the application of subregulation (1) where the deceased offender is from the marginalised community.

(4) Subregulations (1) and (2) apply only within the boundaries of Namibia.

(5) Where the body of the deceased offender is unclaimed, the burial or cremation at State cost may take place in the area in which the offender died.

Disposal of private property of deceased offenders

187. (1) The private property of a deceased offender, whether his or her death has occurred from natural causes or not, may be handed over to his or her spouse, child or next-of-kin, irrespective of whether or not an executor has been appointed in his or her estate.

(2) If the private property of such deceased offender is not disposed of in terms of subregulation (1) within a period of six months from the date of death, it must be dealt with in accordance with subsections (7) and (8) of section 63 of the Act.

PART 3 ACCOMMODATION OF OFFENDERS

Sleeping facilities

188. No dormitory or cell must be used for sleeping purposes unless it complies with the prescribed requirements in respect of floor-space, cubic capacity, lighting, ventilation and general health conditions.

Single cells

189. (1) If single cell accommodation is available at a correctional facility, only one offender must be accommodated in one cell.

(2) When it becomes necessary to accommodate more than one offender in a single cell, not less than three offenders may, as far as is practicable, be accommodated in that cell.

Beds and bedding

190. (1) As far as is practicable, every offender must be provided with a prescribed bed.

(2) Every offender must be provided with separate prescribed bedding which is of adequate warmth and which complies with the prescribed hygienic requirements.

Separation of male and female offenders

191. (1) Whenever separate parts of the correctional facility are available for the reception of female offenders, the following requirements, in addition to those contained in section 17 of the Act, must be strictly observed -

- (a) the locks of the doors and gates of the male section must be such that the keys to the locks of the doors and gates of the female section do not fit the locks of the doors and gates of male section and vice versa;
- (b) the keys to the female section must be in the constant custody of a female officer; and
- (c) any male permitted to enter a female section must be accompanied by a female officer during the full visit.

(2) Wherever separate correctional facilities for the reception of male and female offenders are established on the same site, or on separate sites, or in proximity to each other -

- (a) all practical steps must be taken to prevent any of the offenders of one sex being directly or indirectly in communication with any of the offenders of the other sex;

- (b) subregulation (1) applies with the necessary changes; and
- (c) section 17 of the Act must be observed.

PART 4
CONTROL OF, AND DISCIPLINARY INQUIRY AGAINST, OFFENDERS

Sub-part 1: General principles

Scope and aim

192. The regulations in this part must, with due regard to differences in individual characteristics and reactions by different offenders to treatment and discipline, be applied in accordance with the following principles -

- (a) discipline and order must be maintained with firmness but in no greater measure than is necessary for security purposes and an orderly community life in correctional facility;
- (b) in exercising control over an offender, an officer must, by personal example and sound leadership, endeavour to influence him or her towards good conduct; and
- (c) the aim in treating the offender must at all times be to promote his or her self-respect and to cultivate a sense of responsibility in him or her.

Duties of officers in charge

193. The officer in charge must -

- (a) ensure that the Act, these Regulations, the standard operating practices and other Commissioner-General's directives are strictly complied with and that their aims are achieved;
- (b) continuously maintain personal and scrupulous supervision over the whole of the correctional facility, visit regularly all sections of the correctional facility where offenders are detained, and pay particular attention to offenders in hospital and offenders who are undergoing disciplinary punishment or who display any behavioural deviation; and
- (c) visit the correctional facility at least twice a week at irregular times during the night and satisfy himself or herself that everything is in order.

Use of force

194. (1) Subject to subregulation (2), an officer may not strike or in any other manner use force against an offender, except in lawful self-defence or in defence of another officer, another offender or any other person.

(2) An officer may use force against an offender in lawful self-defence or in defence of another officer, another offender or any other person.

(3) Whenever circumstances require the use of force, no more force than necessary in the circumstances may be used and such force is used as prescribed.

(4) An officer may not by word or deed deliberately annoy or give offence to an offender.

Offenders not to perform disciplinary or leadership duties

195. An offender may not be employed in a disciplinary or leadership capacity in a correctional facility, but specially selected offenders may be granted positions of responsibility within such limits as may be prescribed.

*Sub-part 2: Safe custody and guarding of offenders***Determination of security measures**

196. The Commissioner-General must specially and generally determine all the measures to be taken for the safe custody and guarding of all categories of offenders, whether at work or at rest.

*Sub-part 3: Searching of offenders***Search**

197. Each offender must be searched as frequently as is considered necessary and at all times or circumstances prescribed.

Manner and purpose of search

198. The search of an offender is to be conducted in an apparent manner and, as far as is practicable or reasonably necessary in the circumstances, without injury to the self-respect of the offender, and must be sufficiently thorough, to detect any unauthorised article.

Stripping and search of body cavity

199. (1) An offender may be stripped and searched as prescribed but the stripping may, as far as practicable, not be done in the presence and sight of other offenders.

(2) Where there is reasonable ground to suspect that an offender has ingested prohibited article in his or her body, the body cavity of that offender may be searched in a manner prescribed.

Persons who must conduct search

200. As far as practicable and depending on the type of search and circumstances as prescribed, an offender may only be searched by an officer of the same sex.

Seizure and management of articles

201. All articles which are unlawfully brought into correctional facility by an offender or any other person or found being unlawfully possessed by an offender or any other person or found in or near a correctional facility may be seized and managed as prescribed.

*Sub-part 4: Confinement and restraint***Confinement in single cells**

202. Confinement in a single cell means confinement as a punishment on conviction for committing a disciplinary offence as referred to in section 89 of the Act.

Instances when offenders may not be confined in single cells

203. An offender may not be subjected to confinement in a single cell if a medical service personnel certifies that the confinement is detrimental to the offender's physical or mental health.

Regular visits

- 204.** (1) An offender undergoing confinement in single cell must be visited -
- (a) daily by the officer in charge; and
 - (b) as often as is practicable by the medical service personnel.

Exercises

205. Whenever an offender is sentenced to confinement in a single cell, the prescribed exercises must be taken in the open air for half an hour every morning and for half an hour every afternoon.

Limitation and object of restraint or confinement

206. (1) Restraint and confinement of offender is applied only in the circumstances and for the purpose and on conditions and periods provided in section 103 of the Act and must under no circumstances be used as punishment.

(2) The officer in charge, after issuing an order to restrain or confine an offender, must immediately make, or cause to be made, an entry in a register to be kept for that purpose, recording the particulars of restraint or confinement.

(3) Except as provided in this regulation, an offender, other than a person in the course of transfer or while temporarily outside the precincts of the correctional facility, unless serving a penalty of confinement in a single cell, may not be confined in any separate cell or subjected to mechanical restraint.

Nature and manner of restraint

207. All forms of mechanical means of restraint and the manner in which they are applied, are as prescribed.

*Sub-part 5: Disciplinary inquiries against offenders***Procedure when offenders commit disciplinary offences**

208. The disciplinary inquiry rules of procedure and evidence provided in Part 13 of Chapter 2 apply, with necessary changes, to investigation, charging and an inquiry against an offender, unless otherwise provided in this sub-part.

Designation of initiators

209. (1) The Commissioner-General may, in general, designate one or more officers at a correctional facility to act as initiator or initiators at the inquiries of offenders on charges of disciplinary offences.

(2) The Commissioner-General or a senior officer authorised thereto by the Commissioner-General may designate any other officer to initiate the inquiry referred to in subregulation (1) if the designated officer is not available or cannot for some good reason initiate at the inquiry.

