



Criminal Justice Act 1948

1948 CHAPTER 58

PART II

ADMINISTRATIVE PROVISIONS AND PROVISIONS AS TO TREATMENT OF PRISONERS, ETC.

Arrangements for probation.

45 Probation areas, probation committees and case committees, and probation officers.

- (1) The provisions of the Fifth Schedule to this Act shall have effect with respect to—
 - (a) the constitution of probation areas, of probation committees for those areas and of case committees for petty sessional divisions;
 - (b) the functions of probation committees and case committees ; and
 - (c) the appointment, functions, remuneration and conditions of service of probation officers.
- (2) For the purposes of this section, and of the provisions of Part I of this Act relating to probation, each of the following places shall be deemed to be a petty sessional division, that is to say—
 - (a) the City of London ;
 - (b) a division of the metropolitan police court area; and
 - (c) any area, not being a petty sessional division, for which a stipendiary magistrate is appointed or other special court of summary jurisdiction' is constituted, and which, by order of the Secretary of State, is declared to be a petty sessional division for the purposes aforesaid.
- (3) An order made by the Secretary of State under paragraph (c) of the last foregoing subsection may provide that in its application to the area to which the order relates the Fifth Schedule to this Act shall have effect subject to such adaptations and modifications as may be specified in the order, and may contain such consequential and supplemental provisions as appear to the Secretary of State to be expedient.

46 Approved probation hostels and homes.

- (1) The Secretary of State may approve premises for the reception of persons who may be required to reside therein by a probation order or a supervision order, and such premises shall be known—
 - (a) if the persons so residing are employed outside the premises, or are awaiting such employment, as ' approved probation hostels ";
 - (b) in any other " approved probation homes ".
- (2) The Secretary of State may make rules for the regulation, management and inspection of approved probation hostels and of approved probation homes; and such rules may in particular provide that no person shall be appointed to be in charge of an approved probation hostel or home unless the Secretary of State has consented to his appointment:

Provided that the rules shall not prohibit the making of such an appointment in case of emergency without the previous consent of the Secretary of State, but may in that case require notice of the appointment to be given immediately to the Secretary of State and enable him, if he thinks fit, to require the appointment to be terminated.

47 Inspection of institutions for residence of probationers.

- (1) Any institution, not being an approved probation hostel or an approved probation home, in which a person is required by a probation order or a supervision order to reside otherwise than for the purpose of his submitting to treatment for his mental condition as a resident or voluntary patient shall, so long as he resides there, be subject to inspection by the Secretary of State unless it is, as a whole, otherwise subject to inspection by a Government department.
- (2) A person appointed by the Secretary of State to inspect any such institution as aforesaid shall have power to enter the institution and to make such investigation of the treatment of any persons residing there as he thinks fit; and any person who obstructs him in the exercise of the power aforesaid shall be liable on summary conviction to a fine not exceeding five pounds.

Institutions for offenders.

48 Remand centres, detention centres and Borstal institutions.

- (1) The Secretary of State may provide—
 - (a) remand centres, that is to say places for the detention of persons not less than fourteen but under twenty-one years of age who are remanded or committed in custody for trial or sentence;
 - (b) detention centres, that is to say places in which persons not less than fourteen but under twenty-one years of age who are ordered to be detained in such centres under this Act may be kept for short periods under discipline suitable to persons of their age and description; and
 - (c) Borstal institutions, that is to say places in which offenders not less than sixteen but under twenty-one years of age may be detained and given such training and instruction as will conduce to their reformation and the prevention of crime.

