

# Criminal Justice Act, 1961

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## ARRANGEMENT OF SECTIONS

### PART I

#### POWERS OF COURTS IN RESPECT OF YOUNG OFFENDERS

##### *Borstal Training and Imprisonment*

Section

1. Conditions for and term of sentence of borstal training.
2. Serious offences by children and young persons.
3. Elimination of intermediate and short prison sentences.

##### *Detention Centre and Remand Home*

4. Detention of offenders aged 14 to 20.
5. Detention of defaulters aged 14 to 16.
6. Defaulters already detained in detention centre.
7. Consecutive terms and aggregate periods of detention.

##### *Fine, Probation and Attendance Centre*

8. Fines for young offenders.
9. Breach of probation, etc.
10. Attendance at attendance centres.

### PART II

#### TREATMENT AND SUPERVISION OF PRISONERS AND OTHER DETAINED PERSONS

##### *Borstal Institutions and Detention Centres*

11. Term of detention and supervision under sentence of borstal training.
12. Return to borstal institution on re-conviction.
13. Supervision after release from detention centre.

##### *Approved Schools*

14. Release and supervision.
15. Temporary removal from approved school.
16. Removal to borstal institution.

## Section

17. Proceedings for removal under s. 16.
18. Directions as to management of approved schools.
19. Constitution of managers.

*Miscellaneous*

20. Supervision of certain prisoners after release.
21. Repeal of provisions for notifying address.
22. Penalties for assisting escape from prison, etc.
23. Prison Rules.
24. Management of prisons, etc.
25. Reports to Parliament on approved schools, remand homes and attendance centres.

## PART III

TRANSFER, SUPERVISION AND RECALL OF PRISONERS  
WITHIN THE BRITISH ISLANDS

26. Transfer to serve sentence.
27. Temporary transfer.
28. Transfer for trial.
29. Removal for other judicial purposes.
30. Prisoners unlawfully at large.
31. Subsequent sentence in case of persons transferred or removed under Part III.
32. Supervision and recall.
33. Orders under Part III.

## PART IV

## SUPPLEMENTAL

34. Removals from prison consequential on Part I.
35. Legal custody.
36. General provisions as to orders.
37. Prison Commissioners' reports.
38. Construction of references to sentences of imprisonment, etc.
39. Interpretation.
40. Legislative powers of Parliament of Northern Ireland.
41. Minor and consequential amendments and repeals.
42. Application to Scotland and Northern Ireland.
43. Expenses.
44. Commencement.
45. Short title.

**SCHEDULES:**

First Schedule—Supervision of persons released from detention centres.

Second Schedule—Supervision of persons released from approved schools.

Third Schedule—Supervision of certain discharged prisoners.

Fourth Schedule—Minor and consequential amendments.

Fifth Schedule—Enactments repealed.

Sixth Schedule—Enactments relating to borstal training as they will have effect, subject to s. 41 (3) of this Act and to s. 18 (6) of the Legal Aid and Advice Act, 1949, when all amendments made in them by this Act operate.



## CHAPTER 39

An Act to amend the law with respect to the powers of courts in respect of young offenders; to make further provision as to the treatment of prisoners and other persons committed to custody, including provision for their supervision after discharge, and the management of prisons, approved schools and other institutions; to re-enact with modifications and additions certain statutory provisions relating to the removal, return and supervision of prisoners within the British Islands; and for purposes connected with the matters aforesaid.

[19th July, 1961]

**B**E it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART I

#### POWERS OF COURTS IN RESPECT OF YOUNG OFFENDERS

##### *Borstal Training and Imprisonment*

1.—(1) The minimum age at conviction which qualifies for a sentence of borstal training under section twenty of the Criminal Justice Act, 1948, shall be fifteen instead of sixteen years.

Conditions for and term of sentence of borstal training.

(2) The power of a court to pass a sentence of borstal training under the said section twenty in the case of a person convicted as therein mentioned shall be exercisable in any case where the court is of opinion, having regard to the circumstances of the

## PART I

offence and after taking into account the offender's character and previous conduct, that it is expedient that he should be detained for training for not less than six months:

Provided that such a sentence shall not be passed on a person who is under seventeen years of age on the day of his conviction unless the court is of opinion that no other method of dealing with him is appropriate.

(3) Before passing a sentence of borstal training in the case of an offender of any age, the court shall consider any report made in respect of him by or on behalf of the Prison Commissioners, and section thirty-seven of this Act shall apply accordingly.

(4) The foregoing provisions of this section shall apply in relation to committal for a sentence of borstal training under section twenty-eight of the Magistrates' Courts Act, 1952, as they apply to the passing of such a sentence under section twenty of the Criminal Justice Act, 1948.

(5) Subsections (7) and (8) of section twenty of the Criminal Justice Act, 1948, and subsections (2) and (3) of section twenty-eight of the Magistrates' Courts Act, 1952, shall cease to have effect.

Serious offences by children and young persons.

2.—(1) In subsection (2) of section fifty-three of the Children and Young Persons Act, 1933 (which provides for the passing of a sentence of detention for a specified period in the case of children or young persons convicted on indictment of certain grave crimes therein mentioned) for the words from "an attempt to murder" to "grievous bodily harm" there shall be substituted the words "any offence punishable in the case of an adult with imprisonment for fourteen years or more, not being an offence the sentence for which is fixed by law".

(2) In subsection (1) of section seventeen of the Criminal Justice Act, 1948 (which precludes a court of assize or quarter sessions from imposing imprisonment on a person under fifteen years of age) for the words "fifteen years" there shall be substituted the words "seventeen years".

Elimination of intermediate and short prison sentences.

3.—(1) Without prejudice to any other enactment prohibiting or restricting the imposition of imprisonment on persons of any age, a sentence of imprisonment shall not be passed by any court on a person within the limits of age which qualify for a sentence of borstal training except—

(a) for a term not exceeding six months; or

(b) (where the court has power to pass such a sentence) for a term of not less than three years.

(2) Subsection (1) of this section shall not apply in the case of a person who is serving a sentence of imprisonment at the time when the court passes sentence; and for the purpose of this subsection a person sentenced to imprisonment who has been recalled or returned to prison after being released subject to supervision or on licence, and has not been released again or discharged, shall be treated as serving the sentence.

(3) In relation to a person who has served a previous sentence of imprisonment for a term of not less than six months, or a previous sentence of borstal training, subsection (1) of this section shall have effect as if for the reference to three years there were substituted a reference to eighteen months; and for the purpose of this subsection a person sentenced to borstal training shall be treated as having served the sentence if he has been released subject to supervision, whether or not he has subsequently been recalled or returned to a borstal institution.

(4) The foregoing provisions of this section, so far as they affect the passing of consecutive sentences by magistrates' courts, shall have effect notwithstanding anything in section one hundred and eight of the Magistrates' Courts Act, 1952 (which authorises such courts in specified circumstances to impose consecutive sentences of imprisonment totalling more than six months).

(5) Her Majesty may by Order in Council direct that paragraph (a) of subsection (1) of this section shall be repealed, either generally or so far as it relates to persons, or male or female persons, of any age described in the Order:

Provided that—

- (a) an Order in Council shall not be made under this subsection unless the Secretary of State is satisfied that sufficient accommodation is available in detention centres for the numbers of offenders for whom such accommodation is likely to be required in consequence of the Order;
- (b) no recommendation shall be made to Her Majesty in Council to make an Order under this subsection unless a draft of the Order has been laid before Parliament and has been approved by resolution of each House of Parliament.

#### *Detention Centre and Remand Home*

4.—(1) In any case where a court has power, or would have power but for the statutory restrictions upon the imprisonment of young offenders, to pass sentence of imprisonment on an offender under twenty-one but not less than fourteen years of age, the court may, subject to the provisions of this section, order him to be detained in a detention centre. Detention of offenders aged 14 to 20.

## PART I

(2) An order for the detention of an offender under this section may be made for the following term, that is to say—

(a) where the offender has attained the age of seventeen or is convicted before a court of assize or of quarter sessions, and the maximum term of imprisonment for which the court could (or could but for any such restriction) pass sentence in his case exceeds three months, any term of not less than three nor more than six months;

(b) in any other case, a term of three months.

(3) An order under this section shall not be made in respect of any person unless the court has been notified by the Secretary of State that a detention centre is available for the reception of that court of persons of his class or description, or an Order in Council under subsection (5) of section three of this Act is in force in respect of persons of his age and sex.

(4) An order under this section shall not be made in respect of a person who is serving or has served a sentence of imprisonment for a term of not less than six months or a sentence of borstal training unless it appears to the court that there are special circumstances (whether relating to the offence or to the offender) which warrant the making of such an order in his case; and before making such an order in respect of such an offender the court shall—

(a) in any case, consider any report made in respect of him by or on behalf of the Prison Commissioners,

(b) if the court is a magistrates' court and has not received any such report, adjourn the hearing under subsection (3) of section fourteen of the Magistrates' Courts Act, 1952, and remand the offender in custody to enable such a report to be made;

and section thirty-seven of this Act shall apply accordingly.

**5.—**(1) In any case where a court has power, or would have power but for the statutory restrictions upon the imprisonment of young offenders, to commit to prison for any default a person under seventeen but not less than fourteen years of age, the court may, subject to the provisions of this section, commit him to a detention centre or to a remand home for any term not exceeding the term for which he could but for any such restriction have been committed to prison.

(2) Except as provided by the following provisions of this Part of this Act, a person shall not be committed under this section to a detention centre—

(a) for a term of one month or less; or

(b) for any term exceeding six months,

and shall not be committed thereunder to a remand home for a term exceeding one month.

PART I

(3) Subsection (3) of section four of this Act shall apply in relation to the committal of any person to a detention centre under this section as it applies in relation to the making of an order for the detention of an offender under that section.

(4) This section applies in relation to the fixing of a term of imprisonment to be served in the event of default of payment of a fine or other sum of money as it applies in relation to committal to prison in default of such payment; and in any such case subsection (2) of this section shall apply in relation to the term fixed by the court, and not to that term as reduced by virtue of any subsequent payment.

(5) Subject to the foregoing provisions of this section, Part III of the Magistrates' Courts Act, 1952, and sections fourteen and fifteen of the Criminal Justice Act, 1948, shall have effect as if references to imprisonment included references to detention under this section; and references in those enactments, or in any other enactment relating to the satisfaction and enforcement of fines, recognizances and orders, to a prison or to the governor of a prison shall be construed accordingly.

6.—(1) Section five of this Act (so far as it relates to detention centres) shall apply in relation to any person who has attained the age of seventeen years and who, at the material time, is detained in a detention centre under a previous sentence or warrant, as it applies in relation to a person under that age. Defaulters already detained in detention centre.

(2) In relation to a person of any age who is detained as aforesaid, the said section five shall have effect subject to the following modifications, that is to say:—

- (a) so much of that section as relates to committal to a remand home shall not apply;
- (b) paragraph (a) of subsection (2) and subsection (3) shall be omitted.

(3) Where, after a warrant or order has been issued or made by a magistrates' court—

- (a) committing a person to prison, or ordering him to be committed to custody in a remand home, for any default; or
- (b) fixing a term of imprisonment, or of detention in a remand home, to be served by him in the event of any default,



## PART I

it is made to appear to a justice of the peace that that person is for the time being detained in a detention centre, the justice may amend the warrant or order by substituting that centre for the prison or remand home named therein and, where a prison is so named and the term of imprisonment specified in the warrant or order exceeds six months, by reducing that term to six months.