Venue of inquiry or trial

210. The inquiry of an offender in terms of section 88(1)(a) of the Act, on an alleged contravention of or failure to comply with the Act or regulation, must be held at the correctional facility, and the trial of an offender in terms of section 88(1)(b) of the Act may be held at the court to where the officer in charge decides to transfer the matter for hearing.

Attendance of charged offender and witnesses at inquiry

211. The officer designated in terms of regulation 209(1) or (2) to act as initiator must warn or subpoena, according to requirements, any person to attend the inquiry to give evidence or produce any document or thing, whether in support of the charge or in defence of the charged offender.

Summary disposal at inquiries

212. If the charged offender, after receiving a notice concerning the nature and particulars of the charge against him or her, in writing admits the commission of the disciplinary offence, the presiding officer must inform the initiator and order the charged offender to be brought before him or her to confirm the admission and thereafter may, without inquiring any evidence, convict the charged offender and after hearing and recording evidence in mitigation, impose upon that offender one or more of the penalties referred to in section 89(1) of the Act.

Appeals by offenders

213. (1) Any offender who desires to appeal to the Commissioner-General or to his or her delegate in terms of section 90 of the Act, must, within 14 days from the date when the inquiry was concluded, lodge with the officer in charge a written notice of appeal in which the grounds of appeal are clearly and specifically set out.

(2) The officer in charge must, within seven days after receiving the notice of appeal lodged by the offender under subregulation (1), submit to the Commissioner-General or to his or her delegate -

- (a) the notice of appeal;
- (b) the records of proceedings and other relevant documents; and
- (c) the written statement of the presiding officer showing the facts found to be proved and the reasons for conviction and the penalty imposed.

Decision by Commissioner-General or his or her delegate

214. (1) No oral arguments or representations in connection with the appeal, may be addressed by the presiding officer, initiator or appellant, or received by, the Commissioner-General or his or her delegate.

(2) The Commissioner-General or his or her delegate may, after consideration of the documents referred to in regulation 213(2) make such order as he or she considers appropriate in terms of section 90(2) of the Act.

PART 5
WELFARE AND REHABILITATION OF OFFENDERS

Sub-part 1: Clothing

Issuing of prescribed clothing

215. Except when otherwise determined by the Commissioner-General, a sentenced offender must on admission be provided with a complete outfit of prescribed clothing which satisfies hygienic requirements and is of adequate warmth, and only such clothing must be worn by the offender during his or her imprisonment.

Sub-part 2: Food

Diet and preparation of food

216. Subject to regulation 218, an offender must be provided with food which has an adequate nutritional value according to the prescribed diet scale which consists of a reasonable variety and is well prepared and served.

Inspection of food and water

217. The medical service personnel must regularly inspect all uncooked and prepared food and must report to the officer in charge or any senior officer at the time being in-charge of the correctional facility on the sufficiency and quality of the food and on the purity and adequacy of the water used for human consumption and other domestic purposes.

Rations

218. Subject to section 77(1) of the Act, or except when approved by the Commissioner-General or otherwise prescribed by the medical service personnel, only rations according to the prescribed diet scale must be issued to an offender.

Sub-part 3: Hygiene

Washing and bathing facilities and toilet requisites

219. Washing and bathing facilities and toilet requisites must at all times be made available to an offender.

Shaving and cutting of hair

220. Shaving amenities and facilities for haircuts must be made available to a male offender and the beard must be shaved and hair cut as prescribed unless the medical service personnel orders otherwise in writing.

Sub-part 4: Exercises

Daily exercises

221. Under good weather conditions, an offender who does not perform outdoor work, must take daily exercises for one hour in the air, but the Commissioner-General may, in any special case, approve that the exercises be taken for only half an hour daily.

Physical exercises under supervision

222. An offender must take suitable physical exercises, according to his or her physical condition and age, under the supervision of an officer.

Physical fitness for exercises

223. The medical service personnel must indicate in his or her report on an offender whether the offender is fit for normal physical exercises or any moderate form of exercise or is totally unfit for any such exercises.

*Sub-part 5: Medical services***Establishment of hospitals or clinics**

224. (1) A hospital or clinic must be established at every correctional facility and be equipped according to local requirements to provide a sick offender with accommodation for his or her care and medical treatment by the medical service personnel.

(2) All the essential services at a correctional facility hospital or clinic must be performed by trained medical service staff only.

Visits, examinations and reports by medical service personnel or health inspector

225. (1) The medical service personnel must visit a sick offender as often as is necessary and must examine and treat, as may be necessary, any offender who complains that he or she is ill or injured and also any other offender to whom his or her attention is specially drawn.

(2) A medical service personnel or health inspector of the Ministry of Health and Social Services must inspect the correctional facility as often as possible and report to the Commissioner-General on any matter concerning the medical and health facilities and requirements at the correctional facility which, in his or her opinion, should be brought to the attention of the Commissioner-General.

Consultations with other medical practitioners

226. (1) If the medical officer considers it necessary, he or she may consult another medical practitioner in regard to the medical treatment of the offender, and he or she must do so in all cases before a serious operation is performed on an offender, unless he or she considers that an urgent operation is essential in the interest of the offender's health or life.

(2) An operation may not be performed on an offender without his or her written consent, or, in the case of a minor, without the written consent of his or her guardian, except when, in the opinion of the medical officer, the operation is in the interest of the offender's health or life and the offender is unable to give his or her consent or when it is not possible or practicable to obtain the consent of the guardian.

Private medical and dental services

227. Subject to security measures, the officer in charge, on request of an offender, may authorise that offender to employ the services of a private medical practitioner or dentist on such conditions as are specially or generally prescribed: Provided that no cost to the State is incurred by those private medical and dental services.

*Sub-part 6: Social and family relationships***Family relationships**

228. Special attention must be given to the preservation of the good relationship between an offender and members of his or her family in the best interests of both parties.

Conveyance of important information to offenders

229. In addition to any privilege and indulgence granted to an offender, the officer in charge may at any time convey to an offender any important information concerning his or her relatives or friends.

Notification of admissions or transfers

230. On admission or transfer of the offender, the officer in charge of the correctional facility to where the offender is admitted or transferred, must request the offender to notify his or her next-of-kin, or if particulars of the next-of-kin are unknown, any of the offender's relatives, of the admission or transfer, and if the offender fails or cannot, the officer must notify the next-of-kin, unless the offender requests in writing that his or her next-of-kin may not be notified.

Notification of death, serious illness or injury

231. The officer in charge must notify the next-of-kin of the offender or if particulars of the next-of-kin are unknown, any of the other relatives, if he or she is seriously ill or dies or is declared mentally ill or injured in an accident.

*Sub-part 7: Religion***Determination and registration of religious denominations of offenders and ministrations**

232. (1) On admission of an offender to a correctional facility, his or her religious denomination must, as far as possible, be determined and registered by the officer in charge, and that offender must be recognised and treated as a member or adherent of that denomination, and he or she must be encouraged and allowed to satisfy his or her spiritual inclinations and needs by attending the services provided by his or her church organisation at that correctional facility.

(2) If, on the admission of an offender, doubt or vagueness exists in regard to his or her religious inclination or church denomination, or if for any reason these cannot be determined, or if he or she is not a follower of any particular denomination, the officer in charge may determine the conditions under which, with the voluntary co-operation of the offender, ministrations to his or her spiritual needs may be provided for.

(3) The Commissioner-General may determine the conditions under which an offender referred to in subregulation (2) may subsequently be registered as a member or adherent of any particular church denomination, and upon that registration subregulation (1) applies with the necessary changes.