- (2) The Secretary of State may provide attendance centres, that is to say places at which offenders of not less than twelve but under twenty-one years of age may be required to attend, in pursuance of orders made under section nineteen of this Act, on such occasions and at such times as will avoid interference so far as is practicable with their school hours or working hours, and be given under supervision appropriate occupation or instruction; and for the purpose aforesaid the Secretary of State may make arrangements with any local authority or police authority for the use of premises of that authority.
- (3) The Secretary of State shall provide in remand centres facilities for the observation of any person detained therein on whose physical or mental condition a medical report may be desirable for the assistance of the court in determining the most suitable method of dealing with his case.
- (4) Where any person under seventeen years of age is committed to, or ordered to be detained in, a remand centre under this Act for the purpose of obtaining a medical report on his physical or mental condition, the council of the county or county borough who would be responsible for his maintenance if he were detained in a remand home shall pay to the Secretary of State, in such manner as the Secretary of State may with the approval of the Treasury determine, such sums in respect of the maintenance of that person as the Secretary of State may with the like approval direct.
- (5) The Prison Acts, 1865 to 1898, shall, subject to such adaptations and modifications as may be made by rules of the Secretary of State, apply to remand centres, detention centres and Borstal institutions, and to persons detained therein, as they apply to prisons and prisoners.
- (6) The appropriation of a prison vested in the Prison Commissioners under the Prison Act, 1877, for use as a remand centre, detention centre or Borstal institution shall not be deemed, for the purposes of sections thirty-three and thirty-four of that Act, to be a discontinuance of the prison.
- (7) Section six of the Prevention of Crime Act, 1871, and section eight of the Penal Servitude Act, 1891 (which relate to the registration, measurement and photographing of prisoners) shall have effect as if references therein to prisons and prisoners included references to remand centres, detention centres and Borstal institutions, and to persons detained therein.

49 Remand homes.

- (1) As from such date as may be specified in an order made by statutory instrument by the Secretary of State, no premises shall be used as a remand home unless a certificate of approval has been issued by the Secretary of State.
- (2) The Secretary of State may by rules made under this Act apply to remand homes, with such adaptations and modifications as he thinks fit, the provisions of section seventy-nine and subsection (3) of section one hundred and six of the Children and Young Persons Act, 1933 (which relate to the approval of schools for the purposes of that Act and the evidence of such approval).
- (3) No person shall be appointed after the commencement of this Act to be in charge of a remand home established by a county council or a county borough council unless his appointment has been approved by the Secretary of State.

- (4) Councils of counties and county boroughs may provide in remand homes provided for their areas facilities for the observation of any person detained therein on whose physical or mental condition a medical report may be desirable for the assistance of the court in determining the most suitable method of dealing with his case, or may, if facilities for observation are available at any other institution or place, arrange for the use of those facilities for the observation of any such person as aforesaid.
- (5) Subsections (2) and (3) of section six of the Children and Young Persons Act, 1938 (which provide for the removal to a place of safety of persons found while detained in a remand home to be in need of medical treatment, and for giving notice to the clerk of the court by which the order for detention was made) shall apply in relation to the removal of any person from a remand home to an institution or place where facilities are available in pursuance of arrangements made under the last foregoing subsection for the purpose, of obtaining such a report as aforesaid as they apply in relation to any such removal as is mentioned in the said subsection (2).
- (6) Any expenses incurred by the council of a county or county borough in giving effect to arrangements made under subsection (4) of this section, and any sums paid by such a council under subsection (4) of the last foregoing section, shall be treated for the purposes of any grant under section one hundred and four of the Children and Young Persons Act, 1933, as expenses of the council in respect of remand homes.

50 Acquisition of land for prisons and other institutions.

- (1) The Prison Commissioners may, with the consent of the Secretary of State, purchase by agreement, or may be authorised by the Secretary of State to purchase compulsorily, any land required for the alteration, enlargement or rebuilding of a prison or other institution to which the Prison Acts, 1865 to 1898, apply or for establishing a new prison or a new institution as aforesaid or for any other purpose connected with the management of any such prison or institution (including the provision of accommodation for officers or servants employed therein).
- (2) The Acquisition of Land (Authorisation Procedure) Act, 1946, shall apply to the compulsory purchase of land by the Prison Commissioners under this section, and for that purpose shall have effect as if the Prison Commissioners were a local authority, as if this Act had been in force immediately before the commencement of that Act and as if references in that Act to a Minister included references to the Secretary of State:

Provided that section two of the said Act (which confers temporary powers for speedy acquisition of land in urgent cases) shall not apply to any compulsory purchase of land under this section.
- (3) In relation to the purchase of land by agreement under this section, the Lands Clauses Acts (except the provisions relating to the purchase of land otherwise than by agreement and the provisions relating to access to the special Act, and except section's one hundred and twenty-seven to one hundred and thirty-two of the Lands Clauses Consolidation Act, 1845) shall be incorporated with this section, and in construing those Acts as so incorporated this section shall be deemed to be the special Act and references to the promoters of the undertaking shall be construed as references to the Prison Commissioners.