Consecutive terms and aggregate periods of detention.

7.—(1) Subject to the provisions of this section, any court which makes an order or issues a warrant for the detention of any person in a detention centre may direct that the term of detention under the order or warrant shall commence on the expiration of any other term for which that person is liable to be detained in a detention centre by virtue of an order or warrant made or issued by that or any other court.

(2) A direction shall not be given under subsection (1) of this section in connection with the making of an order under section four of this Act where the offender is under seventeen years of age.

(3) Where a direction under subsection (1) of this section is given in connection with the making of an order under section four of this Act, the term of detention specified in that order may, if the court thinks fit, be a term of less than three months; and where a direction under that subsection is given in connection with the making of an order or the issue of a warrant under section five of this Act in respect of a person under seventeen years of age, the term of detention specified in that order or warrant may, if the court thinks fit, be a term of less than one month.

(4) The aggregate of the terms for which a person may be ordered to be detained in a detention centre by virtue of any two or more orders made by the same court on the same occasion shall not in any case exceed six months.

(5) Without prejudice to subsection (4) of this section, the total term for which a person may be detained in a detention centre shall not exceed nine months at a time; and accordingly so much of any term for which a person is ordered to be so detained as, together with any other term on which it is wholly or partly consecutive, exceeds nine months shall be treated as remitted.

*Fine, Probation and Attendance Centre*

Fines for young offenders.

8.—(1) The limit imposed by section thirty-two of the Magistrates' Courts Act, 1952, upon the amount of the fine which may be imposed by a magistrates' court on finding guilty an offender under fourteen years of age shall be raised from forty shillings to ten pounds.

(2) The limit imposed by subsection (5) of section twenty of the said Act upon the amount of the fine which may be imposed by a magistrates' court on finding guilty a person under seventeen but not less than fourteen years of age who is charged with an offence other than a summary offence shall be raised from ten pounds to fifty pounds.

(3) Where a person under seventeen years of age is found guilty by a magistrates' court of an offence for which, apart from this subsection, the court would have power to impose a fine of an amount exceeding fifty pounds, the amount of any fine imposed by the court shall not exceed fifty pounds.

(4) Subsection (1) of section fifty-five of the Children and Young Persons Act, 1933 (which provides for the payment by parents or guardians of fines, damages or costs incurred by children or young persons) shall apply in relation to compensation for loss under subsection (2) of section eleven of the Criminal Justice Act, 1948, and to any sums which the court has power to award under section four of the Forfeiture Act, 1870, or section thirty-four of the Magistrates' Courts Act, 1952, as it applies in relation to damages or costs.

9. Where a probation order under section three of the Criminal Justice Act, 1948, or an order for conditional discharge under section seven of that Act, has been made by a magistrates' court in the case of an offender under seventeen years of age in respect of an offence not being a summary offence or an offence which, in the case of an adult, could have been tried summarily with his consent under section nineteen of the Magistrates' Courts Act, 1952, any powers exercisable by that or any other court in respect of the offender after he has attained the age of seventeen years under any of the following enactments, that is to say—

- (a) paragraph (a) of subsection (3) of section six of the said Act of 1948 (which relates to breach of the requirements of a probation order);
- (b) subsections (5) to (7) of section eight of that Act (which relate to further offences committed during the probation period or during the period of conditional discharge),

shall be those which would be exercisable if that offence were an offence which could have been tried summarily under the said section nineteen with the offender's consent, and had been so tried.

10.—(1) The minimum age at which a person may be ordered to attend at an attendance centre under section nineteen of the Criminal Justice Act, 1948, shall be ten instead of twelve years.

Attendance at attendance centres.

## PART I

(2) The aggregate number of hours for which a person may be required to attend at an attendance centre by virtue of an order under the said section nineteen—

(a) shall not be less than twelve except where he is under fourteen years of age and the court is of opinion, having regard to his age or any other circumstances, that twelve hours would be excessive ; and

(b) shall not exceed twelve except where the court is of opinion, having regard to all the circumstances, that twelve hours would be inadequate, and in that case shall not exceed twenty-four hours.

(3) An order shall not be made under the said section nineteen unless the court is satisfied that the attendance centre to be specified in the order is reasonably accessible to the person concerned, having regard to his age, the means of access available to him and any other circumstances.

## PART II

TREATMENT AND SUPERVISION OF PRISONERS AND OTHER  
DETAINED PERSONS*Borstal Institutions and Detention Centres*

Term of  
detention and  
supervision  
under sentence  
of borstal  
training.

11.—(1) The maximum period for which a person sentenced to borstal training after the commencement of this section may be detained under subsection (2) of section forty-five of the Prison Act, 1952, shall be two years instead of three years, and the minimum period for which such a person may be so detained shall (subject to any direction of the Secretary of State under that subsection) be six months instead of nine months.

(2) The period for which a person sentenced to borstal training after the commencement of this section is to be under supervision under subsection (3) of the said section forty-five after his release from a borstal institution shall (subject to any order of the Prison Commissioners under that subsection) be a period of two years beginning with the date of his release instead of a period beginning with that date and continuing until the expiration of four years from the date of his sentence.

Return  
to borstal  
institution on  
re-conviction.

12.—(1) Where a person sentenced to borstal training—

(a) being under supervision after his release from a borstal institution ; or

(b) having become unlawfully at large from a borstal institution and not having returned or been returned thereto, is convicted, whether on indictment or summarily, of an offence for which the court has power, or would have power but for the

statutory restrictions upon the imprisonment of young offenders, to pass sentence of imprisonment, the court may, instead of dealing with him in any other manner, order that he be returned to a borstal institution.

(2) A person ordered under this section to be returned to a borstal institution shall be liable to be detained for the like period, and if under supervision shall be treated for all other purposes, as if he had been recalled to a borstal institution by order of the Prison Commissioners in pursuance of section forty-five of the Prison Act, 1952, and had been taken into custody in pursuance of that order on the date of the order under this section.

(3) Before making an order under this section in respect of an offender, the court shall consider any report made by or on behalf of the Prison Commissioners on his response to the training already undergone by him, and section thirty-seven of this Act shall apply accordingly.

(4) Where the offender is under supervision as aforesaid, and the court by which he is convicted is a magistrates' court and has not received such a report as aforesaid, the court shall adjourn the hearing in accordance with subsection (3) of section fourteen of the Magistrates' Courts Act, 1952, and remand the offender in custody to enable such a report to be made.

(5) References in this section to a person under supervision after his release from a borstal institution do not include a person who, being under supervision as aforesaid, is for the time being deemed by virtue of section forty-five of the Prison Act, 1952, to be unlawfully at large.

**13.** Every person who is detained in a detention centre in pursuance of an order made under section four of this Act, being an order made after the commencement of this section, shall, after his release from the detention centre, be subject to supervision under the First Schedule to this Act. Supervision after release from detention centre.

#### *Approved Schools*

**14.**—(1) At any time during the period of a person's detention in an approved school the managers of the school may, and if the Secretary of State so directs shall, release him : Release and supervision.

Provided that a person shall not be released within the first six months of the period without the consent of the Secretary of State.

(2) A person who, after the commencement of this section, is released from an approved school (whether under subsection (1) of this section or at the expiration of the period of his

**PART II**

detention, and whether he has been released on any previous occasion or not) shall, after his release, be subject to supervision under Part I of the Second Schedule to this Act.

(3) Part II of the Second Schedule to this Act shall have effect for the purpose of enabling the managers of an approved school to exercise certain supervisory powers in relation to a person who has been under their supervision under Part I of that Schedule, if requested by him to do so.

(4) Section seventy-four of the Children and Young Persons Act, 1933, and paragraph 6 of the Fourth Schedule to that Act, shall cease to have effect.

Temporary  
removal from  
approved  
school.

15.—(1) If, on information on oath laid by or on behalf of the managers of an approved school, it appears to a justice of the peace on whom jurisdiction is hereinafter conferred that any person not less than fifteen years of age who is detained in the school is so seriously unruly or subversive that it is necessary for maintaining the discipline of the school that he should forthwith be removed therefrom pending inquiry as to the best means of dealing with him, the justice may issue a warrant directing him to be removed by a constable from the school to another approved school or to a remand centre or remand home, and there detained for a period of twenty-eight days unless sooner dealt with according to law.

(2) A justice shall have jurisdiction for the purposes of subsection (1) of this section if he is a justice for the county or borough in which the approved school first mentioned in that subsection is situated, and is not one of the managers of that school.

(3) The institution to which a person is to be removed in pursuance of a warrant under subsection (1) of this section may be specified either in the warrant as issued or by the subsequent endorsement of any justice of the peace, in either case upon intimation that arrangements have been made for the reception of that person therein; and where the institution is to be specified by endorsement, the warrant shall include directions for the removal of the person in respect of whom it is issued to a police station, and for his detention therein for a period not exceeding forty-eight hours pending his further removal pursuant to the endorsement.

(4) Where a person has been removed to any such institution as is mentioned in subsection (1) of this section in pursuance of a warrant under that subsection, any justice of the peace may, upon intimation that arrangements have been made for the reception of that person in any other such institution, issue a warrant directing him to be removed by any person named in

that behalf in the warrant, or by a constable, to that other institution and there detained for the unexpired portion of the period of twenty-eight days which began with the day on which he was first detained in any such institution under this section.

(5) Where a person is detained in an institution or police station by virtue of a warrant under this section, then, without prejudice to any other power exercisable in relation to that person by the Secretary of State, the Secretary of State may direct that, before the expiration of the period for which that person is authorised to be so detained, he shall be returned to the school from which he was removed, or first removed.

(6) If at the expiration of any period for which a person is authorised to be detained in an institution or police station by virtue of a warrant under this section that person has not been otherwise dealt with according to law (whether by virtue of the last foregoing subsection or any other enactment), he shall be returned to the school from which he was removed, or first removed, and the warrant shall include such directions as may be necessary for that purpose.

(7) A person removed under this section to an approved school shall, while liable to be detained therein, be treated as if he were so liable by virtue of an approved school order; and, without prejudice to the foregoing provision, the enactments relating to persons detained in approved schools shall apply in relation to any person removed from an approved school in pursuance of a warrant under subsection (1) of this section as if he were detained in and under the care of the managers of that school.

**16.**—(1) The managers of an approved school may, with the consent of the Secretary of State, bring before a magistrates' court any person not less than fifteen years of age who is detained in the school as an offender and who, in the opinion of the managers, ought to be removed from the school to a borstal institution under this section. Removal to borstal institution.

(2) Where a person detained in an approved school is brought before a court under this section and the court, having regard to his conduct while in that or any other approved school—

(a) is satisfied that his continued detention in an approved school would be ineffective for the purposes of his own reformation or would be detrimental to the training or welfare of other persons therein; and

(b) is of opinion that it is in his interests that he should receive training in a borstal institution,

the court may order him to be removed to such an institution.

(3) Where an order is made under this section for the removal of any person to a borstal institution, that person shall thereafter

## PART II

be treated for all purposes as if he had been sentenced to borstal training on the date of the order, except that—

- (a) where the period for which he would have been liable to be detained in an approved school would have expired within two years from that date, he shall not be liable to be detained in a borstal institution after the expiration of the first-mentioned period ; and
- (b) subsection (4) of section forty-five of the Prison Act, 1952, shall apply to him as if for the reference to the period of two years from the date of his sentence there were substituted a reference to the period for which he is liable to be detained under this subsection.