(4) An offender must be encouraged and afforded assistance and the opportunity to maintain contact with his or her church and to promote his or her knowledge and practical application of the principles of that church.

(5) The Commissioner-General may generally or specially determine the conditions under which the registration of an offender's church denomination may be altered or under which an offender may be exempted from or denied attendance at the services of his or her church.

(6) Subject to the proper administration, good order and discipline of a correctional facility, the Commissioner-General may determine the conditions under which the religious needs of offenders may be ministered to by the various denominations at that correctional facility.

Granting of authority to ministers of religion and religious workers

233. (1) The Commissioner-General must, as far as is practicable, ensure that authority is granted to sufficient ministers of religion, or religious workers, according to the number of denominations at a correctional facility, to serve the spiritual needs of every offender according to his or her faith.

(2) The Minister grants authority referred to in subregulation (1) on the recommendation of the governing body of the church denomination concerned, but is granted to a minister of religion or a religious worker if his or her character has been vouched for by some responsible members of his or her church denomination.

(3) Subject to the proper administration, security, good order and discipline of a correctional facility, a minister of religion or a religious worker to whom the authority referred to in subregulation (1) has been granted, must be allowed practical and reasonable access to an offender who is registered at that correctional facility as a member of his or her church denomination, but due regard must be had to any objection by the offender to that access.

Bibles and religious literature

234. Bibles and religious literature must, as far as is practicable, be made available to an offender in that language with which he or she is conversant.

Exemption from work on holy days of certain church denominations

235. If a church denomination officially recognizes any holy day other than a Sunday or other holy day of the Christian faith referred to in the Public Holidays Act, an offender registered as a member of such denomination may be granted exemption from work on any such day, but such offender must perform ordinary work on a corresponding number of such Christian holy days as are not officially recognized as such by his or her church denomination.

Sub-part 8: Conducting of business

Basis for conducting of business by offenders

236. (1) An offender who, for the purposes of a sentence imposed on him or her, is detained in custody in a correctional facility, may not conduct any business in the pursuit of gain.

(2) Subregulation (1) does not detract from the competence of the offender to grant a power of attorney to a person of his or her choice to continue with his or her business.

Sub-part 9: Complaints and requests by offenders

Duty of officers in charge in relation to complaints and requests

237. The officer in charge must investigate or cause to be investigated every complaint and request submitted by an offender and, as far as possible, dispose of it.

Submission of complaints to Commissioner-General or designated officers

238. The officer in charge must without delay submit, with his or her comments, any complaint and request, which he or she is unable to dispose of, to the Commissioner-General or the relevant designated officer, for suitable attention and disposal.

Requests for audience and disposal thereof

239. (1) If an offender has valid grounds for requesting an audience with the Commissioner-General or the relevant designated officer he or she may submit a written request for that audience, together with the grounds in support of the request, to the officer in charge.

(2) The officer in charge must forward the request referred to in subregulation (1) to the Commissioner-General or the relevant designated officer and the Commissioner-General or the relevant designated officer or any other officer nominated by him or her, may, as soon as is practicable, grant an audience to the offender in regard to the subject matter of the request.

*Sub-part 10: Access to correctional facilities***Access to correctional facilities by sheriffs, deputy sheriffs and messengers of courts**

240. A sheriff, deputy sheriff and messenger of court must, in the execution of his or her duties, be granted free access to a correctional facility to interview an offender in connection with his or her duties.

Access to correctional facility by judges of Supreme Court or High Court or by magistrates

241. (1) A judge of the Supreme Court or High Court must, in his or her official capacity, at all times be afforded entry to a correctional facility as well as access to any section of the correctional facility and he or she may interview any offender and may report to the Commissioner-General in respect of any matter which he or she considers should be brought to the Commissioner-General's notice.

(2) A magistrate must, in his or her official capacity, at all times be afforded entry to a correctional facility within the area of his or her jurisdiction, as well as access to any section of such correctional facility, to see every offender and, if he or she desires, to interview any offender, and he or she may report his or her findings in respect of that visit to the Commissioner-General.

(3) A judge or a magistrate desiring to visit a correctional facility must sign the official visitor's book of the correctional facility, and, subject to satisfactory identification, his or her signature is sufficient authority for entry to the correctional facility in terms of subregulation (1) or (2).

Approval of other visits

242. (1) The Commissioner-General may, on such conditions as he or she considers fit, grant permission to any person other than those mentioned in regulation 240 and 241(1) and (2) to visit a correctional facility or any specific section of the correctional facility for any special or general purpose.

(2) Despite subregulation (1), the officer in charge may, on such conditions as he or she considers fit, grant permission to any person from within the region where the correctional facility is situated, other than those mentioned in regulation 240 and 241(1) and (2), to visit the correctional facility or any specific section of that correctional facility for any special or general purpose.

Questioning and search

243. Any person entering or leaving a correctional facility may be questioned and searched in a prescribed manner by an officer on duty at that correctional facility.

Refusal of entry to correctional facilities

244. The officer on duty at a correctional facility must refuse entry to a correctional facility any person if the person concerned refuses or neglects to furnish such officer with the satisfactory replies to any questions in regard to his or her visit or any incidental matter, or who, if required, refuses to be searched.

Ejection from correctional facilities

245. (1) A person who, during a visit to a correctional facility, conducts himself or herself improperly or contrary to the good order or discipline of that correctional facility, may be ordered by the officer in charge, or any other officer authorised by the officer in charge, to leave the correctional facility, and if that person fails, neglects or refuses to comply with the order, the officer in charge or any other officer authorised in that regard, may cause him or her to be forcibly removed from the correctional facility.

(2) A person who fails, neglects or refuses to comply with an order given in terms of subregulation (1) to leave the correctional facility, or who resists or obstructs ejection ordered in terms of subregulation (1), or who refuses to be searched when required under regulation 244, is guilty of contravening this regulation and on conviction is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both the fine and imprisonment.

*Sub-part II: Visits to, and interviews with, offenders by legal representatives***Basis for visits and interviews**

246. Subject to the permission of the officer in charge and to such conditions as the Commissioner-General may determine, any offender who is a party to civil proceedings or intends to institute those proceedings, or is an accused in a criminal case, may consult his or her legal representative in connection with those proceedings or case.

Conditions of visits and interviews with offenders by legal representatives

247. The visit and interview for the purposes of regulation 246 are subject to the following conditions -

- (a) the legal representative of the offender, at the request of the officer in charge or, in his or her absence, of the officer in charge of the correctional facility for the time-being or of an officer on duty at the correctional facility, must lodge proof of his or her identity and status;
- (b) a visit to or interview with the offender may take place only during normal office hours, except in exceptionally meritorious cases where prior permission must be obtained from the officer in charge or, in his or her absence, of any other officer in charge of the correctional facility for the time-being;
- (c) the interview must be restricted to the civil proceedings or the criminal action to which the offender is a party;
- (d) if an interpreter or a shorthand writer is used, the person involved must be approved by the officer in charge or, in his or her absence, of any other officer in charge of the correctional facility for the time-being;
- (e) no offender may, during a visit, hand any writing, document or any other article to his or her legal representative, interpreter or shorthand writer if such writing,

document or article is not relevant to the civil proceedings or criminal case to which the offender is a party;

- (f) no legal representative, interpreter or shorthand writer may, during a visit, accept from the offender or hand to the offender any writing, document or any other article if such writing, document or article is not relevant to the civil proceedings or criminal case to which the offender is a party;
- (g) no sound-recording apparatus or aid for the recording or reproduction of sound is allowed, except where prior permission by the officer in charge is given; and
- (h) the interview is subject to such other conditions as may be considered necessary by the Commissioner-General for the general control and management of a correctional facility and the maintenance of good order and discipline in that correctional facility.

