



# Criminal Justice Act 1961

1961 CHAPTER 39 9 and 10 Eliz 2

## PART II

TREATMENT AND SUPERVISION OF PRISONERS AND OTHER DETAINED PERSONS

### *Borstal Institutions and Detention Centres*

11–13 .....<sup>F1</sup>

#### Textual Amendments

F1 Ss. 10–13 repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)

### *Approved Schools*

14— .....<sup>F2</sup>  
17.

#### Textual Amendments

F2 Ss. 14–17 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 6](#)

#### [<sup>F3</sup>18 **Directions as to management of approved schools.**

- (1) If it appears to the Secretary of State that the provision made in any approved school with regard to any matter relating to—
- the premises or equipment of the school,
  - the number or grades of the staff employed in the school, or
  - the education, training or welfare of persons under the care of the managers,

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is inadequate or unsuitable, he may give to the managers such directions as he thinks necessary for securing that proper provision is made with respect thereto.

- (2) Where it appears to the Secretary of State that the managers of an approved school have failed to give effect to any directions under this section, subsection (2) of section seventy-nine of the Children and Young Persons Act 1933 (which empowers the Secretary of State in certain circumstances to withdraw his certificate of approval) shall apply as it applies where he is dissatisfied as mentioned in that section.]

**Textual Amendments**

**F3** S. 18 repealed (prosp.) by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72(3), [Sch. 6](#)

**[<sup>F4</sup>19 Constitution of managers.**

- (1) The Secretary of State may by order make provision for regulating the constitution and proceedings of the managers of any approved school other than a school provided by a local authority or by a joint committee representing two or more local authorities; and any such order shall have effect notwithstanding anything in any trust deed relating to the school.
- (2) Before making an order under the foregoing subsection in respect of any school, the Secretary of State shall afford to the managers of the school an opportunity for making representations with respect to the proposed order; and in making any such order the Secretary of State shall have regard to all the circumstances of the school, and to the manner in which it has been managed theretofore.
- (3) If in the case of an approved school, other than a school provided by a local authority or by a joint committee representing two or more local authorities, the Secretary of State is satisfied that by reason of special circumstances it is necessary to do so in the interests of the efficient management of the school, he may appoint one or more persons as additional members of the body constituting the managers of the school; and any person so appointed shall, notwithstanding anything in any trust deed relating to the school or in any order made in respect of the school under subsection (1) of this section, be one of the managers of the school until such time as his appointment is terminated by the Secretary of State or under subsection (4) of this section.
- (4) Any order or appointment made under this section in respect of an approved school shall cease to have effect if that school ceases to be an approved school; but nothing in this subsection shall affect the validity of anything done while the order or appointment was in force.
- (5) In this section “trust deed”, in relation to any school, includes any instrument (not being an order under this section) regulating the constitution of the school, or its maintenance, management or conduct, or the constitution or proceedings of its managers.]

**Textual Amendments**

**F4** S. 19 repealed (prosp.) by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72(3), [Sch. 6](#)

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### Miscellaneous

20 ..... F5

#### Textual Amendments

F5 S. 20 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), s. 60(7), [Sch. 7 Pt. I](#)

21 ..... F6

#### Textual Amendments

F6 S. 21 repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), [Sch. Pt. XI](#)

## 22 Penalties for assisting escape from prison, etc.

<sup>F7</sup>(1) .....

(2) If any person knowingly harbours a person who has escaped from a prison or other institution to which the said section thirty-nine applies, or who, having been sentenced in any part of the United Kingdom or in any of the Channel Islands or the Isle of Man to imprisonment or detention, is otherwise unlawfully at large, or gives to any such person any assistance with intent to prevent, hinder or interfere with his being taken into custody, he shall be liable—

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both;
- (b) on conviction on indictment, to imprisonment for a term not exceeding [<sup>F8</sup>ten years], or to a fine, or to both.