51 Abolition of office of directors of convict prisons and application of Prison Acts to convict prisons.

The office of the directors of convict prisons is hereby abolished; and the Prison Acts, 1865 to 1898, shall, subject to such adaptations and modifications as may be made by rules of the Secretary of State, apply to prisons which, at the commencement of this Act, are under the control of the Prison Commissioners by virtue of the said office in like manner as they apply to other prisons; and all property and rights vested in, and liabilities incurred by, the Prison Commissioners as holders of the said office shall be deemed to be vested in them or to have been incurred by them for the purposes of their functions generally.

Rules for Management of Prisons, Etc.

52 Rules for the management of prisons, remand centres, detention centres, attendance centres and Borstal institutions.

- (1) The Secretary of State may make rules for the regulation and management of prisons, remand centres, detention centres, attendance centres and Borstal institutions respectively, and for the classification, treatment, employment, discipline and control of persons required to be detained therein.
- (2) Rules made under this section shall make provision for ensuring that a person who is charged with any offence under the rules shall be given a proper opportunity of presenting his case.
- (3) Rules made under this section may provide for the training of particular classes of persons and their allocation for that purpose to any prison or other institution in which they may lawfully be detained.
- (4) Rules made under this section shall provide for the special treatment of the following persons whilst required to be detained in a prison, that is to say—
 - (a) any person serving a sentence of preventive detention;
 - (b) any person serving a sentence on conviction of sedition, seditious conspiracy or seditious libel;
 - (c) any appellant within the meaning of the Criminal Appeal Act, 1907, pending the determination of his appeal;
 - (d) any other person detained in a prison, not being a person serving a sentence or a person imprisoned in default of payment of a sum adjudged to be paid by him on his conviction.

53 Constitution and functions of visiting committees and boards of visitors.

- (1) Rules made under the last foregoing section shall provide for the constitution, for prisons to which persons may be committed directly by a court, of visiting committees consisting of justices of the peace appointed, at such times, in such manner and for such periods as may be prescribed by the rules, by such courts of quarter sessions for counties or benches of magistrates for boroughs as the Secretary of State may by order direct.
- (2) The Secretary of State shall appoint for every prison other than a prison mentioned in subsection (1) of this section and for every remand centre, detention centre and Borstal institution a board of visitors of whom not less than two shall be justices of the peace.

Status: This is the original version (as it was originally enacted).

- (3) Rules made as aforesaid shall prescribe the functions of visiting committees and boards of visitors, and shall among other things require the members to pay frequent visits to the prison, remand centre, detention centre or Borstal institution, as the case may be, and hear any complaints which may be made by the persons detained therein and report to the Secretary of State any matter which they consider it expedient to report; and any member of a visiting committee or board of visitors may at any time enter the prison, remand centre, detention centre or Borstal institution, as the case may be, and shall have free access to every part thereof and to every person detained therein.
- (4) Rules made as aforesaid may require the board of visitors appointed for any prison or Borstal institution to consider periodically the character, conduct and prospects of each of the persons sentenced to corrective training, preventive detention or Borstal training who is detained therein, and to report to the Prison Commissioners on the advisability of his release on licence or under supervision.

54 Corporal punishment in prisons.

- (1) Except as provided by this section, corporal punishment shall not be inflicted in any prison or institution for which rules may be made under section fifty-two of this Act.
- (2) Rules made as aforesaid may authorise the infliction of corporal punishment for mutiny, incitement to mutiny, or gross personal violence to an officer of a prison when committed by a male person serving a sentence of imprisonment, corrective training or preventive detention.
- (3) The rules shall not authorise the infliction of corporal punishment except by order of the visiting committee or board of visitors, as the case may be, made at a meeting at which not more than five nor less than three members, at least two being justices of the peace, are present; and no such order shall be made except after an inquiry in which the evidence is given on oath:

Provided that the Secretary of State may, if he thinks fit in any particular case, direct that the functions exercisable as aforesaid by the visiting committee or board of visitors shall be exercised by a metropolitan police magistrate or stipendiary magistrate appointed in that behalf.