(4) On the making of an order under this section in respect of a person detained in an approved school, the order under which he was so detained shall cease to have effect.

(5) The reference in this section to a person detained in an approved school as an offender is a reference to a person who is for the time being subject to an approved school order under section fifty-seven of the Children and Young Persons Act, 1933, or an order of the Secretary of State under section fifty-eight of that Act, or an approved school order under any other enactment made by virtue of his being or having been subject to an order under either of those sections, and includes a person who, being subject to any such order as aforesaid, is for the time being detained in an approved school in pursuance of a warrant under section fifteen of this Act.

Proceedings  
for removal  
under s. 16.

17.—(1) Proceedings under section sixteen of this Act for the removal of any person from an approved school may be taken—

- (a) in any case, before a magistrates' court having jurisdiction where that school is situate ;
- (b) if that person has already been removed from that school to another approved school in pursuance of a warrant under section fifteen of this Act, before a magistrates' court having jurisdiction where that other school is situate ;

and where that person is detained in another approved school in pursuance of a warrant under the said section fifteen, such proceedings may be taken either by the managers of the school from which he was removed, or first removed, under the said section fifteen or by the managers of the school in which he is detained.

(2) If the court before which a person is brought under the said section sixteen is not in a position to decide whether to make an order under that section in his case, the court may make such interim order as it thinks fit for his detention or further

detention for a period not exceeding twenty-one days in another approved school or in a remand centre or remand home; and subsection (3) of section fifteen of this Act shall apply in relation to any such order as it applies in relation to a warrant under that section.

(3) An interim order under subsection (2) of this section may from time to time be varied or extended by the court which made the order or by a magistrates' court acting for the same petty sessions area; but a person shall not be detained by virtue of an interim order (whether in the same institution or in different institutions) for a period exceeding eight weeks in all.

(4) Where a court having power under subsection (3) of this section to vary or extend an interim order made under subsection (2) of this section in the case of any person is satisfied on any occasion that, by reason of illness or accident, that person is unable to appear personally before the court, the court may exercise the said power on that occasion in his absence.

(5) Subject to the provisions of this section, the provisions of the Magistrates' Courts Act, 1952, and of any other enactment relating to summary proceedings (other than provisions relating to remand) shall apply in relation to proceedings for the removal of any person under the said section sixteen as they apply in relation to proceedings against a person charged with a summary offence.

18.—(1) If it appears to the Secretary of State that the provision made in any approved school with regard to any matter relating to—

Directions as to management of approved schools.

- (a) the premises or equipment of the school,
- (b) the number or grades of the staff employed in the school, or
- (c) the education, training or welfare of persons under the care of the managers,

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.

19.—(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

Constitution of managers.



**PART II**

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.

*Miscellaneous*

Supervision  
of certain  
prisoners  
after release.

20.—(1) The provisions of Part I of the Third Schedule to this Act shall have effect with respect to the supervision after release from prison of persons to whom this section applies, and the return to prison of such persons in the event of failure to comply with the requirements of their supervision.

(2) This section applies to persons serving the following sentences of imprisonment (being sentences commencing after such date as may be prescribed by order of the Secretary of State), that is to say—

- (a) a sentence for a term of four years or more ;
- (b) a sentence for a term of six months or more passed on a person who has served at least one previous sentence,

being a sentence of imprisonment for a term of three months or more or a sentence of corrective training, preventive detention or borstal training; and

- (c) a sentence for a term of six months or more passed on a person appearing to the Prison Commissioners to have been under the age of twenty-six at the commencement of the sentence,

but does not apply to a person serving a sentence of imprisonment for life.

(3) Different dates may be prescribed by order under this section in respect of sentences described in paragraphs (a), (b) and (c) respectively of subsection (2) of this section; and different dates may be so prescribed in respect of different sentences comprised in the said paragraph (b), either according to the length of the term of the relevant sentence or to the previous sentences of the person on whom it is passed, or to both.

**21.** Section twenty-two of the Criminal Justice Act, 1948, section twenty-nine of the Prison Act, 1952, and the First Schedule to the last mentioned Act (which contain provisions requiring certain discharged prisoners to notify their addresses) shall cease to have effect.

Repeal of provisions for notifying address.

**22.—(1)** The maximum term of imprisonment which may be imposed for an offence under section thirty-nine of the Prison Act, 1952 (which relates to assisting prisoners to escape) shall be five years instead of two years.

Penalties for assisting escape from prison, etc.

(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 two years, or to a fine, or to both.

(3) In the following enactments (which make provision for the application of sections thirty-nine to forty-two of the Prison Act, 1952) that is to say, subsection (3) of section one hundred and twenty-two of the Army Act, 1955, subsection (3) of section one hundred and twenty-two of the Air Force Act, 1955, and subsection (3) of section eighty-two of the Naval Discipline Act, 1957, references to the said section thirty-nine shall be construed as including references to subsection (2) of this section.

## PART II

(4) The maximum term of imprisonment and the maximum fine which may be imposed for an offence under subsection (4) of section seventy-two, subsection (4) of section seventy-eight or subsection (4) of section eighty-two of the Children and Young Persons Act, 1933 (which relate to assisting persons to escape from approved schools and remand homes, and other like offences), shall be respectively six months and one hundred pounds instead of two months and twenty pounds.

## Prison Rules.

23.—(1) For the purposes of rules under section forty-seven of the 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 through the post office, 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 be discharged on the next preceding day which is not one of those days.

The days to which this subsection applies are Sunday, Christmas Day, Good Friday and any day which under the 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 one month, any Saturday.

(4) In this section the references to prisons and prisoners include references respectively to borstal institutions, detention centres and remand centres and to persons detained therein.

Management  
of prisons, etc.

24.—(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 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.

## PART II

Reports to Parliament on approved schools, remand homes and attendance centres.

25.—(1) The Secretary of State shall lay before Parliament—

- (a) in every year, a statement of statistical information relating to approved schools, remand homes and attendance centres in England and Wales;
- (b) in the year nineteen hundred and sixty-four and every third subsequent year, a report on the functioning of the approved school system in England and Wales (including supervision after release) and of remand homes and attendance centres in England and Wales, and on the work of the Home Department in relation thereto.

(2) The information to be comprised in any statement laid in pursuance of paragraph (a) of subsection (1) of this section shall include the following particulars, that is to say—

- (a) in the case of approved schools, the number of such schools, and the numbers of admissions, releases and recalls during the period covered by the statement;
- (b) in the case of remand homes, the number of such homes and the number of admissions during that period;
- (c) in the case of attendance centres, the number of such centres, and the number of orders for attendance at such centres made during that period,

together with such additional information as the Secretary of State thinks appropriate in each case.

## PART III

TRANSFER, SUPERVISION AND RECALL OF PRISONERS WITHIN  
THE BRITISH ISLANDS

26.—(1) The responsible Minister may, on the application of a person serving a sentence of imprisonment or detention in any part of the United Kingdom, make an order for his transfer to another part of the United Kingdom, there to serve the remainder of his sentence, and for his removal to an appropriate institution in that part of the United Kingdom.

(2) Where a person has been sentenced to imprisonment or detention in any of the Channel Islands or the Isle of Man, the Secretary of State may, without application in that behalf, make an order for his transfer to any part of the United Kingdom, there to serve his sentence or the remainder of his sentence, as the case may be, and for his removal to an appropriate institution in that part of the United Kingdom.

(3) Where a girl or woman has been sentenced to borstal training in Northern Ireland, the Minister of Home Affairs for Northern Ireland may, without application in that behalf, make an order for her transfer to another part of the United Kingdom,

Transfer to  
serve sentence.

there to serve her sentence or the remainder of her sentence, as the case may be, and for her removal to a borstal institution in that part of the United Kingdom.

(4) Subject to the following provisions of this section, a person transferred under this section to any part of the United Kingdom there to serve his sentence or the remainder of his sentence shall be treated for purposes of detention, release, recall and otherwise as if that sentence (and any other sentence to which he may be subject) had been passed by a court in that part of the United Kingdom and, where it is not a sentence which could be so passed, as if it could be so passed.

(5) Where a person sentenced to borstal training is transferred under this section to any part of the United Kingdom, the provisions applicable to him shall be those applicable to a person sentenced to borstal training by a court in that part of the United Kingdom:

Provided that—

(a) where a person so sentenced after the commencement of section eleven of this Act is transferred from England and Wales, the maximum and minimum periods for which he may be detained in a borstal institution shall be those prescribed by subsection (2) of section forty-five of the Prison Act, 1952, as amended by the said section eleven, and not those applicable to the corresponding sentence in Scotland or Northern Ireland ;

(b) where a person so sentenced at any time in Scotland or Northern Ireland is transferred to England and Wales, the period after his release during which, under subsections (3) and (4) of the said section forty-five, he remains under supervision and is liable to be recalled shall end not later than the date on which he would have ceased to be under supervision under the law of the place where he was sentenced, if he had been released there.

(6) Where a person sentenced to imprisonment or detention, not being a person sentenced to borstal training, is released and, by reason of his having been transferred under this section, his release occurs otherwise than in his place of sentence (that is to say, the part of the United Kingdom or island in which his sentence was passed)—

(a) he shall not on his release be subject to supervision under the law of the part of the United Kingdom in which he is at the time of his release unless he would have been subject to supervision if he had been released at that time in his place of sentence without having been transferred from that place ; and

## PART III

(b) if in accordance with the foregoing provisions of this section he is on his release subject to supervision under the law of the part of the United Kingdom in which he is at the time of his release, the period after his release for which he is so subject shall not extend beyond the expiration of the maximum period after his release for which he could have continued to be subject to supervision under the law of his place of sentence if he had been released in that place at the said time:

Provided that this subsection shall not apply in the case of a person sentenced in any of the Channel Islands or the Isle of Man to corrective training or preventive detention.

(7) In subsection (6) of this section references to supervision include references to any obligation to comply with requirements or conditions imposed by a licence or otherwise imposed by law on or in connection with release from a prison or other institution, and any liability to be recalled or returned thereto; and for the purposes of that subsection it shall be assumed that a person who, if released in his place of sentence, could have been placed under supervision, would have been so placed.

Temporary transfer.

27.—(1) The responsible Minister may, on the application of a person serving a sentence of imprisonment or detention in any part of the United Kingdom, make an order for his temporary transfer to another part of the United Kingdom or to any of the Channel Islands or the Isle of Man and for his removal to an appropriate institution there.

(2) The Secretary of State may, on the application of a person serving a sentence of imprisonment or detention in any of the Channel Islands or the Isle of Man, make an order for his temporary transfer to any part of the United Kingdom or another of those islands and for his removal to an appropriate institution there.

(3) A person removed in pursuance of any such order from one country or island to another shall while in the country or island to which he is so removed be kept in custody except so far as the Minister by whom the order was made may in any particular case or class of case otherwise direct.

(4) A person removed in pursuance of any such order from one country or island to another may without further order be returned to the country or island from which he was removed.

Transfer for trial.