[<sup>F9</sup>(2A) The reference in subsection (2) to a person who has been sentenced as mentioned there includes—

- (a) a person on whom a custodial sentence within the meaning of the [Armed Forces Act 2006](#) has been passed (anywhere) in respect of a service offence within the meaning of that Act;
- (b) a person in respect of whom an order under section 214 of that Act (detention for commission of offence during currency of order) has been made. ]

(4) . . . <sup>F10</sup>

#### Textual Amendments

F7 S. 22(1) repealed (16.5.1992) by [Prison Security Act 1992 \(c. 25\)](#), [ss. 2\(3\)\(4\)](#), 3(2).

F8 Words in s. 22(2)(b) substituted (16.5.1992) by [Prison Security Act 1992 \(c. 25\)](#), [ss. 2\(2\)\(4\)](#), 3(2).

F9 S. 22(2A) substituted for s. 22(3) (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 16 para. 46](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4

F10 Ss. 22(4), 25 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 6](#)

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**Modifications etc. (not altering text)**

- C1** S. 22 modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), [Sch. 1 para. 8](#)

**23 Prison Rules.**

- (1) For the purposes of rules under section forty-seven of the <sup>M1</sup>Prison Act 1952 (which authorises the making of rules for the regulation and management of prisons and the discipline and control of persons required to be detained therein) any offence against the rules committed by a prisoner may be treated as committed in the prison in which he is for the time being confined.

- (2) Without prejudice to any power to make provision by rules under the said section forty-seven for the confiscation of money or articles conveyed or deposited in contravention of the said Act or of the rules, provision may be made by such rules for the withholding from prisoners (subject to such exceptions as may be prescribed by the rules) of any money or other article sent to them [<sup>F11</sup>by post], and for the disposal of any such money or article either by returning it to the sender (where the sender's name and address are known) or in such other manner as may be prescribed by or determined under the rules:

Provided that in relation to a prisoner committed to prison in default of payment of any sum of money, the rules shall provide for the application of any money withheld as aforesaid in or towards the satisfaction of the amount due from him unless, upon being informed of the receipt of the money, he objects to its being so applied.

- (3) A prisoner who would, apart from this subsection, be discharged on any of the days to which this subsection applies in his case shall [<sup>F12</sup>(subject to subsection (3B))] be discharged on the next preceding day which is not one of those days.

[<sup>F13</sup>The days] to which this subsection applies are Sunday, Christmas Day, Good Friday and any day which under the <sup>M2</sup>Bank Holidays Act 1871 is a bank holiday in England and Wales and, in the case of a person who is serving a term of more than [<sup>F14</sup>five days], any Saturday.

<sup>F15</sup>(3A) .....

- [<sup>F16</sup>(3B) The Secretary of State may direct that a prisoner who would, apart from this subsection, be discharged on a working day immediately before a non-working day, must instead be discharged on a day referred to in subsection (3C).

(3C) The days are—

- (a) the last eligible working day before the day on which the prisoner would otherwise be discharged;
- (b) the last eligible working day before that eligible working day.

(3D) In this section—

“eligible working day” means a working day that is not immediately followed by a non-working day;

“non-working day” means—

- (a) a Saturday or Sunday, Christmas Day, or Good Friday, or
- (b) any day that is a bank holiday under section 1 of the Banking and Financial Dealings Act 1971 in England and Wales;

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“working day” means a day that is not a non-working day.]

(4) In this section the references to prisons and prisoners include references respectively to [<sup>F17</sup>a young offender institution][<sup>F18</sup>, a secure college][<sup>F19</sup>secure training centres] and remand centres and to persons detained therein.

[<sup>F20</sup>(5) In subsections (3), (3B) and (3C), the references to a prisoner also include references to a person detained in—

- (a) a secure children’s home, or
- (b) a secure 16 to 19 Academy,

in pursuance of a sentence or order referred to in section 163(1) of the Police, Crime, Sentencing and Courts Act 2022.

(6) In subsection (5)—

“secure children’s home” means—

- (a) a children’s home in England, within the meaning given in section 1 of the Care Standards Act 2000, which provides accommodation for the purposes of restricting liberty;
- (b) residential premises in Wales which provide a secure accommodation service, within the meaning given in Part 1 of the [Regulation and Inspection of Social Care \(Wales\) Act 2016](#) (anaw 2);

“secure 16 to 19 Academy” has the meaning given in section 1B of the Academies Act 2010.]