- (4) The punishment which may be inflicted under such an order as aforesaid shall not exceed—
 - (a) in the case of a person appearing to the visiting committee or board of visitors or magistrate to be not less than twenty-one years of age, eighteen strokes of a cat-o'-nine-tails or birch rod; or
 - (b) in the case of a person appearing to them or him to be under that age, twelve strokes of a birch rod;

and if corporal punishment is inflicted, no further punishment by way of confinement in cells or restricted diet shall be imposed.

- (5) Where an order for the infliction of corporal punishment has been made under this section, a copy of the notes of the evidence given at the inquiry, a copy of the order and a statement of the grounds on which it was made shall forthwith be given to the Secretary of State; and the order shall be carried into effect only after confirmation by the Secretary of State, and, if the Secretary of State confirms the order with modifications, in accordance with the order as so modified.

- (6) A refusal by the Secretary of State to confirm such an order as aforesaid shall not prejudice any power to impose another punishment for the offence for which the order was made.
- (7) The Prison Commissioners shall include in their annual report particulars of every case in which an order for the infliction of corporal punishment has been made and of the grounds upon which the order was made.

55 Amendment of Prison Act, 1865, as to introduction of prohibited articles.

For the purposes of sections thirty-seven to thirty-nine of the Prison Act, 1865 (which relate to the conveyance of prohibited articles into or out of prisons) a person shall be deemed to convey or introduce an article into a prison if he conveys it to a prisoner outside the prison, or deposits it at any place outside the prison with intent that it shall come into the possession of a prisoner.

Remission for good conduct and release on licence.

56 Remission for good conduct and release on licence of young prisoners.

- (1) Rules made under section fifty-two of this Act may make provision whereby, in such circumstances as may be prescribed by the rules, a person serving a sentence of imprisonment, or ordered to be detained in a detention centre, for such a term as may be so prescribed, may be granted remission of such part of that sentence or term as may be so prescribed on the ground of his industry and good conduct; and on the discharge of a person from a prison or detention centre in pursuance of any such remission as aforesaid his sentence, or as the case may be his term of detention, shall expire.
- (2) If it appears to the Prison Commissioners that a person serving a sentence of imprisonment was under the age of twenty-one years at the commencement of his sentence, they may direct that instead of being granted remission of his sentence under the rules he shall, at any time on or after the day on which he could have been discharged if the remission had been granted, be released on licence under the provisions of the Sixth Schedule to this Act.
- (3) For the purposes of this section, a person committed to prison in default of payment of a sum adjudged to be paid by a conviction shall be treated as undergoing a sentence of imprisonment for the term for which he is committed, and consecutive terms of imprisonment shall be treated as one term.

57 Release on licence of persons serving imprisonment for life.

- (1) The Secretary of State may at any time if he thinks fit release on licence a person serving a term of imprisonment for life subject to such conditions as may be specified in the licence; and the Secretary of State may at any time modify or cancel any such condition.
- (2) The Secretary of State may at any time by order recall to prison a person released on licence under this section, but without prejudice to the power of the Secretary of State to release him on licence again; and where any person is so recalled his licence shall cease to have effect and he shall, if at large, be deemed to be unlawfully at large.

Removal and transfer to and from prisons and other institutions.

58 Temporary detention of persons liable for detention in a Borstal institution.

A person who is required to be taken to a Borstal institution may, until arrangements can be made for taking him there, be temporarily detained elsewhere, and the period for which he is so detained shall count as part of the period for which he is liable to be detained in a Borstal institution under this Act.