Refusal of further visits

248. (1) If a legal representative in any way abuses the privilege of visiting or interviewing an offender, is subject to subregulation (2) or is convicted of any offence under the Act, he or she may be denied further visits to any correctional facility or offender for such period as the Commissioner-General may determine.

(2) If the Commissioner-General, on good grounds, is of the opinion that the visit of a particular legal representative to an offender or a correctional facility is not in the interest of the safety of the State or the good order and administration of a correctional facility, he or she may refuse to give permission to that legal representative to visit that offender or correctional facility, but an appeal may be lodged with the Minister against the decision of the Commissioner-General.

(3) If the Commissioner-General refuses to grant permission to a legal representative to visit or interview an offender under subregulation (2), that offender is entitled to arrange for some other legal representative to visit him or her.

Sub-part 12: Labour

General requirements on labour

249. Every sentenced offender must work no more than eight hours a day, unless the officer in charge, in terms of the classification scheme or course of rehabilitation or otherwise, determines that an offender be exempted from work on any day during any period.

Physical and mental fitness

250. (1) An offender may not perform work unless the medical service personnel has certified that he or she is physically and mentally fit.

(2) An offender may, on the recommendation of the medical service personnel, be wholly or partially exempted from work.

Scope of work

251. An offender must perform only the types of work as provided under Part 11 of the Act.

Limitation of use of offenders' labour

252. Subject to regulation 138, an offender may not perform work for another offender, an officer, or a private person or body without the specific or general approval of the Commissioner-General, senior officer authorised by the Commissioner-General, or the officer in charge.

Sundays and public holidays

253. An offender must, on a Sunday, as well as on any public holiday referred to in or declared under section 1 of the Public Holidays Act, perform only such work as is absolutely essential for the hygiene and proper administration of the correctional facility.

*Sub-part 13: Gratuities***Payment, control and use of gratuities**

254. Subject to section 97 of the Act, the Commissioner-General must determine the conditions under which a gratuity is paid to an offender, as well as the manner in which any earned gratuity is controlled and used or paid to, or on behalf of, the offender.

*Sub-part 14: Ex-gratia compensation***Conditions and control of payment**

255. (1) Subject to subregulation (2), if the offender's earning ability is reduced as a result of an accident or injury sustained in correctional facility, which was not due to his or her own negligence or fault, the Commissioner-General may, with the consent of the Treasury, grant to that offender an ex-gratia compensation.

- (2) The Commissioner-General must determine -
- (a) the manner of determining the extent of reduction of earning ability;
 - (b) the extent of reduction of earning ability that deserves compensation;
 - (c) the amount of compensation; and
 - (d) the manner in which such compensation must be controlled and paid to, or on behalf of, that offender.

*Subpart 15: Segregation***Segregation at work**

256. Subject to the provisions of regulation 257, the officer in charge may order any offender to be segregated and to work alone in a cell where such action appears to be in the interest of the rehabilitation of such offender or the good order and discipline of the correctional facility.

Grounds and authority for segregation of offenders

- 257.** (1) When an offender -
- (a) has a bad or harmful effect on another offender or is responsible for the deterioration of the relationship between an officer and an offender and their attitudes towards each other;

- (b) causes unrest or dissatisfaction among other offenders or incites other offenders to submit trivial or untrue complaints and representations or incites or influences other offenders to disregard or contravene any command or instruction or tries to do or bring about any of the things mentioned in this paragraph;
- (c) has attempted to escape, or when there are reasonable grounds for believing that he or she is planning to escape;
- (d) has again been taken into custody after escape from correctional facility or other lawful detention or custody;
- (e) becomes violent or adopts a threatening or aggressive attitude towards an officer or any other offender or person;
- (f) conducts himself or herself or acts in any manner which conflicts with the good order and discipline of the Correctional Service,

the officer in charge may order the segregation of that offender.

(2) The officer in charge must, immediately after issuing an order to segregate an offender, make or cause to be made, an entry in a register to be kept for that purpose, recording the particulars of the segregation.

(3) The segregation referred to in subregulation (1) must be for such period as may be considered absolutely necessary, but not exceeding 30 days.

(4) If it is considered absolutely necessary to continue with the segregation referred to in subregulation (2) in a separate cell for a period exceeding 30 days, the officer in charge must report to the Commissioner-General stating the facts and making his or her recommendation.

(5) Upon receipt of the report and recommendation referred to in subregulation (4), the Commissioner-General may order the extension of the period of segregation in a separate cell for 60 additional days, but no such segregation must exceed a period of 90 days without an explicit permission of the Minister.

(6) Despite subregulation (1), segregation of an offender may not be ordered or enforced if in any particular case or at any time the medical service personnel certifies that any such segregation would be or is dangerous to the offender's physical or mental health.

(7) The segregation described in this regulation is not considered to be confinement in single cells for the purposes of any provision of the Act.

Revocation of order of segregation

258. The Commissioner-General may, at his or her discretion, at any time revoke an order for the segregation of an offender.

Sub-part 16: Classification of sentenced offenders

Basis for classification of offenders

259. Subject to sections 17 and 64 of the Act, a sentenced offender is classified according to the necessary security level and his or her suitability for placement, rehabilitation and training at a correctional facility, and as determined by the Commissioner-General in accordance with the following principles -

- (a) individual classification in so far as the period of sentence permits and such classification is justified by an analysis and assessment of the offender's criminal record, security risk and social history; or
- (b) the maintenance of regular contact with, and observation of, the conduct and progress of the offender; and
- (c) in so far as the duration of sentence permits, the application of progressive and flexible reclassification on promotion or otherwise to another security level or another type of training.

Sub-part 17: Studies and library

Studies

260. If the officer in charge is of the opinion that an offender's deficient or inadequate schooling or complete lack of schooling could possibly be a factor in causing crime, such an offender must at all times be encouraged to undertake an appropriate course of study, due regard being had to the period of his or her sentence and personal aptitude, but the officer in charge may, in his or her discretion, allow any other offender to embark on a suitable course of study.

Compulsory studies

261. Compulsory studies, as well as conditions under which such studies must be pursued, may be determined by the Commissioner-General for specific cases in certain categories of offenders.

Establishment of libraries

262. A properly organised library containing literature of constructive and educational value must, as far as possible, be established and maintained at the correctional facility and may in the discretion of the officer in charge be placed at the disposal of all offenders detained in that correctional facility.

Books and periodicals from outside sources

263. Subject to any conditions and rules issued by the Commissioner-General, an offender may receive books and periodicals from outside sources.

Withdrawal of permission to study

264. (1) If any offender who has been granted permission to study abuses that permission or his or her study material in any way or uses it for purposes other than study, or if that offender is confined in terms of section 87 or 103 of the Act or is confined as a sanction, that offender's study material and permission to study may be temporarily or permanently withdrawn.

(2) If an offender's study material and permission to study is withdrawn in terms of subregulation (1), and if he or she has incurred costs in connection with his or her studies, he or she may not be entitled to recover those costs from the State.

(3) Study material received by an offender in terms of regulation 263 for the purposes of his or her studies remains the property of the offender and must be treated as his or her private property.