#### Textual Amendments

- F11** Words in s. 23(2) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 17**
- F12** Words in s. 23(3) inserted (12.12.2023) by Offenders (Day of Release from Detention) Act 2023 (c. 25), **ss. 1(2), 3(3)**; S.I. 2023/1329, reg. 2
- F13** Words in s. 23(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 2(a)**; S.I. 2012/2906, art. 2(h)
- F14** Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 14 para. 10(a)**
- F15** S. 23(3A) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 2(b)**; S.I. 2012/2906, art. 2(h)
- F16** S. 23(3B)-(3D) inserted (12.12.2023) by Offenders (Day of Release from Detention) Act 2023 (c. 25), **ss. 1(3), 3(3)**; S.I. 2023/1329, reg. 2
- F17** Words in Act substituted (1.10.1988) by Criminal Justice Act 1988 (c. 33), **Sch. 8 para. 1**
- F18** Words in s. 23(4) inserted (20.3.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 9 para. 6**; S.I. 2015/778, art. 2(1)(c)
- F19** Words in s. 23(4) inserted (3.2.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 11**; S.I. 1995/127, art. 2(1), **Sch. Appendix B**
- F20** S. 23(5)(6) inserted (12.12.2023) by Offenders (Day of Release from Detention) Act 2023 (c. 25), **ss. 1(4), 3(3)**; S.I. 2023/1329, reg. 2

#### Modifications etc. (not altering text)

- C2** S. 23(3) excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 2(1)(c)**; S.I. 2001/2161, **art. 2**

#### Marginal Citations

- M1** 1952 c. 52.
- M2** 1871 c. 17.

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**24 Management of prisons, etc.**

- (1) Subject to the provisions of this section, Her Majesty may by Order in Council make provision for transferring to the Secretary of State any or all of the functions of the Prison Commissioners (in this section referred to as “the Commissioners”).
- (2) An Order in Council under this section may contain such incidental, consequential and supplemental provisions as may be necessary or expedient in connection with the transfer effected by that or any previous Order thereunder, including provisions—
  - (a) for the transfer of any property, rights or liabilities to which the Commissioners are entitled or subject, and for the vesting in the person from time to time holding office as Secretary of State of land or other property transferred by any such Order, or acquired under powers so transferred;
  - (b) for the carrying on and completion by or under the authority of the Secretary of State of anything begun by or under the authority of the Commissioners before the date of transfer;
  - (c) for the substitution of the Secretary of State for the Commissioners in any instrument, contract or legal proceeding made or begun before that date;
  - (d) for the transfer to the Home Department of Commissioners and inspectors, officers or servants of the Commissioners and (in the case of the transfer of the powers and jurisdiction of the Commissioners in respect of all institutions within their superintendence) for the dissolution of the Commissioners.
- (3) An Order in Council under this section may make such adaptations or repeals in the enactments relating to the Commissioners, or to institutions within their superintendence, as may be necessary or expedient in consequence of the Order or any previous Order thereunder, and shall in particular make provision for securing that any report which, apart from any such Order, would be required by subsection (1) of section five of the <sup>M3</sup>Prison Act 1952 to be made to the Secretary of State by the Commissioners shall be issued by the Secretary of State and laid before Parliament under that section accordingly.
- (4) A certificate of the Secretary of State that any property vested in the Commissioners has been transferred to the Secretary of State by virtue of an Order in Council under this section shall be conclusive evidence of the transfer.
- (5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before Parliament and has been approved by resolution of each House of Parliament.
- (6) In this section “functions” includes powers and duties, and “the date of transfer” means the date on which an Order in Council under this section transferring functions of the Commissioners comes into force.

<p><b>Marginal Citations</b>  M3 1952 c. 52.</p>
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**Textual Amendments**

**F21** Ss. 22(4), 25 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 6](#)

**Changes to legislation:**

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