59 Transfers from prison to Borstal institution and vice versa.

- (1) If the Secretary of State is satisfied that a person serving a sentence of imprisonment is under twenty-one years of age and might with advantage be detained in a Borstal institution he may, after consultation where practicable with the judge or presiding chairman of the court which passes the sentence, authorise the Prison Commissioners to transfer him to a Borstal institution; and the provisions of the Second Schedule to this Act shall thereupon apply to him as if he had on the date of the transfer been sentenced to Borstal training:

Provided that if on that date the unexpired term of his sentence is less than three years those provisions shall apply to him as if he had been sentenced to Borstal training three years before the expiration of that term.

- (2) If a person detained in a Borstal institution is reported to the Secretary of State by the board of visitors to be incorrigible, or to be exercising a bad influence on the other inmates of the institution, the Secretary of State may commute the unexpired part of the term for which the said person is then liable to be detained in a Borstal institution to such term of imprisonment as the Secretary of State, may determine, not exceeding the said unexpired part; and for the purpose of this Act the said person shall be treated as if he had been sentenced to imprisonment for that term.

60 Removal of prisoners etc. for judicial and other purposes.

- (1) Rules under section fifty-two of this Act may provide in what manner an appellant within the meaning of the Criminal Appeal Act, 1907, when in custody, is to be taken to, kept in custody at, and brought back from, any place at which he is entitled to be present for the purposes of that Act, or any place to which the Court of Criminal Appeal or any judge thereof may order him to be taken for the purpose of any proceedings of that court.

- (2) The Secretary of State may—
- (a) if he is satisfied that the attendance at any place in Great Britain of a person detained in England in a prison, remand centre, detention centre, Borstal institution or remand home is desirable in the interests of justice or for the purposes of any public inquiry, direct him to be taken to that place;
 - (b) if he is satisfied that a person so detained requires medical or surgical treatment of any description, direct him to be taken to a hospital or other suitable place for the purpose of the treatment;

and where any person is directed under this subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the prison or other institution in which he is required in accordance with law to be detained.

61 Removal of prisoners, etc., to and from Scotland and from the Isle of Man or Channel Islands.

- (1) The Secretary of State may, on the application of a person serving a sentence of imprisonment, corrective training, preventive detention or Borstal training, order his removal to a prison or Borstal institution in Scotland; and any person so removed may be detained, released, recalled and otherwise dealt with as if he had been sentenced by a court in Scotland and as if his sentence were one which could be imposed by such a court:

Provided that—

- (a) a person serving a sentence of corrective training shall not be ordered to be so removed unless and until provision is made by the law of Scotland for the passing of sentences of corrective training; and
 - (b) where a person so removed was sentenced to Borstal training under this Act, he shall, unless and until provision has been made by the law of Scotland corresponding with the provisions of this Act relating to Borstal training, be treated as if he had been sentenced under the law in force in Scotland to detention in a Borstal institution for a term of three years.
- (2) Any person sentenced, under the law for the time being in force, by any court in the Isle of Man or the Channel Islands to penal servitude, imprisonment, corrective training, preventive detention, detention in a Borstal institution, Borstal training or detention in a detention centre may, if the Secretary of State so orders, be removed to a prison, Borstal institution or detention centre, as the case may be, in England.
- (3) Any person ordered to be removed under the last foregoing subsection, and any person sentenced by a court in Scotland who, under any enactment extending to Scotland, is ordered to be removed to a prison or Borstal institution in England, may be detained, released, recalled and otherwise dealt with as if his sentence had been passed by a court in England and as if his sentence were one which could be imposed by such a court:

Provided that—

- (a) where a person so removed was undergoing or liable to undergo a term of penal servitude, he shall be treated as if that term were a term of imprisonment;
 - (b) where a person so removed was sentenced to detention in a Borstal institution he shall be treated as if he had been sentenced to Borstal training under this Act.
- (4) Any person removed under this section from the Isle of Man or the Channel Islands to a prison or Borstal institution in England may, on his release under the provisions of the Second or Third Schedule to this Act or under section fifty-six of this Act, as the case may be, be placed under supervision in the Isle of Man or the Channel Islands, as the case may be, and those provisions, (including the provisions of the Sixth Schedule to this Act) shall apply to him therein; and if any person so released is recalled under the provisions aforesaid, he may, if in the Isle of Man or the Channel Islands, be arrested without warrant and removed to England for the purpose of being taken to a prison or Borstal institution as the case may be.
- (5) The provisions of Part I of the Seventh Schedule to this Act shall have effect in relation to persons for the time being in England who have been discharged from prisons and other institutions in Scotland (including persons who, before being so discharged, had been removed to such institutions under subsection (1) of this section); and the provisions of Part II of that Schedule shall have effect in relation to persons for the

