



Prevention of Crime Act 1908

1908 CHAPTER 59

PART II

DETENTION OF HABITUAL CRIMINALS

10 Power of court to pass sentence of preventive detention in addition to penal servitude

- (1) Where a person is convicted on indictment of a crime, committed after the passing of this Act, and subsequently the offender admits that he is or is found by the jury to be a habitual criminal, and the court passes a sentence of penal servitude, the court, if of opinion that by reason of his criminal habits and mode of life it is expedient for the protection of the public that the offender should be kept in detention for a lengthened period of years, may pass a further sentence ordering that on the determination of the sentence of penal servitude he be detained for such period not exceeding ten nor less than five years, as the court may determine, and such detention is herein-after referred to as preventive detention, and a person on whom such a sentence is passed shall, whilst undergoing both the sentence of penal servitude and the sentence of preventive detention, be deemed for the purposes of the Forfeiture Act, 1870, and for all other purposes, to be a person convicted of felony.
- (2) A person shall not be found to be a habitual criminal unless the jury finds on evidence—
 - (a) that since attaining the age of sixteen years he has at least three times previously to the conviction of the crime charged in the said indictment been convicted of a crime, whether any such previous conviction was before or after the passing of this Act, and that he is leading persistently a dishonest or criminal life ; or
 - (b) that he has on such a previous conviction been found to be a habitual criminal and sentenced to preventive detention.
- (3) In any indictment under this section it shall be sufficient, after charging the crime, to state that the offender is a habitual criminal.

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- (4) In the proceedings on the indictment the offender shall in the first instance be arraigned on so much only of the indictment as charges the crime, and if on arraignment he pleads guilty or is found guilty by the jury, the jury shall, unless he pleads guilty to being a habitual criminal, be charged to inquire whether he is a habitual criminal, and in that case it shall not be necessary to swear the jury again:

Provided that a charge of being a habitual criminal shall not be inserted in an indictment—

- (a) without the consent of the Director of Public Prosecutions ; and
- (b) unless not less than seven days' notice has been given to the proper officer of the court by which the offender is to be tried, and to the offender, that it is intended to insert such a charge ;

and the notice to the offender shall specify the previous convictions and the other grounds upon which it is intended to found the charge.

- (5) Without prejudice to any right of the accused to tender evidence as to his character and repute, evidence of character and repute may, if the court thinks fit, be admitted as evidence on the question whether the accused is or is not leading persistently a dishonest or criminal life.
- (6) For the purposes of this section the expression " crime " has the same meaning as in the Prevention of Crimes Act, 1871, 3rd the definition of " crime " in that Act, set out in the schedule to this Act, shall apply accordingly.

11 Appeal against sentence to Court of Criminal Appeal

A person sentenced to preventive detention may, notwithstanding anything in the Criminal Appeal Act, 1907, appeal against the sentence without the leave of the Court of Criminal Appeal.

12 Power in certain cases to commute penal servitude to preventive detention

Where a person has been sentenced, whether before or after the passing of this Act, to penal servitude for a term of five years or upwards, and he appears to the Secretary of State to have been a habitual criminal within the meaning of this Act, the Secretary of State may, if he thinks fit, at any time after three years of the term of penal servitude have expired, commute the whole or any part of the residue of the sentence to a sentence of preventive detention, so, however, that the total term of the sentence when so commuted shall not exceed the term of penal servitude originally awarded.

13 Detention in prison of persons undergoing preventive detention

- (1) The sentence of preventive detention shall take effect immediately on the determination of the sentence of penal servitude, whether that sentence is determined by effluxion of time or by order of the Secretary of State at such earlier date as the Secretary of State, having regard to the circumstances of the case and in particular to the time at which the convict, if sentenced to penal servitude alone, would ordinarily have been licensed to be at large, may direct.
- (2) Persons undergoing preventive detention shall be confined in any prison or part of a prison which the Secretary of State may set apart for the purpose, and shall (save as

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otherwise provided by this Act) be subject to the law for the time being in force with respect to penal servitude as if they were undergoing penal servitude:

Provided that the rules applicable to convicts and convict prisons shall apply to persons undergoing preventive detention, and to the prisons or parts of prisons in which they are detained, subject to such modifications in the direction of a less rigorous treatment as the Secretary of State may prescribe by prison rules within the meaning of the Prison Act, 1898.

