

LEGAL NOTICE NO. 197

REPUBLIC OF TRINIDAD AND TOBAGO

THE EMERGENCY POWERS REGULATIONS, 2011

DIRECTIONS

GIVEN BY THE MINISTER OF NATIONAL SECURITY UNDER PARAGRAPH 3
OF THE SECOND SCHEDULE TO THE EMERGENCY POWERS
REGULATIONS, 2011

THE DETENTION OF PERSONS (DISCIPLINE AND PLACE OF
DETENTION) DIRECTIONS, 2011

WHEREAS it is enacted by paragraph 3(1) of the Second Schedule to the ^{Preamble} Emergency Powers Regulations, 2011, that any person in respect of whom a detention order is in force may *inter alia*, be detained in such place and under such conditions as the Minister may from time to time direct and by paragraph 3(4) of the said Schedule it is provided that the Minister may give directions *inter alia*, for regulating the discipline and punishment of breaches of discipline of the detainees:

Now, therefore, in exercise of the powers thereby conferred on me and of all other powers thereunto me enabling, I do hereby direct as follows:

1. These Directions may be cited as the Detention of Persons ^{Citation} (Discipline and Place of Detention) Directions, 2011.

2. In these Directions—

^{Interpretation}

“the Regulations” means the Emergency Powers Regulations, 2011;

“Commissioner” means the Commissioner of Prisons;

“detainee” means any person who is detained under paragraph 2 of the Second Schedule to the Regulations;

“detention centre” means the buildings described in the Schedule to the Prisons Order, 2011 and situated ^{L.N. 174 of} at the 26 Kilometer Mark, Churchill-Roosevelt ²⁰¹¹ Highway, Santa Rosa, Arima;

“Inspector” means the Inspector of Prisons;

- Chap. 13:02 “officer” means a police officer as defined in the Regulations, a prison officer within the meaning of the Prison Service Act, a member of the Trinidad and Tobago Defence Force within the meaning of the Defence Act and includes a civil servant within the meaning of the Civil Service Act, and any other person employed by the State to assist in the administration of a detention centre; and
- Chap. 14:01
Chap. 23:01
- “report” means a report for a breach of discipline under these Directions.
- Entitlement of detainee 3. Subject to paragraphs 7 and 8 a detainee shall be detained at the detention centre and shall be entitled, subject to such conditions as the Commissioner may determine—
- (a) to be provided with books and other reading matter and writing equipment;
- (b) to visits; and
- (c) to receive and send letters.
- Removal of detainee to other detention centre 4. The Commissioner may, if satisfied that any detainee is exercising such influence over another detainee or detainees as is likely to be prejudicial to the security or order of a detention centre or to public safety or public order, remove the detainee exercising such influence to another detention centre, as the Minister may from time to time direct, without prejudice to any punishment to which the detainee may be liable for a breach of discipline.
- Report of breach of discipline 5. (1) Every breach of discipline shall be reported to the Commissioner forthwith and shall be heard and determined in accordance with these Directions as soon as is reasonably practicable.
- (2) Without prejudice to any other Directions as to the segregation of detainees for the purpose of internal management of any detention centre, where a detainee has been reported for an offence, the Commissioner may order him to be kept apart from other detainees pending determination of the complaint.
- (3) A detainee shall, before a report is dealt with, be informed in writing of the breach of discipline for which he has been reported, and shall be given an opportunity of hearing the facts alleged against him and of being heard in his defence.

6. A detainee who—

- (a) disobeys any order of any officer;
- (b) swears, curses, or uses any abusive, insolent, threatening, indecent or other improper language, act or gesture;
- (c) commits any assault;
- (d) communicates with another detainee without authority;
- (e) leaves his cell or other appointed place without permission;
- (f) wilfully disfigures or damages any part of the detention centre or any property which is not his own;
- (g) commits any nuisance;
- (h) has in his possession any unauthorized or prohibited article, or obtains any such article;
- (i) gives to, or receives from any person any unauthorized or prohibited article;
- (j) escapes from any detention centre;
- (k) riots or incites other detainees to riot;
- (l) commits personal violence against any other detainee, officer, servant of or visitor to the detention centre;
- (m) in any way offends against good order and discipline;
- (n) incites hatred or ill-feeling for any officer connected with administering the detention centre;
- (o) influences, whether orally or otherwise, any detainee to commit any act against the security of the detention centre or prejudicial to public safety or public order; or
- (p) attempts to do any of the foregoing things,

Circumstances in which detainee is liable for breach of discipline

commits a breach of discipline and is liable to such punishment as is specified in paragraph 7.