28.—(1) If it appears to the responsible Minister that a person serving a sentence of imprisonment or detention in any part of the United Kingdom should be transferred to another part of the United Kingdom for the purpose of attending criminal proceedings against him there, that Minister may make an order for his transfer to that other part, and for his removal to a prison or other institution there.

(2) During the period for which a person transferred under subsection (1) of this section remains in the part of the United Kingdom to which he is transferred, the provisions of section twenty-six of this Act relating to the treatment of persons transferred under that section shall apply to him as if he had been transferred to that part under that section.

(3) Where a person has been transferred under subsection (1) of this section for the purpose of any proceedings, the responsible Minister may,—

- (a) if that person is sentenced to imprisonment or detention in those proceedings, make an order under section twenty-six of this Act (but without application in that behalf) transferring him back to the country from which he was transferred under subsection (1) of this section ;
- (b) if he is not so sentenced, make an order for his return to the said country, and for his removal to an appropriate institution in that country, there to serve the remainder of the sentence referred to in subsection (1) of this section.

**29.**—(1) If the responsible Minister is satisfied, in the case of a person detained in any part of the United Kingdom in a prison, borstal institution, remand centre, detention centre or remand home, that the attendance of that person at any place in that or any other part of the United Kingdom is desirable in the interests of justice or for the purposes of any public inquiry, the responsible Minister may direct that person to be taken to that place. Removal for other judicial purposes.

(2) Where any person is directed under this section to be taken to any place he shall, unless the responsible Minister 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.

**30.**—(1) The following enactments (relating to the arrest and return of prisoners and other persons unlawfully at large) that is to say— Prisoners unlawfully at large.

- (a) subsection (1) of section forty-nine of the Prison Act, 1952 ;
- (b) subsection (1) of section thirty-seven of the Prisons (Scotland) Act, 1952 ; and
- (c) subsection (1) of section thirty-eight of the Prison Act (Northern Ireland) 1953,

shall extend throughout the United Kingdom, the Channel Islands and the Isle of Man ; and any reference in those enactments to a constable shall include a reference to a person being a constable



**PART III**

under the law of any part of the United Kingdom or of the Isle of Man, to a member of the police in Jersey, and to an officer of police within the meaning of section forty-three of the Larceny (Guernsey) Law, 1958, or any corresponding law for the time being in force.

(2) The enactments mentioned in subsection (1) of this section shall also apply to persons who, being unlawfully at large under any law of the Channel Islands or of the Isle of Man, are for the time being within the United Kingdom as they apply respectively to persons unlawfully at large under the law of England, Scotland and Northern Ireland; and any person arrested in the United Kingdom under the said enactments as applied by this subsection may be taken to the place in the Channel Islands or the Isle of Man in which he is required in accordance with the law in force therein to be detained.

(3) Where a person who, having been sentenced to imprisonment or detention, is unlawfully at large during any period during which he is liable to be detained in a prison, borstal institution or detention centre in any part of the United Kingdom is sentenced to imprisonment or detention by a court in another part of the United Kingdom, the provisions of section twenty-six of this Act relating to the treatment of persons transferred under that section shall apply to him, while he remains in that other part of the United Kingdom, as if he had been transferred there under that section immediately before he was so sentenced, and the responsible Minister may, if he thinks fit, make an order under that section (but without application in that behalf) transferring him back to the part of the United Kingdom from which he was unlawfully at large.

(4) In paragraph (a) of the proviso to subsection (2) of section forty-nine of the Prison Act, 1952 (which in effect enables a person who is unlawfully at large during the currency of his original sentence to count towards that sentence any period during which he is detained in pursuance of a sentence of any court) and in the proviso to subsection (2) of section thirty-seven of the Prisons (Scotland) Act, 1952, and in subsection (3) of section thirty-eight of the Prison Act (Northern Ireland), 1953 (which contain corresponding provisions for Scotland and Northern Ireland) references to a court shall include references to any court in the United Kingdom.

**31.**—(1) The power of a court in any part of the United Kingdom to order that the term of any sentence of imprisonment or detention passed by the court shall commence at or before the expiration of another term of imprisonment or detention shall include power to make such an order where that other term was imposed by sentence of a court elsewhere in the United Kingdom

Subsequent sentence in case of persons transferred or removed under Part III.

or in any of the Channel Islands or the Isle of Man if the offender— PART III

- (a) is serving that other sentence in that part of the United Kingdom ; or
- (b) is for the time being present in that part of the United Kingdom,

by virtue of an order under this Part of this Act, or is unlawfully at large under the law of the country in which that other sentence was passed.

(2) The provisions of this section shall be without prejudice to the powers exercisable by any court apart from those provisions.

**32.**—(1) The enactments mentioned in the next following sub-section, so far as they make provision— Supervision and recall.

- (a) for the supervision of persons released from a prison or other institution in any part of the United Kingdom ;
- (b) for the imposition upon persons so released of requirements or conditions to be complied with by them ; or
- (c) for the recall or return of persons so released to such a prison or institution,

shall apply to a person so released who is for the time being in any other part of the United Kingdom or in the Channel Islands or the Isle of Man ; and for that purpose those enactments shall extend throughout the United Kingdom, the Channel Islands and the Isle of Man.

(2) The following are the enactments extended by this section, that is to say:—

- (a) sections twenty-five, twenty-six, twenty-seven and forty-five of the Prison Act, 1952 ;
- (b) sections nineteen, twenty, twenty-one, twenty-three and thirty-three of the Prisons (Scotland) Act, 1952 ;
- (c) sections twenty, twenty-one, twenty-two and twenty-three of the Prison Act (Northern Ireland), 1953, and the First, Second and Third Schedules to that Act ; and
- (d) sections thirteen and twenty of this Act and the First and Third Schedules to this Act.

(3) Part II of the Third Schedule to this Act shall have effect for the purposes of that Schedule as extended by this section.

**33.** Any order of a Secretary of State under this Part of this Act shall be given under the hand of the Secretary of State or of an Under-Secretary or Assistant Under-Secretary of State. Orders under Part III.

## PART IV

## SUPPLEMENTAL

Removals  
from prison  
consequential  
on Part I.

34.—(1) Subject to subsection (2) of this section, the Prison Commissioners may, if satisfied that it is expedient to do so, remove from a prison to a borstal institution or a detention centre any person who, at or after the commencement of subsection (2) of section two or subsection (1) of section three of this Act, or of an Order in Council under subsection (5) of the said section three, is serving a sentence of imprisonment in a prison in England and Wales, being a sentence which, by virtue of that enactment or of that Order, as the case may be, could not then be passed in his case by a court in England and Wales.

(2) A person shall not be removed under this section to a borstal institution unless his sentence of imprisonment was a sentence for a term exceeding six months, and shall not be removed thereunder to a detention centre if the unexpired period of the term of his sentence exceeds nine months.

(3) Where a person is removed under this section to a borstal institution, he shall thereafter be treated as if his sentence had been a sentence of borstal training except that—

(a) his liability to be detained under section forty-five of the Prison Act, 1952, in a borstal institution shall continue until the expiration of his term of imprisonment, and shall then determine ;

(b) subsections (3) to (5) of section forty-five of the Prison Act, 1952, shall not apply to him on his release, but the Prison Commissioners may release him on licence at any time before the expiration of the said term, and in that case subsections (3) to (6) of section twenty-five of that Act (which relate to persons released from prison on licence under that section), shall apply as if for references to a prison there were substituted references to a prison or a borstal institution.

(4) Where a person is removed under this section to a detention centre, he shall thereafter be treated as if his sentence had been an order for his detention in a detention centre for a term equal to his term of imprisonment.

(5) Notwithstanding anything in this section, a person transferred thereunder shall, while detained in a borstal institution or detention centre, be treated for the purposes of section three of this Act as if he were serving his sentence of imprisonment.

(6) Where an order has been made under Part III of this Act for the removal to a prison in England and Wales of a person who, under this section, could be removed from that prison to a borstal institution or detention centre, the Prison Commis-

sioners may direct that he shall, on his arrival in England and Wales, be taken to a borstal institution or a detention centre instead of that prison.

PART IV

**35.**—(1) 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.

(2) A constable, or any other person required or authorised by or under this Act to take any person to or keep him at any place shall, while taking or keeping him there have all the powers, authorities, protection and privileges which a constable has within the area for which he acts as constable.

**36.**—(1) Any power of the Secretary of State to make orders under this Act (other than orders under subsection (1) of section nineteen or under Part III) shall be exercisable by statutory instrument.

Legal custody.  
General provisions as to orders.

(2) Any Order in Council or order under this Act may be varied or revoked by a subsequent Order in Council or order.

**37.** In any case where a court is required by this Act to consider a report made by or on behalf of the Prison Commissioners in respect of an offender, the court shall cause a copy of the report to be given to the offender or his counsel or solicitor.

Prison Commissioners' reports.

**38.**—(1) Except as provided by subsection (3) of this section, the expression "sentence" in this Act does not include a committal for default or the fixing of a term to be served in the event of default, or a committal or attachment for contempt of court.

Construction of references to sentence of imprisonment, etc.

(2) For the purposes of any provisions of this Act referring to a person who is serving or has served a sentence of any description, the expression "sentence" includes—

- (a) in any case, a sentence of that description passed by a court in Scotland, Northern Ireland, any of the Channel Islands or the Isle of Man ; and
- (b) in the case of imprisonment, a sentence passed by a court-martial on a person found guilty of a civil offence (within the meaning of the Naval Discipline Act, 1957, the Army Act, 1955, or the Air Force Act, 1955), and a sentence which is treated by virtue of the Colonial Prisoners Removal Act, 1884, as a sentence passed by a court in England and Wales.

(3) For the purposes of Part III and of sections twenty-two and thirty-four of this Act—

- (a) the expression "imprisonment or detention" means imprisonment, corrective training, preventive detention, borstal training or detention in a detention centre ;

**PART IV**

(b) the expression “ sentence ” includes a sentence passed by a court-martial for any offence, and any order made by any court imposing imprisonment or detention, and “ sentenced ” shall be construed accordingly.

(4) For the purposes of any reference in this Act to a term of imprisonment or of detention in a detention centre or to a term of imprisonment or detention, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.

(5) For the purposes of this Act (and of any enactment referred to in Part III of this Act)—

(a) a sentence of penal servitude passed in any of the Channel Islands or the Isle of Man shall be treated as a sentence of imprisonment for the like term ;

(b) a sentence of detention in a borstal institution passed as aforesaid shall be treated as a sentence of borstal training ;

(c) a sentence of death passed by any court (including a court-martial) on a person subsequently pardoned by Her Majesty on condition of his serving a term of imprisonment or penal servitude shall be treated as a sentence of imprisonment or penal servitude passed by that court for that term ; and

(d) without prejudice to paragraph (c) of this subsection, any reference to a person on whom a sentence of any description has been passed includes a reference to a person who under the law of any part of the United Kingdom, any of the Channel Islands or the Isle of Man is treated as a person on whom a sentence of that description has been passed ;

and “ sentenced ” shall be construed accordingly.