- (3) Persons undergoing preventive detention shall be subjected to such disciplinary and reformatory influences, and shall be employed on such work as may be best fitted to make them able and willing to earn an honest livelihood on discharge.
- (4) The Secretary of State shall appoint for every such prison or part of a prison so set apart a board of visitors, of whom not less than two shall be justices of the peace, with such powers and duties as he may prescribe by such prison rules as aforesaid.

14 Power to discharge on licence

- (1) The Secretary of State shall, once at least in every three years during which a person is detained in custody under a sentence of preventive detention, take into consideration the condition, history, and circumstances of that person with a view to determining whether he shall be placed out on licence, and, if so, on what conditions.
- (2) The Secretary of State may at any time discharge on licence a person undergoing preventive detention if satisfied that there is a reasonable probability that he will abstain from crime and lead a useful and industrious life or that he is no longer capable of engaging in crime, or that for any other reason it is desirable to release him from confinement in prison.
- (3) A person so discharged on licence may be discharged on probation, and on condition that he be placed under the supervision or authority of any society or person named in the licence who may be willing to take charge of the case, or on such other conditions as may be specified in the licence.
- (4) The Directors of Convict Prisons shall report periodically to the Secretary of State on the conduct and industry of persons undergoing preventive detention, and their prospects and probable behaviour on release, and for this purpose shall be assisted by a committee at each prison in which such persons are detained, consisting of such members of the board of visitors and such other persons of either sex as the Secretary of State may from time to time appoint.
- (5) Every such committee shall hold meetings, at such intervals of not more than six months as may be prescribed, for the purpose of personally interviewing persons undergoing preventive detention in the prison and preparing reports embodying such information respecting them as may be necessary for the assistance of the Directors, and may at any other times hold such other meetings, and make such special reports respecting particular cases, as they may think necessary.
- (6) A licence under this section may be in such form and may contain such conditions as may be prescribed by the Secretary of State.
- (7) The provisions relating to licences to be at large granted to persons undergoing penal servitude shall not apply to persons undergoing preventive detention.

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15 Provisions as to persons placed out on licence

- (1) The society or person under whose supervision or authority a person is so placed shall periodically, in accordance with regulations made by the Secretary of State, report to the Secretary of State on the conduct and circumstances of that person.
- (2) A licence under this Part of this Act may be revoked at any time by the Secretary of State, and where a licence has been revoked, the person to whom the licence related shall return to the prison, and, if he fails to do so, may be apprehended without warrant and taken to prison.
- (3) If a person absent from prison under such a licence escapes from the supervision of the society or person in whose charge he is placed, or commits any breach of the conditions contained in the licence, he shall be considered thereby to have forfeited the licence, and shall be taken back to prison.
- (4) A court of summary jurisdiction for the place where the prison from which a person has been discharged on licence is situate, or where such a person is found, may, on information on oath that the licence has been forfeited under this section, issue a warrant for his apprehension, and he shall, on apprehension, be brought before a court of summary jurisdiction, which, if satisfied that the licence has been forfeited, shall order him to be remitted to preventive detention, and may commit him to any prison within the jurisdiction of the court until he can conveniently be removed to a prison or part of a prison set apart for the purpose of the confinement of persons undergoing preventive detention.
- (5) The time during which a person is absent from prison under such a licence shall be treated as part of the term of preventive detention:

Provided that, where such person has failed to return on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the unexpired residue of the term of preventive detention.

16 Power to discharge absolutely

Without prejudice to any other powers of discharge, the Secretary of State may at any time discharge absolutely any person discharged conditionally on licence under this Part of this Act, and shall so discharge him at the expiration of five years from the time when he was first discharged on licence if satisfied that he has been observing the conditions of his licence and abstaining from crime.