Study and library facilities not legal right

265. Permission to study or the utilization of any library in terms of this subpart is subject to the discretion of the Commissioner-General, and these regulations may in no way be construed in such a way as to imply that the permission or utilization of any library allows any offender a right he or she can legally claim.

*Sub-part 18: Structured and other supportive rehabilitation programmes***Aim of structured and other supportive rehabilitation programmes**

266. As far as the duration of a sentence permits, the aim of structured and other supportive rehabilitation programmes for a sentenced offender must be to -

- (a) cultivate in him or her the desire to lead an honest, industrious and law abiding life after his or her release;
- (b) equip him or her with necessary skills which will enable him or her to lead an honest and industrious life after his or her release and refrain from re-offending; and
- (c) develop self-respect and a sense of responsibility in him or her.

Application of certain principles in the rehabilitation of sentenced offenders

267. In order to promote the aims set out in regulation 266, the following assessment principles must be strictly observed and applied in assigning a sentenced offender to a rehabilitation programme

- (a) risk assessment principle, that is accurate on-going assessment of the risk posed by the offender to his or her own safety and the safety and security of staff and other offenders and the potential risk posed by the offender to the public safety;
- (b) needs assessment principle, that is systematic analysis of the key dynamic characteristics of the offender and their circumstances which need to be changed in order to reduce the offender's reoffending potential; and
- (c) responsive assessment principle, that is assessment of the rehabilitation programmes and the manner they are provided to ensure that such programmes promote optimal offender learning and behavioural change.

(2) Subject to appropriate security measures and the avoidance of familiarity, the following principles must be strictly observed and applied during the provision of rehabilitation programmes to offenders:

- (a) continuous and intensive instruction and regular discipline within the scope of the rehabilitation programme to which the offender has been assigned;
- (b) personal advice and guidance by all officers directly or indirectly charged within the rehabilitation of the offender; and
- (c) the promotion of proper and healthy social intercourse and a good spirit with fellow offenders and all the officers directly or indirectly concerned with the rehabilitation of offenders.

PART 6
RELEASE OF OFFENDERS

Sub-part 1: Remission of sentence

Granting of remission of sentence

268. Remission of sentence is granted in accordance with the provisions of section 107 of the Act.

Procedure for offenders to earn remission of sentence

269. The procedure and manner for the offender to earn remission of sentence is as prescribed.

Monitoring and supervision of offenders released after earning remission of sentence

270. An offender who is released after earning the one-third remission of sentence continues, while outside the correctional facility, to serve his or her term of imprisonment until its expiration and such offender must be monitored and supervised as prescribed.

Sub-part 2: Pardon and reprieve of offenders

Applications by offenders for pardon or reprieve

271. (1) Where an offender applies to the President for pardon or reprieve, such application is submitted to the Release Board for consideration.

(2) In considering the application referred to in subregulation (1), the Release Board must take into account -

- (a) the age and background of the offender at the time of the commission of the offence in relation to which the offender is applying for pardon or reprieve;
- (b) the nature and seriousness of the offence;
- (c) the circumstances surrounding the commission of the offence;
- (d) the period the offender has served so far;
- (e) the risk, if any, the offender might pose to the community if the pardon or reprieve results to early release from correctional facility;
- (f) where applicable, the victim's opinion on the application; and
- (g) the interest of the society,

and submit its recommendation to the Commissioner-General.

(3) On receipt of the recommendation referred to in subregulation (2), the Commissioner-General, must, together with his or her comments, submit the recommendation to the Minister.

(4) On receipt of the recommendation referred to in subregulation (3), the Minister, must, together with his or her comments, submit the recommendation to the President for his or her decision.

Assessment and identification of offenders for pardon or reprieve

272. (1) Subject to subregulation (2), the assessment and identification of offenders for pardon and reprieve under section 108 of the Act, are done by the officer in charge who must, after assessment, compile a name list of identified offenders.

(2) The assessment referred to in subregulation (1) must be done taking into account any instructions issued or conditions put by the President, Minister or Commissioner-General.

Recommendations of offenders for pardon or reprieve

273. (1) The officer in charge must, after compiling the name list of offenders as per subregulation (1) of regulation 272, submit such list to the Release Board.

(2) The Release Board must check the correctness of the name list submitted under subregulation (1) and submit such list to the Commissioner-General.

(3) The Commissioner-General must check, or cause to be checked, the correctness of the name list submitted under subregulation (2) and submit such list to the Minister who must, after consideration, submit it to the President for his or her decision.

*Sub-part 3: Release on medical grounds***Recommendations by medical officers**

274. (1) The medical officer may, in terms of section 109 of the Act, recommend an offender for release on medical grounds if the offender -

- (a) is suffering from -
 - (i) a dangerous disease for which the medical officer certifies that, if not immediately released will lead to the offender's death; or
 - (ii) infectious or contagious disease for which the medical officer certifies that, there is no any other way to prevent the spread of the disease while the offender is detained in a correctional facility and if not immediately released the disease will spread to the whole correctional facility; or
- (b) due to his or her physical condition, is certified by the medical officer to be totally blind or crippled to such an extent that his or her continued incarceration is detrimental to his or her health.

(2) On making a recommendation for the release of an offender on medical grounds, the medical officer must complete a prescribed form and indicate how the offender will be affected with the continued incarceration and how the release of such offender will help the offender.

(3) The recommendation referred to in subregulation (2) must be submitted to the officer in charge who must, together with his or her comments, submit to the Commissioner-General.

(4) Upon the receipt of the recommendation submitted under subregulation (3), the Commissioner-General must, together with his or her comments, submit to the Minister for his or her decision.

(5) The officer in charge or the Commissioner-General, may, before submitting the recommendation under subregulation (3) or subregulation (4), respectively, seek clarity from the

medical officer referred to in subregulation (1) or from any other person or medical practitioner on the recommendation submitted under subregulation (3).

Consideration and decision by Minister

275. (1) The Minister, on consideration of the recommendation referred to in regulation 274(4), may authorise the release of the offender on medical grounds either unconditionally or on such conditions as to parole or probation or to special treatment as the Minister may determine.

- (2) Before authorising the release of an offender on medical grounds, the Minister may -
- (a) seek clarity from the Commissioner-General or any other person on the recommendation;
 - (b) seek opinion of another medical practitioner on the recommendation; or
 - (c) order a new recommendation to be submitted by the same medical officer or another medical practitioner.

Sub-part 4: Release on day parole

Application for day parole

276. (1) Where an offender applies for day parole pursuant to section 110 of the Act, the application is submitted to the officer in charge who must, together with his or her comments, submit it to the Release Board.

(2) The Release Board, on consideration of the application referred to in subregulation (1), may authorise the release of the offender on day parole -

- (a) to allow the offender to participate in community based activities as it is necessary according to his or her correctional planning; and
- (b) with the intention to prepare that offender for release on full parole.

(3) The offender on day parole must return daily to the correctional facility or correctional community centre, as the Release Board may decide.