**Interpretation.** 39.—(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say :—

“ appropriate institution ” means—

(a) in relation to a person sentenced to borstal training who is removed under Part III of this Act to any part of the United Kingdom, a borstal institution ;

(b) in relation to a person sentenced to detention in a detention centre who is so removed to England and Wales or Scotland, a detention centre ;

(c) in relation to any other person who is removed under the said Part III, a prison ;

“ court ” includes an appeal committee of quarter sessions ;

“ court-martial ” includes the Courts-Martial Appeal Court and any officer exercising jurisdiction under section forty-nine of the Naval Discipline Act, 1957 ;

“ default ” means failure to pay, or want of sufficient distress to satisfy, any fine or other sum of money, or failure to do or abstain from doing any thing required to be done or left undone ;

“ enactment ” includes an enactment of the Parliament of Northern Ireland ;

“ prison ” does not include a naval, military or air force prison ;

“ responsible Minister ” means—

(a) in relation to persons detained in England and Wales or in Scotland, a Secretary of State ;

(b) in relation to persons detained in Northern Ireland, the Minister of Home Affairs for Northern Ireland ;

“ the statutory restrictions upon the imprisonment of young offenders ” means subsection (1) of section seventeen of the Criminal Justice Act, 1948, subsection (2) of section one hundred and seven of the Magistrates' Courts Act, 1952, and section three of this Act.

(2) Except as otherwise expressly provided, references in this Act to a court do not include references to a court-martial ; and nothing in this Act shall be construed as affecting the punishment which may be awarded by a court-martial under the Naval Discipline Act, 1957, the Army Act, 1955, or the Air Force Act, 1955, for a civil offence within the meaning of those Acts.

(3) Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court or justice of the peace, his age at the material time shall be deemed to be or to have been that which appears to the court or justice, after considering any available evidence, to be or to have been his age at that time.

(4) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

**40.** Notwithstanding any limitation imposed on the powers of the Parliament of Northern Ireland by the Government of Ireland Act, 1920, that Parliament may, by any Act re-enacting (with or without modifications) or amending the law in force in Northern Ireland with respect to the custody and treatment of <sup>Legislative powers of Parliament of Northern Ireland.</sup>

## PART IV

prisoners and other persons detained, make such amendments of the provisions of this Act, so far as those provisions extend to Northern Ireland, as may be necessary for the purpose of bringing those provisions into conformity with the provisions of that Act.

Minor and consequential amendments and repeals.

**41.**—(1) The enactments described in the Fourth Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule, being minor amendments and amendments consequential on the foregoing provisions of this Act.

(2) The enactments described in the Fifth Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) The amendment or repeal by this Act of any enactment described in the said Fourth or Fifth Schedule shall not extend to that enactment in so far as it applies to any person—

- (a) by virtue of his having been sentenced to borstal training before the commencement of section eleven of this Act ; or
- (b) by virtue of his having been released from an approved school before, and not having again been so released after, the commencement of section fourteen of this Act.

(4) In accordance with subsections (1) and (2) of this section, but subject to subsection (3) thereof and to the repeal provided for by subsection (6) of section eighteen of the Legal Aid and Advice Act, 1949, the following enactments (which relate to borstal training) that is to say section twenty of the Criminal Justice Act, 1948, section twenty-eight of the Magistrates' Courts Act, 1952, and section forty-five of the Prison Act, 1952, shall, after the commencement of all such provisions of the Fourth and Fifth Schedules to this Act as relate to those enactments, have effect as set out in the Sixth Schedule to this Act.

**42.**—(1) The following provisions of this Act shall extend to Scotland, that is to say—

Part III except section thirty-three ;

section thirty-five ;

sections thirty-eight and thirty-nine ;

section forty-one and the Fourth, Fifth and Sixth Schedules, so far as they relate to enactments which extend to Scotland ;

Application to Scotland and Northern Ireland.

but except as aforesaid, and except so far as it relates to the commencement of the said provisions, this Act shall not extend to Scotland.

(2) The following provisions of this Act shall extend to Northern Ireland, that is to say—

Part III ;

section thirty-five ;

sections thirty-eight to forty ;

section forty-one and the Fourth and Sixth Schedules, so far as they relate to enactments which extend to Northern Ireland ;

but except as aforesaid, and except so far as it relates to the commencement of the said provisions, this Act shall not extend to Northern Ireland.

**43.** There shall be paid out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums which, under any other enactment, are payable out of moneys so provided. Expenses.

**44.**—(1) The foregoing provisions of this Act (including the Schedules therein referred to) shall come into operation on such date as the Secretary of State may by order appoint.

(2) Different dates may be appointed by order under this section for different purposes of this Act ; and any reference in this Act to the commencement of any provision of this Act shall be construed as a reference to the date appointed for the purposes of that provision.

**45.** This Act may be cited as the Criminal Justice Act, 1961. Short title.



## SCHEDULES

Section 13.

### FIRST SCHEDULE

#### SUPERVISION OF PERSONS RELEASED FROM DETENTION CENTRES

1. A person detained in a detention centre in pursuance of an order under section four of this Act shall, after his release and until the expiration of the period of twelve months from the date of his release, be under the supervision of such society or person as may be specified in a notice to be given to him by the Prison Commissioners on his release, and shall, while under that supervision, comply with such requirements as may be so specified :

Provided that the Prison Commissioners may at any time modify or cancel any of the said requirements or order that a person who is under supervision as aforesaid shall cease to be under supervision.

2. If before the expiration of the said period of twelve months the Prison Commissioners are satisfied that a person under supervision under the foregoing paragraph has failed to comply with any requirement for the time being specified in the notice given to him under that paragraph, they may by order recall him to a detention centre ; and thereupon he shall be liable to be detained in the detention centre until the expiration of a period equivalent to that part of his term which was unexpired on the date of his release from the detention centre, or until the expiration of the period of fourteen days from the date of his being taken into custody under the order, whichever is the later, and, if at large, shall be deemed to be unlawfully at large :

Provided that—

- (a) a person shall not be recalled more than once under this paragraph by virtue of the same order under section four of this Act ; and
- (b) an order under this paragraph shall, at the expiration of the said period of twelve months, cease to have effect unless the person to whom it relates is then in custody thereunder.

3. The Prison Commissioners may at any time release a person who is detained in a detention centre under paragraph 2 of this Schedule.

Section 14.

### SECOND SCHEDULE

#### SUPERVISION OF PERSONS RELEASED FROM APPROVED SCHOOLS

##### PART I

##### COMPULSORY SUPERVISION

1.—(1) A person released from an approved school shall until the expiration of the period of two years from the date of his release or until he attains the age of twenty-one, whichever is the earlier, be under the supervision of the managers of that school, and shall while out from the school under that supervision live with the person named in that behalf in a notice to be given by the managers to the first-mentioned person on his release, or with such other person as the managers may thereafter from time to time nominate.

(2) The person with whom a person is required to live while out under supervision from his school shall be either his parent or any suitable person who is willing to receive and take charge of him.

2.—(1) The managers of an approved school from which a person is out under supervision may, at any time before the expiration of the said period of two years, by order in writing recall him to the school; and thereupon he shall be liable to be detained in the school until the expiration of the period of his detention or the expiration of six months from the date on which he returns (or is brought back) to the school, whichever is the later:

Provided that a person who has attained the age of nineteen shall not be recalled under this paragraph without the consent of the Secretary of State.

(2) A person shall not be recalled to, or be liable to be detained in, an approved school under this paragraph after he has attained the age of twenty-one.

3. The managers of an approved school in which a person is detained under paragraph 2 of this Schedule may at any time release him, and paragraphs 1 and 2 of this Schedule shall apply on his release under this paragraph as they apply in the case of his original release except that the references to the period of two years from the date of his release shall be construed as references to the period of two years from the date of his original release.

4. For the purposes of the application of paragraphs 1 to 3 of this Schedule to a person who was originally released from an approved school (whether on licence or under supervision) before the date of the commencement of section fourteen of this Act and who on or after that date is again released from an approved school (being either the same school or any other school in England and Wales in which he is detained by virtue of the same approved school or other order), the references in the said paragraphs 1 and 2 to the period of two years from the date of his release shall be construed as references to the period of two years from the date of his original release before the commencement of that section, and, as regards the references in the said paragraph 3 to his original release, the first of them shall be construed as a reference to his earliest release after the said commencement, and the second of them shall be construed as a reference to his original release before the said commencement.

5. For the purposes of the Children and Young Persons Act, 1933, and any other enactment (including this Act) relating to approved schools, a person under the supervision of the managers of an approved school shall, while he is out under supervision from the school, be deemed to be under the care of the managers.

6.—(1) An order of the Secretary of State under paragraph 9 of the Fourth Schedule to the Children and Young Persons Act, 1933, that a person under the care of the managers of an approved school be discharged or be transferred to the care of the managers of another school shall, in the case of a person who is under the supervision of the first-mentioned managers, have the effect of discharging him from their supervision as well as from their care.

2ND SCH.

(2) Where a person who is under the supervision of the managers of an approved school is transferred as aforesaid to the care of the managers of another school in England and Wales, he shall remain subject to supervision under Part I of this Schedule, but as from the time of his transfer he shall be under the supervision of the managers of that other school, and Parts I and II of this Schedule shall apply to him as if his original release as mentioned in paragraph 1 of this Schedule had been from that other school, the person (if any) with whom he was, immediately before his transfer, required to live under that paragraph being treated as having been nominated in that behalf by the managers of the last-mentioned school immediately after his transfer.

## PART II

## FURTHER ADVICE AND ASSISTANCE

7. Where a person under the supervision of the managers of an approved school under Part I of this Schedule ceases to be under their supervision otherwise than by reason of his being transferred as mentioned in sub-paragraph (1) of paragraph 6 of this Schedule, then during the period beginning with the day on which he so ceases and ending with the date of the third anniversary of the expiration of the period of his detention or the date on which he attains the age of twenty-one, whichever is the earlier, the managers, if so requested by him, may, to the extent that they think it appropriate to do so, cause him to be visited, advised and befriended or give him assistance (including, if they think fit, financial assistance) in maintaining himself and finding suitable employment.

8. Where, in the case of a person to whom paragraph 4 of this Schedule applies, his earliest release from an approved school after the commencement of section fourteen of this Act occurs after the expiration of the period of two years from the date of his original release but not later than whichever of the dates mentioned in paragraph 7 of this Schedule is the earlier in his case, he shall be treated for the purposes of the said paragraph 7 as ceasing to be under the supervision of the managers of the school under Part I of this Schedule on the day of his earliest release as aforesaid.

Sections 20  
and 32.

## THIRD SCHEDULE

## SUPERVISION OF CERTAIN DISCHARGED PRISONERS

## PART I

## SUPERVISION WITHIN ENGLAND AND WALES

*General Provisions*

1. Subject to the provisions of this Schedule, every person to whom section twenty of this Act applies shall, after his release from prison and until the expiration of the period of twelve months from the date of his release, be under the supervision of the Society, and shall, while under that supervision—

- (a) keep in touch with his supervising officer in accordance with such instructions as may from time to time be given by that officer; and
- (b) comply with such other requirements as may be specified in the notice of supervision given to him under this Schedule.

2. Before the release of any such person from prison, the Prison Commissioners shall cause to be given to him a notice (in this Schedule referred to as a notice of supervision) giving the name and address of the person (being an officer of the Society or a probation officer) who is to be his supervising officer in the first instance, and specifying any requirements, including the requirement to keep in touch with that officer, with which he has to comply while under supervision; and a notice given to any person under this paragraph shall contain a statement that it is given to him as falling within a specified class of the persons to whom section twenty of this Act for the time being applies.