7. Subject to paragraphs 8 and 12, the person in charge of a detention centre or his deputy shall hear and determine minor complaints for breaches of discipline, and may make either or both of the following awards:

- (a) forfeiture or postponement of any rights or privileges for a period not exceeding fourteen days; and
- (b) cellular confinement for a period not exceeding fourteen days.

Duty of prison officer to hear and determine complaints for breaches and to issue awards of confinement and forfeiture

Duty of Commissioner to hear and determine complaints for a breach of discipline and to issue awards of confinement and forfeiture

8. The Commissioner may hear and determine any complaint for a breach of discipline he thinks fit and may make either or both of the following awards:

- (a) forfeiture or postponement of any rights or privileges for a period of not exceeding thirty days; and
- (b) cellular confinement for a period as may be necessary for the maintenance of good order and discipline.

Right of appeal of detainee to Commissioner

9. A detainee awarded punishment under paragraph 7 may appeal against such award to the Commissioner.

Grant of leave to detainee to appeal to the Inspector

10. A detainee awarded punishment under paragraph 8, may with the leave of the Commissioner, appeal against such award to the Inspector; save that no such appeal shall be entertained unless notice thereof is given within twenty-four hours after the award.

Confirmation or modification of punishment

11. The Inspector and the Commissioner, in disposing of any appeal may confirm, set aside, modify, reduce or increase the punishment; save that any such modified or increased punishment shall be a punishment which could have been awarded by the person from whose decision the appeal has been lodged.

Reports of breach of discipline under detention

12. Where a detainee is reported for any of the following acts:

- (a) escaping or attempting to escape from detention or from legal custody;
- (b) gross personal violence to a fellow detainee; and
- (c) any serious or repeated offence against detention, discipline for which such award as the Commissioner is authorized to make is deemed insufficient by the Commissioner,

the Commissioner may forthwith report the breach of discipline to the Inspector who shall, as soon as possible, hear and determine the report, if he thinks it desirable by taking evidence on oath, and make either or both of the following awards:

- (i) forfeiture or postponement of any rights or privileges; and
- (ii) cellular confinement for such a period as may be necessary for the maintenance of good order and discipline.

13. Where a detainee is reported for any of the following offences: Report of breach of detainee under detention triable summarily or on indictment
- (a) riot or incitement to riot;
 - (b) personal violence to any other detainee, officer, servant of or visitor to the detention centre; or
 - (c) any such offence as is described in paragraph 6 being an offence of an aggravated nature,

the Commissioner shall forthwith report the breach of discipline to the Inspector, who may in addition to hearing and determining the matter as a breach of these Directions may cause legal proceedings to be commenced for an offence triable upon summary conviction or on indictment.

14. Every detainee undergoing cellular confinement shall be visited— Right of detainee to be visited by prison officer, chaplain and medical officer
- (a) at least once a day by—
 - (i) a prison officer not below the rank of Assistant Superintendent; or
 - (ii) the person in charge of the detention centre or his deputy;
 - (b) by the Chaplain or Medical Officer, where necessary; or
 - (c) by an officer on duty at intervals of not more than three hours during the day.

15. Every punishment awarded shall be entered in a Special Punishment Book kept for that purpose and shall be signed by the Inspector or officer who awarded it. Record of punishment of detainee in Special Punishment Book

16. The provisions contained in these Directions relating to the hearing and determination of breaches of discipline shall not act as a bar to any legal proceedings being commenced for any offence triable upon summary conviction or on indictment. Directions no bar to any legal proceedings

Dated this 28th day of September, 2011.

J. SANDY
Minister of National Security