Status: This is the original version (as it was originally enacted).

time being in Scotland who have been discharged from prisons and other institutions in England (including persons who, before being so discharged, had been removed to such institutions under any enactment extending to Scotland).

- (6) For the purposes of this section, a person sentenced to death by a court in Scotland or in the Isle of Man or the Channel Islands who has been pardoned by His Majesty on condition that he serves a term of penal servitude or imprisonment shall be deemed to have been sentenced to penal servitude or imprisonment by that court.

Treatment of persons of unsound mind and mental defectives.

62 Discontinuance of terms " criminal lunatic " and " criminal lunatic asylum " .

- (1) Asylums and places appointed under section one of the Criminal Lunatic Asylums Act, 1860, shall be called and are in this Act referred to as " Broadmoor institutions "; and accordingly for references to criminal lunatic asylums (by whatever name called) in any enactment there shall be substituted references to Broadmoor institutions.
- (2) The expression " criminal lunatic " shall cease to be used; and there shall be substituted for it wherever it occurs in any enactment the expression " Broadmoor patient. "
- (3) All Broadmoor institutions shall be under the management of the Board of Control; and every such institution appointed before the commencement of this Act shall, by virtue of this Act and without further assurance, vest in the Minister of Health
- (4) For the purposes of paragraph (a) of subsection (1) of section sixty-seven of the National Health Service Act, 1946 (which provides for the grant of superannuation benefits to certain officers engaged in health services), officers employed in Broadmoor institutions shall be deemed to be engaged in health services.
- (5) The Board of Control may, with the approval of the Minister of Health, by statutory instrument make rules for the care and treatment of patients detained in Broadmoor institutions; and any statutory instrument containing such rules shall be laid before Parliament after being made.
- (6) Section one hundred and sixty-two of the Lunacy Act, 1890 (which requires the Board of Control to make reports on the patients and institutions visited by them), shall have effect as if the references to the patients and institutions therein mentioned included references to Broadmoor patients and Broadmoor institutions respectively.

63 Removal of Broadmoor patients, etc.

- (1) The Secretary of State may—
 - (a) if he is satisfied that the attendance at any place in Great Britain of a Broadmoor patient is desirable in the interests of justice or for the purposes of any public inquiry, direct him to be taken to that place;
 - (b) if he is satisfied that a Broadmoor patient requires medical or surgical treatment which cannot be provided in the mental hospital in which he is, direct him to be taken to a hospital or other suitable place for the purpose of the treatment;

and where any person is directed under this subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so

taken, while at that place and while being taken back to the mental hospital in which he is required in accordance with law to be detained.

- (2) The Secretary of State may, on the application of a Broadmoor patient or a relation of the patient, order the patient's removal from a mental hospital in England to a mental hospital in Scotland; and any patient so removed shall be liable to be dealt with as if he had been sentenced or ordered to be detained or otherwise committed to custody, as the case may be, by a court in Scotland.
- (3) If, under any enactment extending to Scotland, a criminal lunatic is ordered to be removed from a mental hospital in Scotland to a mental hospital in England, he shall be liable to be dealt with as if he had been sentenced or ordered to be detained or otherwise committed to custody, as the case may be, by a court in England.
- (4) References in this section to a mental hospital in Scotland shall be construed as including references to the Lunatic Department of Perth Prison.