3. At any time during the period for which a person is subject to supervision under this Schedule (in this Schedule referred to as the period of supervision) his supervising officer may be replaced by another supervising officer (being an officer of the Society or a probation officer) named in a notice in writing given to the person under supervision by his then supervising officer or by any other person qualified to be named as his supervising officer; and any such notice shall specify the address of the new supervising officer and the date from which he is to act as such.

4. The Prison Commissioners may, by notice in writing served on the Society at any time during the period of supervision—

- (a) discharge from supervision any person to whom a notice of supervision has been given; or
- (b) cancel or modify any of the requirements specified in such a notice in pursuance of sub-paragraph (b) of paragraph 1 of this Schedule;

and where a notice is served under this paragraph in respect of any person it shall be the duty of the Society to inform that person of the terms of the notice.

#### *Return to prison in case of breach of supervision*

5. Any person who, being under supervision under this Schedule, fails to comply with any of the requirements imposed on him thereunder may be sent back to prison by order of a magistrates' court for such term as may be specified in that order, not exceeding whichever is the shorter of the following, that is to say—

- (a) a period equal to one third of the term of imprisonment to which he was originally sentenced, or, if that period exceeds six months, a period of six months;
- (b) a period equal to so much of the period of supervision as was unexpired at the date of the laying of the information by which the proceedings were commenced.

6. Subject to the following provisions of this Schedule, the Magistrates' Courts Act, 1952, and any other enactment relating to summary proceedings, shall apply in relation to proceedings for an

## 3RD SCH.

order under paragraph 5 above as they apply in relation to proceedings in respect of a summary offence, and references in those enactments to an offence, trial, conviction or sentence shall be construed accordingly.

7. Proceedings for an order under paragraph 5 above may be brought in a magistrates' court for any county or borough in which the supervising officer carries out his duties; but no summons or warrant shall be issued for the purposes of such proceedings under section one of the Magistrates' Courts Act, 1952, except upon information laid by or on behalf of the Prison Commissioners.

8. A warrant issued under the said section one for the purposes of proceedings for an order under the said paragraph 5 may, if the person laying the information so requests, bear an endorsement requiring any constable charged with its execution to communicate with the Prison Commissioners before arresting the person under supervision if the constable finds that that person is earning an honest livelihood or that there are other circumstances which ought to be brought to the notice of the Commissioners.

9. If, on the hearing of any such proceedings, the court is satisfied that the person under supervision has failed to comply with any of the requirements of his supervision but is of opinion, having regard to all the circumstances of the case, that it is unnecessary or inexpedient to send him back to prison, the court may make no order in the case.

10. If any person while under supervision under this Schedule is convicted, whether on indictment or summarily, of an offence for which the court has power to pass sentence of imprisonment, the court may, instead of dealing with him in any other manner, make any order which could be made by a magistrates' court under paragraph 5 of this Schedule in proceedings for such an order.

11. The Prison Commissioners may at any time release from prison a person who has been sent back to prison under paragraph 5 or paragraph 10 of this Schedule; and the provisions of this Schedule shall apply to a person released by virtue of this paragraph subject to the following modifications:—

- (a) the period of twelve months referred to in paragraph 1 shall be calculated from the date of his original release; and
- (b) in relation to any further order for sending him back to prison under this Schedule, the period referred to at subparagraph (a) of paragraph 5 shall be reduced by any time during which he has been detained by virtue of the previous order.

*Supplementary*

12. In any proceedings, a certificate purporting to be signed by or on behalf of the Prison Commissioners and certifying—

- (a) that a notice of supervision was given to any person in the terms specified in the certificate and on a date so specified; and

- (b) either that no notice has been served in respect of him under paragraph 4 of this Schedule or that a notice has been so served in the terms specified in the certificate,

shall be evidence of the matters so certified and, if the term of imprisonment which he was serving until his release is stated in the notice of supervision, shall be evidence of the length of that term; and the fact that a notice of supervision was given to any person shall be evidence that he was a person to whom section twenty of this Act applies.

13. In any proceedings, a certificate purporting to be signed by an officer of the Society or a probation officer and certifying—

- (a) that on a date specified in the certificate he gave to the person named in the certificate a notice under paragraph 3 of this Schedule in the terms so specified; or
- (b) that on a date specified in the certificate he informed the person named in the certificate of the terms of a notice served on the Society under paragraph 4 of this Schedule,

shall be evidence of the matter so certified and, in the case of a certificate under sub-paragraph (b) above, of the service and terms of the notice under the said paragraph 4.

14. In this Schedule “the Society” means the Central After-Care Association, or such other society as may from time to time be designated by the Secretary of State as the Society for the purposes of this Schedule.

15. Any notice to be served under paragraph 4 of this Schedule may be served by post.

16. For the purposes of Part III of this Act, a person who has been sent back to prison under paragraph 5 or paragraph 10 of this Schedule, and has not been released again, shall be deemed to be serving part of his original sentence, whether or not the term of that sentence has in fact expired.

## PART II

### MODIFICATION OF PART I AS EXTENDED OUTSIDE ENGLAND AND WALES

#### *Scotland*

17. In relation to anything falling to be done in Scotland under Part I of this Schedule, for the words “an officer of the Society or a probation officer”, wherever they occur, there shall be substituted the words “an officer of the Society or any other person, including a probation officer in Scotland, authorised by the Society”.

18. In relation to proceedings in Scotland, paragraph 5 of this Schedule shall have effect as if for the reference to a magistrates’ court there were substituted a reference to the sheriff, and references in paragraphs 9 and 10 to the court and to a magistrates’ court shall be construed accordingly; in paragraph 8 the words

3RD SCH.

“ under the said section one ” shall be omitted ; and the following shall be substituted for paragraphs 6 and 7:—

“ 6. Proceedings for an order under paragraph 5 above shall be commenced by sworn information laid by or on behalf of the Prison Commissioners before a sheriff having jurisdiction in the area in which the supervising officer carries out his duties ; and upon any such information the sheriff may issue a warrant for the arrest of the person under supervision or may, if he thinks fit, instead of issuing such a warrant in the first instance, issue a citation requiring that person to appear before him at such time as may be specified in the citation.

7. If the sheriff before whom a person appears or is brought under the last foregoing paragraph is satisfied that that person has failed to comply with any of the requirements of his supervision, the sheriff may make an order under the said paragraph 5 accordingly ”.

19. In any proceedings in Scotland, a certificate or notice which, under paragraph 12 or paragraph 13 of this Schedule, is evidence of any matter shall be sufficient evidence of that matter.

20. Where an order is made by any court in Scotland under paragraph 5 or paragraph 10 of this Schedule sending back to prison a person under supervision, the court shall commit him to a prison in Scotland ; but the Secretary of State may, without application in that behalf, make at any time an order under section twenty-six of this Act transferring him to a prison in England.

21. In relation to a person detained by virtue of an order under the said paragraph 5 or paragraph 10 in a prison in Scotland, paragraph 11 (and, if that person is released from such a prison under that paragraph, paragraph 2) of this Schedule shall have effect as if for references to the Prison Commissioners there were substituted references to the Secretary of State.

#### *Northern Ireland*

22. In relation to anything falling to be done in Northern Ireland under Part I of this Schedule, any reference to a probation officer shall be construed as a reference to a probation officer in Northern Ireland.

23. In relation to proceedings in Northern Ireland, paragraphs 5 to 10 of this Schedule shall have effect as if—

- (a) for references to a magistrates' court there were substituted references to a court of summary jurisdiction ;
- (b) for references to the Magistrates' Courts Act, 1952 (except references to section one of that Act) there were substituted references to the Summary Jurisdiction Acts (Northern Ireland) ; and
- (c) for references to the said section one there were substituted references to section eleven of the Petty Sessions (Ireland) Act, 1851.

24. Where an order is made by a court in Northern Ireland under paragraph 5 or paragraph 10 of this Schedule sending back

to prison a person under supervision, the court shall commit him to a prison in Northern Ireland; but the Minister of Home Affairs may, without application in that behalf, make at any time an order under section twenty-six of this Act transferring him to a prison in England.

25. In relation to a person detained by virtue of an order under the said paragraph 5 or paragraph 10 in a prison in Northern Ireland, paragraph 11 (and, if that person is released from such a prison under that paragraph, paragraph 2) of this Schedule shall have effect as if for references to the Prison Commissioners there were substituted references to the Ministry of Home Affairs for Northern Ireland.

#### *Channel Islands and Isle of Man*

26. Her Majesty may by Order in Council make such provision as appears to Her to be proper for the purposes of or in connection with the application of Part I of this Schedule to any of the Channel Islands or to the Isle of Man.

#### *General*

27. In relation to anything falling to be done outside England and Wales, any reference to the Society in Part I of this Schedule shall (subject to any Order in Council under paragraph 26 of this Schedule) be construed as a reference to the Society within the meaning of paragraph 14 of this Schedule or such other society as may be designated for the purpose by the Secretary of State; and different societies may be designated under this paragraph for different purposes of the said Part I, or for any purpose of that Part in its application to persons of different classes or in different circumstances.

28. The enactments authorising warrants of arrest for criminal offences issued in any country to which this Schedule extends to be executed in any other such country shall apply to any warrant issued for the purposes of proceedings under Part I of this Schedule as they apply to such warrants as aforesaid.

### FOURTH SCHEDULE

Section 41.

#### MINOR AND CONSEQUENTIAL AMENDMENTS

<i>Enactment</i>	<i>Amendment</i>
<p>The Children and Young Persons Act, 1933. 23 &amp; 24 Geo. 5. c. 12.</p>	<p>In section fifty-three, in subsection (2), after the words "detained for such period" there shall be inserted the words ", not exceeding the maximum term of imprisonment with which the offence is punishable in the case of an adult,"; and in subsection (4), after the words "at any time", in the second place where those words occur, there shall be inserted the words "by notice in writing", and for the words from "shall return" to the end of the subsection there shall be substituted the words "shall, if at large, be deemed to be unlawfully at large."</p>



## 4TH SCH.

*Enactment*

The Children and Young Persons Act, 1933. 23 & 24 Geo. 5. c. 12.—*cont.*

*Amendment*

For section fifty-four there shall be substituted the following section—

“ 54.—(1) In any case where a court has power, or would have power but for the statutory restrictions upon the imprisonment of young offenders,—

(a) to pass sentence of imprisonment on a child or young person found guilty of an offence; or

(b) to commit a child to prison for any default,

the court may, if it considers that no other method of dealing with him is suitable, commit him to custody in a remand home:

Provided that a young person shall not be committed to custody in a remand home by virtue of paragraph (a) of this subsection if the court has power under section four of the Criminal Justice Act, 1961, to make an order for the detention in a detention centre of a person of his age and sex.

(2) The term for which a person may be committed to custody in a remand home under this section shall not exceed the maximum term for which he could (or could but for any such restrictions) have been sentenced to imprisonment or committed to prison, as the case may be, and shall not in any case exceed one month.

(3) This section applies in relation to the fixing of a term of imprisonment to be served in the event of default of payment of a fine or other sum of money as it applies in relation to committal to prison in default of such payment.

(4) In this section ‘the statutory restrictions upon the imprisonment of young offenders’ and ‘default’ have the same meaning as in the Criminal Justice Act, 1961”.

In section seventy-two, in subsection (4), for the words “two months” there shall be substituted the words “six months”, and for the words “twenty pounds” there shall be substituted the words “one hundred pounds”.