Monitoring and supervision of offenders released on day parole

277. The monitoring and supervision of the offender released on day parole are as prescribed.

Sub-part 5: Temporary absences

Application for temporary absence

278. For the purposes of section 111(1) of the Act, the officer in charge may authorise a temporary absence of an offender -

- (a) for medical reasons to allow the offender to undergo medical examination or treatment that cannot reasonably be provided in the correctional facility;
- (b) for administrative reasons to allow the offender to attend to essential personal affairs or legal matters or to matters related to the administration of the sentence that the offender is serving;

- (c) for community service purposes to allow the offender to undertake voluntary activity with a non-profit community institution, organisation or agency, or for the benefit of the community as a whole;
- (d) for family contact purposes to assist the offender in maintaining and strengthening family ties as a support to the offender while in custody and as a potential community resource on the offender's release;
- (e) for parental responsibility reasons to allow the offender to attend to matters related to the maintenance of a parent-child relationship, including care, nurture, schooling and medical treatment, where such a relationship exists between the offender and the child;
- (f) for personal development for rehabilitative purposes to allow the offender to participate in specific treatment activities with the goal of reducing the risk of the offender re-offending, and to allow the offender to participate in activities of a rehabilitative nature with the goal of assisting the reintegration of the offender into the community as a law-abiding citizen; or
- (g) for compassionate reasons to allow the offender to attend to urgent matters affecting the members of the offender's immediate family or other persons with whom the offender has a close personal relationship.

Commissioner-General to prescribe other matters relating to temporary absences

279. The periods of temporary absences, the manner in which, and the time at which, an offender may apply for temporary absence are as prescribed.

Sub-part 6: Release on full parole or probation

Release on full parole or probation of habitual criminals

280. (1) Subject to subregulation (2), an offender who has been declared a habitual criminal is eligible to be considered for release on full parole or probation pursuant to section 116 of the Act after serving in a correctional facility a period of at least 25 years.

(2) The counting of the period referred to in subregulation (1) is restarted whenever the offender is, after being declared habitual criminal, convicted of any crime or offence committed after such declaration.

Release on full parole or probation of offenders sentenced to life imprisonment

281. (1) Subject to subregulation (2), an offender who has been sentenced to life imprisonment is eligible to be considered for release on full parole or probation pursuant to section 117 of the Act after serving at least 25 years in a correctional facility without committing and being convicted of any crime or offence during that period.

(2) The counting of the period referred to in subregulation (1) is restarted whenever the offender is, after being sentenced to life imprisonment, convicted of any crime or offence committed after such sentencing.

Monitoring and supervision of offenders released on full parole or probation

282. The monitoring and supervision of offenders released on full parole or probation are as prescribed.

*Sub-part 7: Appeals by offenders***General**

283. (1) Pursuant to section 113 of the Act, an offender who is aggrieved by the decision of the Release Board, the Commissioner-General or the Minister regarding his or her release on full parole or probation, may, within 14 days of being informed of the decision, appeal against such decision to the Commissioner-General, the Minister or the President.

(2) The appeal referred to in subregulation (1) must be in writing in which the offender lodging the appeal must clearly and specifically indicate and explain the grounds of his or her appeal.

(3) The appeal referred to in subregulation (1) is lodged with the officer in charge who must immediately submit it to the Release Board.

(4) The decision on the appeal is communicated to the offender through the officer in charge.

Appeals against decisions of Release Board

284. (1) When the appeal is against the decision of the Release Board, the Release Board must, within seven days of receiving the appeal under regulation 283(3), submit, together with its comments on the grounds of appeal, to the Commissioner-General.

(2) Upon the receipt of the appeal referred to in subregulation (1), the Commissioner-General must make his or her decision as per section 113(2), (3) or (5) of the Act.

(3) The Commissioner-General, after making his or her decision on appeal, must inform the Release Board of the decision which in its turn must inform the officer in charge for the later to inform the offender.

Appeals against decisions of Commissioner-General

285. (1) When the appeal is against the decision of the Commissioner-General, the Release Board must, within seven days of receiving the appeal under regulation 283(3), submit it, together with its comments on the grounds of appeal, to the Commissioner-General.

(2) Upon the receipt of the appeal referred to in subregulation (1), the Commissioner-General must, within seven days, submit, together with his or her comments on the grounds of appeal, to the Minister.

(3) Upon the receipt of the appeal referred to in subregulation (2), the Minister must make his or her decision as per section 113(2), (3) or (5) of the Act.

(4) The Minister, after making his or her decision on appeal, must inform the Commissioner-General of the decision, who in his or her turn must inform the Release Board.

(5) The Release Board must inform the officer in charge of the decision referred to in subregulation (3) for the later to inform the offender.

Appeals against decisions of Minister

286. (1) When the appeal is against the decision of the Minister, the Release Board must, within seven days of receiving the appeal under regulation 283(3), submit it, together with its comments on the grounds of appeal, to the Commissioner-General.

(2) Upon the receipt of the appeal referred to in subregulation (1), the Commissioner-General must, within seven days, submit, together with his or her comments on the grounds of appeal, to the Minister.

(3) Upon the receipt of the appeal referred to in subregulation (2), the Minister must, within seven days, submit, together with his or her comments on the grounds of appeal, to the President.

(4) Upon the receipt of the appeal referred to in subregulation (3), the President must make his or her decision as per section 113(2), (3) or (5) of the Act.

(5) The President, after making his or her decision on appeal, must inform the Minister of the decision, who in his or her turn must inform the Commissioner-General.

(6) The Commissioner-General must inform the Release Board of the decision referred to in subregulation (4) and the Release Board must inform the officer in charge of the decision for the later to inform the offender.

Sub-part 8: Release procedure and requirements

Handing over of private property

287. (1) On the release of an offender his or her private money, valuables and personal effects which have not been destroyed or confiscated under the Act, must be handed over to him or her as prescribed.

(2) If the clothing of the offender referred to in subregulation (1) has been destroyed or otherwise disposed of under the Act or if he or she has no clothing or has totally unserviceable clothing and is unable to obtain sustainable civil clothing out of his or her own funds or from any other source, such offender must be provided with suitable clothing and other essential equipment as determined by the Commissioner-General.

Travel arrangements on release of offenders

288. On release of a sentenced offender -

- (a) a suitable travel by rail or road to the station or halt nearest to his or her destination must be arranged; and
- (b) sufficient food for the normal duration of the journey to his or her destination must be provided, but if it is not practicable to provide him or her with sufficient food for the full journey or part thereof, a monetary grant not exceeding the rates prescribed must be made to him or her.

Medical examination of offenders before release

289. A medical service personnel must, as far as is practicable, examine a sentenced offender as shortly as possible before the offender is released from correctional facility.

Further detention of offenders on medical grounds

290. If a medical service personnel certifies that an offender whose sentence is about to expire is suffering from a serious or infectious disease or a serious injury, and that release or removal from correctional facility on expiry of his or her sentence is likely to result in death or serious injury to his or her health or to constitute a source of infection and danger to the health of other persons, that

offender may be detained for such further period and under such conditions as the Commissioner-General on the recommendation of the medical service personnel, may determine.

Interview by officers in charge prior to release of offenders

291. The officer in charge must interview a sentenced offender as shortly as possible before his or her release from correctional facility.

Temporary accommodation of offenders in correctional facilities

292. (1) Where an offender is authorised to be released on full parole or he or she becomes eligible for release from correctional facility after earning the one third remission of sentence, such offender may, in writing, request the Commissioner-General to be allowed to stay temporarily in the correctional facility in order to assist that offender's rehabilitation.

(2) On the receipt of the request referred to in subregulation (1), the Commissioner-General may authorise the temporary accommodation of the offender in a correctional facility for such a period as the Commissioner-General may see fit but such a temporary stay may not extend beyond the expiration of the offender's sentence.

(3) An offender staying temporarily in a correctional facility pursuant to subregulation (2) continues to be treated as other offenders.

(4) The full parole of the offender who is authorised to stay temporarily in a correctional facility is postponed for the duration of the stay.