64 Treatment of persons transferred from prisons, etc. to institutions for mental defectives.

- (1) Where any person has, under an order made by the Secretary of State under section nine of the Mental Deficiency Act, 1913, been transferred from a prison or other institution to which the Prison Acts, 1865 to 1898, apply or from an approved school or Broadmoor institution in which he is detained to an institution for defectives, he shall not, without the consent of the Secretary of State, be set at large from the institution for defectives during the period during which he would have been detained in a prison or other institution if he had not been so transferred.
- (2) If during the period aforesaid the order under the said section nine expires, or the person to whom that order relates is ordered to be discharged from the institution for defectives, the Secretary of State shall, unless he gives his consent under the last foregoing subsection, remit that person to a prison or other institution in which he might have been detained if he had not been so transferred; and any person so remitted shall be liable to be dealt with as if he had not been transferred under the said section nine but had remained in the prison or institution from which he was so transferred.
- (3) Subsection (1) of section sixteen of the Mental Deficiency Act, 1913, shall not apply to a person detained in an institution for defectives during the period aforesaid; but if at any time during that period it appears to two justices of the peace having jurisdiction in the petty sessional division or place where the institution for defectives is situated and to two duly qualified medical practitioners that any person so transferred to the institution is of unsound mind, they shall certify in writing to that effect and the Secretary of State may thereupon by warrant direct that he be removed to the mental hospital named in the warrant; and the Criminal Lunatics Act, 1884, shall apply to him as if he had been removed to the mental hospital from a prison.

Miscellaneous.

65 Persons unlawfully at large.

- (1) Any person who, having been sentenced to imprisonment, corrective training, preventive detention or Borstal training, or ordered to be detained in a detention centre, or having been committed to a prison or remand centre, is unlawfully at large, may be

Status: This is the original version (as it was originally enacted).

arrested by a constable without warrant and taken to the place in which he is required in accordance with law to be detained.

- (2) Where any person sentenced to imprisonment, corrective training, preventive detention or Borstal training, or ordered to be detained in a remand home or detention centre, is unlawfully at large at any time during the period for which he is liable to be detained in pursuance of the sentence or order, then, unless the Secretary of State otherwise directs, no account shall be taken, in calculating the period for which he is liable to be so detained, of any time during which he is absent from the prison, Borstal institution or detention centre, as the case may be:

Provided that—

- (a) this subsection shall not apply to any period during which any such person as aforesaid is detained in pursuance of the sentence or order or in pursuance of any other sentence of any court in a prison or other institution to which the Prison Acts, 1865 to 1898, apply;
 - (b) this subsection shall not apply to a person who is unlawfully at large from a Borstal institution by reason only that he has been recalled thereto under the Second Schedule to this Act; and
 - (c) nothing in this subsection shall be construed as extending the period during which a person sentenced to Borstal training is liable to supervision under that Schedule.
- (3) The provisions of the last foregoing subsection shall apply to a person who is detained in custody in default of payment of any sum of money as if he were sentenced to imprisonment.

66 Legal custody.

Any person required or authorised by or under this Act to be taken to any place or to be kept in custody shall, while being so taken or kept, be deemed to be in legal custody; and a constable, while taking or keeping any such person as aforesaid, shall have all the powers, authorities, protection and privileges of a constable as well beyond his constablewick as within it.

67 Arrest on failure to surrender to bail before courts of summary jurisdiction.

Where any person charged with or convicted of an offence has been released upon entering into a recognizance conditioned for his appearance before a court of summary jurisdiction and in breach of that recognizance fails to appear, the court may, without prejudice to any power to enforce the recognizance, issue a warrant for his apprehension.

68 Restriction of power to arrest without warrant under 5 Geo. 4. c. 83.

Notwithstanding anything in section six of the Vagrancy Act, 1824, a person found committing the offence of pretending or professing to tell fortunes, or using any subtle craft, means or device, by palmistry or otherwise, to deceive and impose on any of His Majesty's subjects, shall not be apprehended under that section except by a constable, and shall not be so apprehended by a constable unless the constable has reason to believe that that person will abscond unless arrested, or is not satisfied as to the identity or place of residence of that person.

69 Commutation of death sentence to sentence of imprisonment.

Where His Majesty pardons any person who has been sentenced to death on condition that he serves a term of imprisonment, that person shall be deemed to have been sentenced by the court before which he was convicted to imprisonment for the said term.