In section seventy-eight, in subsection (4), for the words “two months” there shall be substituted the words “six months”, and for the words “twenty pounds” there shall be substituted the words “one hundred pounds”.

<i>Enactment</i>	<i>Amendment</i>
<p>The Children and Young Persons Act, 1933. 23 &amp; 24 Geo. 5. c. 12.—<i>cont.</i></p>	<p>In section eighty-two, in subsection (1), for the words “or on licence” there shall be substituted the words “or under supervision”; and in subsection (4), for the words “two months” there shall be substituted the words “six months”, and for the words “twenty pounds” there shall be substituted the words “one hundred pounds”.</p> <p>In section eighty-three, in subsection (1), after the word “Act” there shall be inserted the words “and of the Criminal Justice Act, 1961.”; and in subsection (3), for the words “on licence” there shall be substituted the words “under supervision”, and after the word “Act” there shall be inserted the words “and of the Criminal Justice Act, 1961.”.</p> <p>In section eighty-eight, in subsection (4), in paragraph (b) after the word “supervision” there shall be inserted the words “or has been removed under section sixteen of the Criminal Justice Act, 1961, to a borstal institution”.</p> <p>In the Fourth Schedule, in paragraph 9, in sub-paragraph (2), after the word “afore-said” there shall be inserted the words “or removed under section sixteen of the Criminal Justice Act, 1961, to a borstal institution”; in sub-paragraph (3), for the words “this Act shall have effect” there shall be substituted the words “this Act and the Criminal Justice Act, 1961, shall have effect”; and in paragraph 12, in sub-paragraph (3), at the end there shall be added the words “or as authorised by paragraph 7 of the Second Schedule to the Criminal Justice Act, 1961”.</p>
<p>The Children and Young Persons Act, 1938. 1 &amp; 2 Geo. 6. c. 40.</p>	<p>In section six, in subsection (2), after the words “Criminal Justice Act, 1948” there shall be inserted the words “or under section five, section fifteen or subsection (2) of section seventeen of the Criminal Justice Act, 1961.”.</p>
<p>The Family Allowances Act, 1945. 8 &amp; 9 Geo. 6. c. 41.</p>	<p>In section eleven, in subsection (1), in paragraph (a), for the words from “or seventy-four” to the end of the paragraph there shall be substituted the words “of that Act or Part I of the Second Schedule to the Criminal Justice Act, 1961, and the child is not absent from the school under supervision;”.</p>

## 4TH SCH,

*Enactment**Amendment*

The Children Act,  
1948. 11 & 12 Geo.  
6. c. 43.

In section six, in subsection (4), for the words "under section seventy-four of the said Act of 1933" there shall be substituted the words "under Part I of the Second Schedule to the Criminal Justice Act, 1961", and for the words "the said section seventy-four or" there shall be substituted the words "the said Part I or the said section".

The Criminal Justice  
Act, 1948. 11 & 12  
Geo. 6. c. 58.

Section eighteen shall cease to have effect.

In section nineteen, in subsection (1), for the words "section seventeen of this Act or subsections (2) to (6) of section one hundred and seven of the Magistrates' Courts Act, 1952" there shall be substituted the words "the statutory restrictions upon the imprisonment of young offenders", and for the word "twelve", in the first place where that word occurs, there shall be substituted the word "ten".

In section twenty, in subsection (1), for the word "sixteen" there shall be substituted the word "fifteen" and for the words from "and the court" to "Borstal institution" there shall be substituted the words "and a sentence of borstal training is available in his case under subsection (2) of section one of the Criminal Justice Act, 1961,"; and in subsection (5), in paragraph (a), for the words "if satisfied of the matters mentioned in subsection (1) of this section" there shall be substituted the words "if a sentence of borstal training is available in his case under subsection (2) of section one of the Criminal Justice Act, 1961," and in paragraph (b), for the words from "that in subsection (2)" to the end of the paragraph there shall be substituted the words "specified in subsections (4) and (5) of section eighteen of the Legal Aid and Advice Act, 1949,".

In section thirty-eight, in subsection (4), for the words "the Second Schedule to this Act" there shall be substituted the words "section forty-five of the Prison Act, 1952".

In section thirty-nine, in subsection (2), for the words "in pursuance of section eight of the Penal Servitude Act, 1891" there shall be substituted the words "under or by virtue of any enactment in that behalf in force in any part of the United Kingdom (including an enactment of the Parliament of Northern Ireland)".

*Enactment**Amendment*

The Criminal Justice Act, 1948. 11 & 12 Geo. 6. c. 58—*cont.*

In section forty-eight, in subsection (2), for the word “twelve” there shall be substituted the word “ten”.

In section fifty-two, subsection (2) shall cease to have effect.

In section seventy-two, in subsection (1), for the words “in whose case an approved school order has been made” there shall be substituted the words “who has been ordered to be sent to an approved school”, after the word “original” there shall be inserted the words “approved school or other” and for the words “sixteen years” there shall be substituted the words “fifteen years”; and in subsection (2), after the word “school”, where it first occurs, there shall be inserted the words “or other”, and for the words “seventy-three and seventy-four” there shall be substituted the words “and seventy-three”.

In section eighty, in subsection (1), in the definition of “Sentence”, after the word “1933” there shall be inserted the words “or section five of the Criminal Justice Act, 1961”, and after that definition there shall be inserted the following definition:—

“ ‘The statutory restrictions upon the imprisonment of young offenders’ has the same meaning as in the Criminal Justice Act, 1961 ”;

and in subsection (4), for the words “this Act or section one hundred and seven of the Magistrates’ Courts Act, 1952” there shall be substituted the words “any enactment”.

The Prison Act, 1952. 15 & 16 Geo. 6 & 1 Eliz. 2. c. 52.

In section thirteen, at the end of subsection (2) there shall be added the words “and while he is being taken to any place to which he is required or authorised by or under this Act to be taken, or is kept in custody in pursuance of any such requirement or authorisation”.

In section twenty-five, in subsection (2) after the word “sentence”, in the second place where it occurs, there shall be inserted the words “and is not a person to whom section twenty of the Criminal Justice Act, 1961, applies”; in subsection (3) at the end there

## 4TH SCH.

*Enactment*

The Prison Act, 1952.  
15 & 16 Geo. 6 &  
1 Eliz. 2. c. 52—  
*cont.*

*Amendment*

shall be inserted the words “ or order that a person who is under supervision as aforesaid shall cease to be under supervision.”; and for subsection (7) there shall be substituted the following subsection:—

“(7) A person who is committed to prison in default of payment of a sum adjudged to be paid by a conviction shall be treated for the purposes of subsection (1) of this section, but not for the purpose of subsection (2) thereof, as undergoing a sentence of imprisonment for the term for which he is committed, and consecutive terms of imprisonment shall be treated for all the purposes of this section as one term.”

In section thirty-nine for the words “ two years ” there shall be substituted the words “ five years ”.

In section forty-three, in subsection (1), in paragraph (b), after the words “ the Criminal Justice Act, 1948 ” there shall be inserted the words “ or the Criminal Justice Act, 1961, ” and in paragraph (c), for the word “ sixteen ” there shall be substituted the word “ fifteen ”.

In section forty-four, in subsection (1), for the words “ three years ”, in both places where those words occur, there shall be substituted the words “ two years ”; and in subsection (2), after the word “ Act ” there shall be inserted the words “ and of the Criminal Justice Act, 1961 ”.

In section forty-five, in subsection (2), for the words “ three years ” there shall be substituted the words “ two years ” and for the words “ nine months ” there shall be substituted the words “ six months ”; in subsection (3), for the words “ four years from the date of his sentence ” there shall be substituted the words “ two years from the date of his release ”; in subsection (4), for the words “ four years from the date of his sentence ” (where they first occur) there shall be substituted the words “ two years from the date of his release ”, and for the words “ three years ” there shall be substituted the words “ two years ”; in the proviso to subsection (4), in paragraph (a), for the words “ four years from the date of the sentence ” there shall be substituted the words “ two years from the date of his release ”, and in paragraph (b), for the

## Enactment

## Amendment

The Prison Act, 1952.  
15 & 16 Geo. 6 &  
1 Eliz. 2 c. 52—  
*cont.*

words " and the preceding " to the end of the paragraph there shall be substituted the words " and the provisions of subsection (3) of this section and the preceding provisions of this subsection shall apply on his release under this paragraph as they apply in the case of his original release, except that the references to the period of two years from the date of his release shall be construed as references to the period of two years from the date of his original release."; and in subsection (5), after the words " as aforesaid " there shall be inserted the words " or after being ordered to be returned to a borstal institution under section twelve of the Criminal Justice Act, 1961 ".

In section forty-seven, in subsection (5), for the words from " serving " to the end of the subsection there shall be substituted the words " detained in a prison, borstal institution, or detention centre, not being persons committed in custody for trial at assizes or quarter sessions or committed to be sentenced or otherwise dealt with by quarter sessions or remanded in custody by any court ".

In section forty-nine, in subsection (2), in paragraph (a) after the word " court " there shall be inserted the words " in the United Kingdom ".

In section fifty-five, in subsection (4), for the words " the Second Schedule to this Act " there shall be substituted the words " the Criminal Justice Act, 1961 ".

The Magistrates'  
Courts Act, 1952.  
15 & 16 Geo. 6 &  
1 Eliz. 2. c. 55.

In section twenty, in subsection (5), for the words " ten pounds " there shall be substituted the words " fifty pounds ".

In section twenty-eight, in subsection (1), for the word " sixteen " there shall be substituted the word " fifteen ", and for the words from " and the court " to " Borstal institution " there shall be substituted the words " and is a person who, under subsections (2) and (4) of section one of the Criminal Justice Act, 1961, may be committed for a sentence of borstal training ".

In section thirty-two, for the words " forty shillings " there shall be substituted the words " ten pounds ".

## 4TH SCH.

<i>Enactment</i>	<i>Amendment</i>
The Magistrates' Courts Act, 1952. 15 & 16 Geo. 6 & 1 Eliz. 2. c. 55. —cont.	In section fifty-four, in subsection (3), in paragraph (b), for the words "until he has" there shall be substituted the words "for a specified period or until he has sooner". In section one hundred and twenty-six, in subsection (1), in the definition of "Fine", after the word "'Fine'" there shall be inserted the words ", except for the purposes of any enactment imposing a limit on the amount of any fine,".
The Prisons (Scotland) Act, 1952. 15 & 16 Geo. 6 & 1 Eliz. 2. c. 61.	In section thirty-seven, in the proviso to subsection (2), after the word "court" there shall be inserted the words "in the United Kingdom".
The Criminal Justice Act (Northern Ireland), 1953, c. 14.	In section fourteen, in subsection (2), for the words from "in pursuance" to "1953" there shall be substituted the words "under or by virtue of any enactment in that behalf in force in any part of the United Kingdom (including an enactment of the Parliament of Northern Ireland)".
The Prison Act (Northern Ireland), 1953. c. 18.	In section thirty-eight, in subsection (3), after the word "court" there shall be inserted the words "in the United Kingdom".
The Naval Discipline Act, 1957. 5 & 6 Eliz. 2. c. 53.	In section eighty-four, in subsection (5), for the words "or the Prison Act (Northern Ireland), 1953" there shall be substituted the words "the Prison Act (Northern Ireland) 1953, or the Criminal Justice Act, 1961".
The Mental Health Act, 1959. 7 & 8 Eliz. 2. c. 72.	In section seventy-three, in paragraph (a) of subsection (2), after the word "sessions" there shall be added the words "or committed in custody to assizes or quarter sessions under section six or section eight of the Criminal Justice Act, 1948". In section seventy-nine, in subsection (1), the words "child or young", in both places where they occur, shall be omitted.