Sub-part 9: Promotion of and grants-in-aid to, approved welfare institutions, societies and individuals

Promotion of approved welfare institutions, societies and individuals

293. The Minister may take steps to -

- (a) promote the establishment of welfare institutions or societies;
- (b) appoint qualified individuals; and
- (c) determine the functions and activities of the welfare institutions, societies or individuals referred to in paragraphs (a) and (b) in the furtherance of the rehabilitation and after-care of offenders on release.

Grants-in-aid to approved welfare institutions, societies and individuals

294. The Minister may make a grant-in-aid to any welfare institution, society or individual referred to in regulation 293, out of moneys to be voted by Parliament for this purpose, on a basis and conditions and in a manner to be determined by him or her.

Sub-part 10: Release Board

Constitution of Release Board

295. Pursuant to section 104 of the Act, the Commissioner-General constitutes, and determines the structure of, the Release Board.

Seats of Release Board

296. There are seats of the Release Board as determined by the Commissioner-General and at every such seat there is a Vice-Chairperson and such a number of members of the Release Board as the Commissioner-General determines.

Convening of meetings of Release Board

297. (1) The Vice-Chairperson of the Release Board must, as often as is necessary or at the request of the Commissioner-General, convene a meeting of the Release Board at its relevant seat, at the correctional facility or other place where offenders may be held in safe custody.

(2) A majority of the members of the Release Board constitutes a quorum at a meeting of a Release Board.

(3) The Vice-Chairperson of the Release Board must preside at a meeting of that board or, in his or her absence, a member elected by the members present at a meeting of the Release Board from amongst their number to act as chairperson of the Release Board, must preside.

(4) The Vice-Chairperson or the person elected to act as chairperson of the Release Board must determine the order of the agenda of, and the procedure at, a meeting of the Release Board and his or her decision on those matters is final.

(5) A decision of a majority of the members present at a meeting of a Release Board constitutes a decision of the Release Board, and in the event of an equality of votes, the person presiding has a casting vote in addition to his or her deliberative vote: Provided that, any minority vote must be brought to the notice of the Commissioner-General in a report or recommendation of the Release Board with regard to the matter discussed.

(6) A decision taken by or an act performed under the authority of the Release Board is not rendered invalid by reason only of a vacancy on the Release Board or of the fact that a person who is not entitled to sit as a member sat as such a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the majority of the members of the Release Board who were present at the time and entitled to vote.

(7) The person presiding at a meeting of the Release Board must cause a record to be kept of the proceedings of the meeting of the Release Board and must cause that record to be submitted to the Commissioner-General as soon as possible after a meeting of the Release Board.

Reports and recommendations by Release Board

298. (1) The Vice-Chairperson of a seat referred to in regulation 296 must submit a report and make a recommendation in the prescribed form, to the Chairperson of the Release Board.

(2) Upon the receipt of the report and recommendation referred to in subregulation (1), the Chairperson of the Release Board must, in the prescribed form, submit the report and recommendation together with his or her comments to the Commissioner-General.

Sub-part 11: Correctional community centres

Administration and control of correctional community centres

299. The correctional community centres established under section 21(1) of the Act must be administered and controlled and must operate in a manner correctional facilities operate, with such necessary changes as the Commissioner-General may determine.

Contracts on establishment, administration and control of correctional community centres

300. (1) The correctional community centres established under section 21(3) of the Act must be administered and controlled as maybe agreed upon between the Minister and any institution, person or body of persons who enters into contract to establish correctional community centres.

(2) Community correctional centres referred to in subregulation (1) must operate in a manner correctional facilities operate, with such necessary changes as the Commissioner-General may determine.

CHAPTER 4
SPECIAL REGULATIONS FOR DIFFERENT CATEGORIES OF OFFENDERS

PART 1
UNSENTENCED OFFENDERS

Segregation of offenders awaiting trial or sentence

301. An offender awaiting trial or sentence must, as far as possible, be segregated from sentenced and other categories of unsentenced offenders.

Association

302. Association between offenders awaiting trial or sentence must be restricted to a minimum in order to prevent collusion or conspiracy to defeat the end of justice.

Search

303. When an offender awaiting trial or sentence is searched, no personal effects or articles other than dangerous weapons or articles with which an escape may be effected or such other articles, money or valuables as the Commissioner-General may specially or generally prohibit, must be removed from him or her.

Food

304. Subject to section 77 of the Act, an offender awaiting trial or sentence must be provided with food according to the prescribed diet scale.

Stationery and reading matter

305. An offender awaiting trial or sentence may receive, or purchase at his or her own expense, from outside sources such stationery and reading matter as may be approved by the Commissioner-General, but the privilege may be summarily withdrawn if, in the opinion of the Commissioner-General whose decision is final, the offender is in any manner abusing this privilege.

Handing over of personal effects and valuables

306. The officer in charge may, at the request or with the consent of an offender awaiting trial or sentence, hand over the money, valuables, documents or other personal effects of the offender to that offender's relative, friend or legal representative.

Private medical and dental services

307. Subject to security measures, the officer in charge, on request of an offender awaiting trial or sentence, may authorise the offender to employ the services of a private medical practitioner

or dentist on such conditions as are specially or generally prescribed, provided that, no cost to the State is incurred by those private medical or dental services.

Compliance with conditions of bail

308. An offender awaiting trial or sentence who has been unable to comply with the conditions of bail must be granted visits at reasonable times during any day and also the opportunity and facilities to write and receive letters in order to comply with those conditions.

Preparation of defense

309. An offender awaiting trial or sentence may, for the purpose of his or her legal defense, within reasonable limits be -

- (a) provided with stationeries;
- (b) afforded an opportunity for the preparation of the defense; and
- (c) afforded an opportunity to write letters in connection with the defense to a relative, friend or legal representative.

Sale or transfer of private property prohibited

310. An offender awaiting trial or sentence contravenes these Regulations if, without the permission of the officer in charge, he or she sells or in any other manner transfers or attempts to sell or transfer to another person any article which he or she has been allowed to bring into the correctional facility for his or her own use.

Application of regulations 301 to 310 to offenders detained for mutinous or seditious conduct

311. Regulations 301 to 310 apply with the necessary changes to an offender detained for any alleged mutinous conduct, or for any other alleged offence against the public safety or security of the State.

Application of regulations 301 to 310 to witnesses, prohibited immigrants and other unconvicted persons

312. Regulations 301 to 310 apply with the necessary changes to unconvicted persons received at a correctional facility in terms of paragraph (b) and (c) of subsection (1) of section 61 of the Act.

Authority for admission and maintenance of indigent or destitute sick persons in correctional facility hospitals

313. An indigent or destitute sick person may, on the order of a magistrate, be admitted to, and maintained at, a correctional facility hospital for as long as is essential for the health, preservation of life or general care and treatment of that person but no such order for the admission of that person to a correctional facility hospital may be made merely because it is alleged that he or she is an indigent or destitute sick person, unless -

- (a) there is no hospital available in the immediate vicinity for admission, maintenance, treatment and care of that person;
- (b) the illness or other condition of that person is not of infectious or other communicable form;

- (c) accommodation according to the sex of the person concerned is available at the correctional facility hospital; and
- (d) that person is not living with, or being accommodated by, his or her employer who is able to provide the necessary maintenance, care and treatment for him or her.

Application of regulations 301 to 310 to indigent or destitute sick persons

314. Regulations 301 to 310 apply with the necessary changes to an indigent or destitute sick person admitted, maintained and treated in a correctional facility hospital in terms of regulation 313.