70 Amendments of Forfeiture Act, 1870.

- (1) Sections six to thirty of the Forfeiture Act, 1870 (which relate to the administration of the property of convicts) shall cease to have effect.
- (2) Where any pension or superannuation allowance has been forfeited under section two of the Forfeiture Act, 1870, the authority by whom the pension or allowance was granted may restore the pension or allowance either in whole or in part:

Provided that no payment of pension or allowance in respect of any period before the commencement of this Act shall be made by virtue of this subsection.

71 Amendment of s. 71 of the Children and Young Persons Act, 1933.

- (1) For subsection (1) of section seventy-one of the Children and Young Persons Act, 1933, there shall be substituted the following subsection:—

“(1) Where a court orders a child to be sent to an approved school, the order shall be an authority for his detention in an approved school until the expiration of a period of three years from the date of the order or the expiration of four months after he ceases to be of compulsory school age whichever is the later.”

- (2) In the said section seventy-one as amended by this section the expression " compulsory school age " has the meaning assigned to it by section thirty-five of the Education Act, 1944; and section eight of the Education Act, 1946 (which provides that a person who attains a particular age during a school term shall be deemed not to have attained that age until the end of the term) shall not apply.
- (3) The provisions of the said section seventy-one shall apply as amended by this section to any approved school order made before the commencement of this Act if the period during which the person to whom it relates could be detained thereunder apart from the provisions of this section has not expired at the commencement of this Act.

- (4) This section shall, in its application to Scotland, have effect subject to the following modifications:—

- (a) for references to section seventy-one of the Children and Young Persons Act, 1933, and to subsection (1) of that section there shall be substituted references to section seventy-five of the Children and Young Persons (Scotland) Act, 1937, and to subsection (1) of that section; and

- (b) for subsection (2) there shall be substituted the following subsection:—

“(2) In the said section seventy-five as amended by this section the expression ' compulsory school age ' means school age as defined in section thirty-two of the Education (Scotland) Act, 1946:

Provided that—

Status: This is the original version (as it was originally enacted).

- (a) subsection (4) of that section (which extends the school age in the case of certain children requiring special educational treatment); and
- (b) subsection (2) of section thirty-three of that Act (which provides that a child shall be deemed to attain any given age on the fixed date for commencing or for terminating attendance next following the day that he actually attains that age)

shall not apply”.

72 Powers of court in relation to absconders from approved schools, etc.

- (1) Where a person in whose case an approved school order has been made is brought before a court of summary jurisdiction under section eighty-two of the Children and Young Persons Act, 1933, or paragraph 8 of the Fourth Schedule to that Act (which relate respectively to absconders and persons guilty of serious misconduct), the court may, subject to the following provisions of this section—
 - (a) in any case, either make a new approved school order in his case, or order him to be taken back to the school and extend the period of his detention under the original order by such period not exceeding six months as the court may determine; ,
 - (b) if he has attained the age of sixteen years, sentence him to Borstal training.
- (2) An order under paragraph (a) of the last foregoing subsection extending the period of detention under an approved school order shall have effect notwithstanding any limitation imposed by the Children and Young Persons Act, 1933, upon the period for which a person may be detained in an approved school; and in relation to a new approved school order made under that paragraph, sections seventy-one, seventy-three and seventy-four of that Act (which relate to the period of detention under approved school orders and to supervision and recall) shall have effect as if for any reference therein to the age of nineteen years there were substituted a reference to the age of nineteen years and a half.
- (3) Subject as hereinafter provided, His Majesty may by Order in Council prohibit courts of summary jurisdiction from making orders under paragraph (b) of subsection (1) of this section; and any such Order in Council may be limited to persons of one of the sexes, and, whether so limited or not, may be made so as to apply either to any persons ordered to be detained in approved schools or only to persons ordered to be so detained otherwise than for an offence:

Provided that no Order in Council shall be made under this subsection until the Secretary of State is satisfied that adequate methods, other than Borstal training, are available for dealing with the persons to whom the Order relates.

- (4) A draft of any Order in Council under the last foregoing subsection shall be laid before Parliament, and the draft shall not be submitted to His Majesty in Council unless each House of Parliament presents an Address to His Majesty praying that the Order be made.