## Section 41

FIFTH SCHEDULE  
ENACTMENTS REPEALED

Session and Chapter	Short Title	Extent of Repeal
23 & 24 Geo. 5. c. 12.	The Children and Young Persons Act, 1933.	Section seventy-four. In section eighty-two, in subsection (1), in paragraph (b), the words "or upon the revocation of his licence". In section eighty-seven, in subsection (3), the words "on licence or".

Session and Chapter	Short Title	Extent of Repeal
23 & 24 Geo. 5. c. 12— <i>cont.</i>	The Children and Young Persons Act, 1933— <i>cont.</i>	In section eighty-eight, in subsection (4), in paragraph (b), the words “or on licence”. In the Fourth Schedule, paragraph 6; and, in paragraph 12, the words “on licence or” in both places where they occur.
11 & 12 Geo. 6. c. 43.	The Children Act, 1948...	In section six, in subsection (4), the words “paragraph 6 of the Fourth Schedule to the said Act of 1933, or”.
11 & 12 Geo. 6. c. 58.	The Criminal Justice Act, 1948.	Section eighteen. In section nineteen, in subsection (1), the words “not exceeding twelve in the aggregate”. In section twenty, subsections (7) and (8). Section twenty-two. In section twenty-three, in subsection (1), the words “or to be ordered to be subject to the provisions of the last foregoing section”. In section thirty-eight, in subsection (4), the words from “and nothing” to the end of the subsection. In section fifty-two, subsection (2). In section seventy-two, in subsection (2), the words “and to supervision and recall”.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 52.	The Prison Act, 1952 ...	In section twenty-two, paragraph (a) of subsection (2). In section twenty-four, subsection (2). Section twenty-nine. Section forty-eight. In section forty-nine, in subsection (2), the words from “and (c) nothing” to the end of the subsection. In section fifty-five, in subsection (3), the words from “subsections (1), (3)” to the words “Second Schedule” and the words from “and subsection (1) of the said section” to the end of the subsection. The First and Second Schedules. In the Third Schedule, the amendment of the Criminal Justice Act, 1948.



## 5TH SCH.

Session and Chapter	Short Title	Extent of Repeal
15 & 16 Geo. 6 & 1 Eliz. 2. c. 55.	The Magistrates' Courts Act, 1952.	In section twenty-eight, subsections (2) and (3); and in subsection (4) the words "or remanded under subsection (2)", and the words from "Provided that" to the end of the section. In section one hundred and seven, subsections (4) to (6). In the Fifth Schedule, the amendments of section fifty-four of the Children and Young Persons Act, 1933, and sections eighteen and nineteen and subsection (4) of section eighty of the Criminal Justice Act, 1948.
15 & 16 Geo. 6 & 1 Eliz. 2. c. 61.	The Prisons (Scotland) Act, 1952.	In section ten, paragraph (a) of subsection (2). Section thirty-six. In section thirty-seven, in subsection (1), the words "in any part of Great Britain". The Second Schedule.
8 & 9 Eliz. 2. c. 65.	The Administration of Justice Act, 1960.	In section six, in subsection (2) the words from "and nothing" to the end of the subsection.

## Section 41.

## SIXTH SCHEDULE

ENACTMENTS RELATING TO BORSTAL TRAINING AS THEY WILL HAVE EFFECT, SUBJECT TO S. 41 (3) OF THIS ACT AND TO S. 18 (6) OF THE LEGAL AID AND ADVICE ACT, 1949, WHEN ALL AMENDMENTS MADE IN THEM BY THIS ACT OPERATE

## CRIMINAL JUSTICE ACT, 1948, s. 20

Borstal training. 20.—(1) Where a person is convicted on indictment of an offence punishable with imprisonment, then if on the day of his conviction he is not less than fifteen but under twenty-one years of age and a sentence of borstal training is available in his case under subsection (2) of section one of the Criminal Justice Act, 1961, the court may, in lieu of any other sentence, pass a sentence of borstal training.

(4) An offender committed by a court of summary jurisdiction to quarter sessions for sentence under subsection (1) of section

twenty-eight of the Magistrates' Courts Act, 1952, shall be committed— 6TH SCH.

- (a) where the court of summary jurisdiction acts for a county other than the County of London or for a borough not having a separate court of quarter sessions, to the appeal committee of the quarter sessions for that county or for the county in which that borough is situated, as the case may be ;
- (b) in any other case, to the next court of quarter sessions having jurisdiction in the county, borough or place for which the court of summary jurisdiction acts ;

and where the offender is so committed to an appeal committee, the clerk to the court of summary jurisdiction shall notify the clerk of the peace, and the clerk of the peace shall give notice to the prosecutor and to the governor of the remand centre or prison to which the offender is committed of the date on which the case will be dealt with by the appeal committee, being the next available sitting of a court consisting of members of that committee.

(5) Where an offender is so committed for sentence as aforesaid, the following provisions shall have effect, that is to say :—

- (a) the appeal committee or court of quarter sessions shall inquire into the circumstances of the case and may—
  - (i) if a sentence of borstal training is available in his case under subsection (2) of section one of the Criminal Justice Act, 1961, sentence him to borstal training ; or
  - (ii) in any case, deal with him in any manner in which the court of summary jurisdiction might have dealt with him ;
- (b) the Poor Prisoners Defence Act, 1930, shall apply as if the offender were committed for trial for an indictable offence, subject to the modifications specified in subsections (4) and (5) of section eighteen of the Legal Aid and Advice Act, 1949 ;
- (d) if the appeal committee or court of quarter sessions passes a sentence of borstal training, the offender may appeal against the sentence to the Court of Criminal Appeal as if he had been convicted on indictment, and the provisions of the Criminal Appeal Act, 1907, shall apply accordingly.

(6) References to a court of quarter sessions or a court in any enactment as applied by the last foregoing subsection, or in any other enactment relating to persons dealt with by quarter sessions (including any such enactment contained in this Act) shall be construed as including references to an appeal committee of quarter sessions by whom an offender is dealt with under that subsection.

## 6TH SCH.

## MAGISTRATES' COURTS ACT, 1952, s. 28

Committal to quarter sessions with a view to a borstal sentence.

28.—(1) Where a person is convicted by a magistrates' court of an offence punishable on summary conviction with imprisonment, then, if on the day of the conviction he is not less than fifteen but under twenty-one years old and is a person who, under subsections (2) and (4) of section one of the Criminal Justice Act, 1961, may be committed for a sentence of borstal training, the court may commit him in custody to quarter sessions for sentence in accordance with the provisions of section twenty of the Criminal Justice Act, 1948.

(4) A person committed under subsection (1) of this section shall be committed—

- (a) if the court has been notified by the Secretary of State that a remand centre is available for the reception, from that court, of persons of the class or description of the person committed, to a remand centre ;
- (b) if the court has not been so notified, to a prison.

## PRISON ACT, 1952, s. 45

Release of persons sentenced to borstal training.

45.—(1) A person sentenced to borstal training shall be detained in a borstal institution, and after his release therefrom shall be subject to supervision, in accordance with the following provisions of this section ; subject, however, to the power of the Secretary of State under subsection (2) of the last preceding section to commute in certain cases the unexpired part of the term for which a person is liable to be so detained to a term of imprisonment.

(2) A person sentenced to borstal training shall be detained in a borstal institution for such period, not extending beyond two years after the date of his sentence, as the Prison Commissioners may determine, and shall then be released :

Provided that the Prison Commissioners shall not release any such person from a borstal institution before the expiration of six months from the date of his sentence unless required to do so by directions of the Secretary of State.

(3) A person shall, after his release from a borstal institution and until the expiration of two years from the date of his release, be under the supervision of such society or person as may be specified in a notice to be given to him by the Prison Commissioners on his release, and shall, while under that supervision, comply with such requirements as may be so specified :

Provided that the Prison Commissioners may at any time modify or cancel any of the said requirements or order that a person who is under supervision as aforesaid shall cease to be under supervision.

(4) If before the expiration of two years from the date of his release the Prison Commissioners are satisfied that a person who is under supervision after his release from a borstal institution under subsection (2) of this section has failed to comply with any requirement for the time being specified in the notice given to him under subsection (3) of this section, they may by order recall him

to a borstal institution; and thereupon he shall be liable to be detained in the borstal institution until the expiration of two years from the date of his sentence, or the expiration of six months from the date of his being taken into custody under the order, whichever is the later, and, if at large, shall be deemed to be unlawfully at large:

Provided that—

- (a) any such order shall, at the expiration of two years from the date of his release, cease to have effect unless the person to whom it relates is then in custody thereunder; and
- (b) the Prison Commissioners may at any time release a person who is detained in a borstal institution under this subsection; and the provisions of subsection (3) of this section and the preceding provisions of this subsection shall apply on his release under this paragraph as they apply in the case of his original release, except that the references to the period of two years from the date of his release shall be construed as references to the period of two years from the date of his original release.

(5) If any person while under supervision, or after his recall to a borstal institution, as aforesaid, or after being ordered to be returned to a borstal institution under section twelve of the Criminal Justice Act, 1961, is sentenced by a court in any part of Great Britain to corrective training or borstal training, his original sentence of borstal training shall cease to have effect.

(6) The Prison Commissioners in exercising their functions under this section shall consider any report made to them by a board of visitors on the advisability of releasing a person from a borstal institution.

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*Table of Statutes referred to in this Act*

Short Title	Session and Chapter
Petty Sessions (Ireland) Act, 1851 ... ..	14 & 15 Vict. c. 93.
Forfeiture Act, 1870 ... ..	33 & 34 Vict. c. 23.
Bank Holidays Act, 1871 ... ..	34 & 35 Vict. c. 17.
Colonial Prisoners Removal Act, 1884 ... ..	47 & 48 Vict. c. 31.
Penal Servitude Act, 1891 ... ..	54 & 55 Vict. c. 69.
Criminal Appeal Act, 1907 ... ..	7 Edw. 7. c. 23.
Government of Ireland Act, 1920 ... ..	10 & 11 Geo. 5. c. 67.
Poor Prisoners Defence Act, 1930 ... ..	20 & 21 Geo. 5. c. 32.
Children and Young Persons Act, 1933 ... ..	23 & 24 Geo. 5. c. 12.
Criminal Justice Act, 1948 ... ..	11 & 12 Geo. 6. c. 58.
Legal Aid and Advice Act, 1949 ... ..	12, 13 & 14 Geo. 6. c. 51.
Prison Act, 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 52.
Magistrates' Courts Act, 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 55.
Prisons (Scotland) Act, 1952 ... ..	15 & 16 Geo. 6. & 1 Eliz. 2. c. 61.
Army Act, 1955 ... ..	3 & 4 Eliz. 2. c. 18.
Air Force Act, 1955 ... ..	3 & 4 Eliz. 2. c. 19.
Naval Discipline Act, 1957 ... ..	5 & 6 Eliz. 2. c. 53.