Treatment and restraint of mentally ill persons

315. An offender detained as an alleged mentally ill person in terms of the Mental Health Act, 1973 (Act No. 18 of 1973), is subject to such treatment or restraint as may be prescribed by the medical officer.

Application of regulations 301 to 310 to alleged mentally ill persons

316. Subject to regulation 315, regulations 301 to 310 apply with the necessary changes to an alleged mentally ill person detained in a correctional facility.

PART 2 OTHER CATEGORIES OF OFFENDERS

Segregation of juvenile offenders

317. A juvenile sentenced to imprisonment must, as far as possible, be segregated from an older and more hardened offender.

Guarding and safe custody of female offenders

318. A female offender must be in the safe custody and under the guard of only a female officer, and, whenever it may be necessary for that offender to receive training or instruction by a male officer or other male person, that training is given in the presence and under the supervision of a female officer.

PART 3 PERIODICAL IMPRISONMENT

Periodical imprisonment and minimum period of detention for periodical imprisonment

319. A person sentenced to periodical imprisonment in terms of section 285 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), must serve that sentence in uninterrupted periods of not less than 24 hours at a time as determined, with due regard to the circumstances of such person's employment, by the officer in charge of a correctional facility at which the person surrenders himself or herself to undergo that imprisonment but any period determined may be less than 24 hours, if-

- (a) on the strength of the written application of that person's employer, the officer in charge decides that, in the special circumstances of that person's employment a shorter period is justified; or
- (b) any unexpired portion of the sentence of periodical imprisonment is less than 24 hours.

Further notice to undergo sentence of periodical imprisonment

320. Except when the final period of the sentence of periodical imprisonment has been served, the officer in charge must serve on the person concerned a notice, substantially in the prescribed form, on every occasion when he or she is released from correctional facility after serving each period of the sentence, as determined in terms of regulation 319.

Offences relating to sentence of periodical imprisonment

321. A person who -

- (a) without lawful excuse, proof of which rests on him or her, fails to comply with a notice served on him or her under regulation 320; or
- (b) while under the influence of intoxicating liquor or narcotic drugs, surrenders himself or herself to undergo further periodical imprisonment; or
- (c) impersonates, or falsely represents himself or herself to be the person on whom a notice has been served in terms of regulation 320,

commits an offence and is liable to a fine not exceeding N\$3 000 or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

Detention after expiration of sentence

322. Whenever the final interrupted period of periodical imprisonment being served by an offender expires at any time after 17:00 hours on any day and before 6:00 hours of the following day, his or her release may be postponed to a later hour if the offender in writing consents to the postponement.

Avoidance of association with other categories of offenders

323. The officer in charge must take reasonable steps to prevent an offender undergoing periodical imprisonment from associating with other categories of offenders.

CHAPTER 5
GENERAL PROVISIONS

Establishment of Correctional Service Club

324. (1) Subject to any special or general direction by the Minister, the Commissioner-General may approve the establishment of a Correctional Service Club if, in his or her opinion, that club is necessary and satisfies the requirements of section 131 of the Act.

(2) Every officer, except a temporary officer, becomes a member of the Correctional Service Club established in terms of subregulation (1).

(3) A staff member in the Correctional Service may become a member of the Correctional Service Club established in terms of subregulation (1) on written application to, and approval by, the Commissioner-General or a senior officer authorised thereto by the Commissioner-General.

Purpose of Correctional Service Club

325. The Correctional Service Club established in terms of regulation 324(1) is for -

- (a) the promotion of sport and recreation in the Correctional Service;

- (b) the establishment or the maintenance of holiday resorts or recreation centres;
- (c) providing grants or loans to members for the purpose of studies or research in the interest of the Correctional Service; or
- (d) any other purpose which, in the opinion of the members, is meritorious and in the interest of the Correctional Service or the members.

Management of Correctional Service Club

326. (1) The Correctional Service Club, including a mess and canteen, is controlled by a committee under the chairpersonship of a senior officer, and that committee is constituted and exercises its functions in accordance with the prescribed rules.

(2) The Commissioner-General may appoint any particular officer to serve on the committee or to perform any specific duty in respect of the control and management of the club.

(3) Any profits or assets, or any proceeds from the liquidation, of the Correctional Service Club may be distributed by the control committee, as may be specially or generally determined by the Commissioner-General, for any purpose contemplated in subsection (3) of section 131 of the Act, or for the common benefit or welfare of officers, pensioners and civilian employees referred to in that subsection, and also their dependents.

Maintenance of Correctional Service Club

327. (1) The Correctional Service Club is conducted on business lines, and, with the exception of accommodation or other necessities which may be provided by the State, and except any expenditure which the Commissioner-General may with the consent of Treasury, authorise from public funds, such club must be self-supporting.

(2) Each member of the Correctional Service Club must pay monthly contributions of the amount as determined by an Annual General Meeting of the Correctional Service Club and such contribution may, subject to the approval of the Commissioner-General, be deducted from the salaries of the members.

(3) The Correctional Service Club may receive grants from the State or donations from individuals or bodies of persons or may receive funding from any other legal source.

Statistics and research

328. (1) Information of statistical value, as prescribed, must be regularly kept in order to investigate and ascertain the causes of and trends in crime, the degree of success or otherwise of the rehabilitation and training of the various categories of offenders, of other suitable methods or measures for the prevention of crime and the treatment of the offender, and all other incidental matters.

(2) Any other investigation or research must be conducted in respect of any of the matter referred to in subregulation (1), and any observation or report in connection with the investigation or research must receive due consideration, and the recommendations contained in the observations and the report must be applied as the Commissioner-General may determine.

Penalties for contraventions

329. Whenever no specific punishment has been prescribed for the contravention of or non-compliance with, any regulation by an officer, an offender, or other person, whether on first or subsequent conviction, the following penalties apply, namely -

- (a) for a contravention or for non-compliance by an officer, a fine not exceeding N\$2 000, or imprisonment for a period not exceeding six months, or to both such fine and such imprisonment;
- (b) for a contravention or non-compliance by an offender, any one or more of the penalties set out in section 89 and 91 of the Act; or
- (c) for a contravention or non-compliance by any person not referred to in paragraph (a) and (b), a fine not exceeding N\$2 000, or imprisonment for a period not exceeding six months, or both such fine and such imprisonment.

Compliance with Commissioner-General's directives

330. Officers and other persons in the Correctional Service must obey the Commissioner-General's directives applicable to them.

ANNEXURE 1

RANKS IN THE CORRECTIONAL SERVICE

Senior Officers:	Commissioner-General Deputy Commissioner-General Commissioner Deputy Commissioner Assistant Commissioner Senior Superintendent Superintendent
Junior Officers:	Senior Chief Correctional Officer Chief Correctional Officer Senior Correctional Officer Correctional Officer II Correctional Officer I

ANNEXURE 2

AWARDS IN THE CORRECTIONAL SERVICE

Decorations:	Commissioner-General's Decoration for Bravery (CDB) Decoration for Professional Excellence (DPE) Outstanding Achievement Decoration (OAD) Correctional Service Merit Decoration (CSM)
Medals:	Correctional Service Commendation Medal Foreign Service Medal Honours Memorial Medal Namibian Correctional Service Long Service Medal - Gold Namibian Correctional Service Long Service Medal - Silver Namibian Correctional Service Long Service Medal - Bronze
Certificates:	Namibian Correctional Service Teamwork Certificate Certificate of Appreciation Senior Officers Retirement Certificate - Gold Retirement Certificate - Silver
