



Criminal Justice (Scotland) Act 1963

1963 CHAPTER 39

PART I

PROVISIONS WITH RESPECT TO SENTENCES AND ORDERS INFERRING DETENTION

Transfer of Young Offenders

9 Transfer between institutions

- (1) For section 32 of the Prisons (Scotland) Act 1952 (which relates to transfers from prison to borstal institution and vice versa) there shall be substituted the following section:—

“32 Transfer of young offenders between institutions.

- (1) If the Secretary of State is satisfied that a person detained in a young offenders institution in pursuance of a sentence is under twenty-one years of age and might with advantage be detained in a borstal institution, he may, after consultation where practicable with the judge by whom or the presiding chairman of the court by which the sentence was passed, transfer that person to a borstal institution; and the provisions of the next following section shall thereupon apply to him as if he had on the date of the transfer been sentenced to borstal training:

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

- (2) If a person detained in a borstal institution is reported to the Secretary of State by the visiting committee to be incorrigible, or to be exercising a bad influence on the other inmates of the institution, the Secretary of State may present an application to the sheriff within whose jurisdiction the institution is situated for commutation to detention in a young offenders institution of the unexpired part of the term for which the said person is then liable to be detained in a

Status: This is the original version (as it was originally enacted).

borstal institution, and on any such application the sheriff may commute the said unexpired part to detention as aforesaid for such a term, not exceeding that unexpired part, as he may think fit; and for the purposes of this Act (other than those of subsections (3) and (4) of section 33) and of the Criminal Justice (Scotland) Act 1963 the said person shall be treated as if he had been sentenced to detention in a young offenders institution for that term.

- (3) If in the case of a person who is not less than seventeen years of age, who is detained in a detention centre, it is reported to the Secretary of State by the visiting committee that he is not amenable to the discipline of the centre by reason of his health, the Secretary of State may transfer that person to a young offenders institution and there detain him for a period not exceeding the unexpired part of the term for which the said person was sentenced to be detained in the detention centre.
- (4) The powers conferred upon the Secretary of State by the last foregoing subsection may be exercised in the case of a person who has not attained the age of seventeen years if the Secretary of State is satisfied, having regard to the character and development of the person, that it is appropriate that he should be detained in a young offenders institution.”
- (2) On the coming into operation of the provisions of section 1 of this Act, the Secretary of State shall have power, in the case of any person who is under twenty-one years of age and who is serving a sentence of imprisonment under which he would not normally be released within the next three months, to transfer that person to a young offenders institution; and for the purposes of this Act and of the Prisons (Scotland) Act 1952, any person so transferred shall be treated as if he had been sentenced to detention in a young offenders institution.
- (3) Where an order has been made under any of the enactments specified in the next following subsection for the committal or transfer to a civil prison in Scotland of a person who is under twenty-one years of age, that person shall be taken to a young offenders institution.
- (4) (a) (a) The enactments referred to in the last foregoing subsection are—
the Army Act 1955
the Air Force Act 1955
the Naval Discipline Act 1957,
and any rules made thereunder.
- (b) For the purposes of the aforesaid enactments, any reference therein to a like sentence of a civil court shall include, in relation to a person taken to a young offenders institution under the last foregoing subsection, a reference to a sentence of detention in a young offenders institution, and references to a civil prison and to imprisonment and any cognate references shall be construed accordingly.

10 Transfer to prison of persons over twenty-one, and maximum age for detention in young offenders institution

- (1) Subject to the provisions of this section, where a person serving a sentence of detention in a young offenders institution has attained the age of twenty-one years, the Secretary of State shall have power to transfer him to prison.

- (2) No person shall be detained in a young offenders institution after he has attained the age of twenty-three years, and accordingly any person so detained shall, not later than the day immediately preceding his twenty-third birthday, be transferred to prison.
- (3) Where a person has been transferred to prison under this section, he shall be treated for the purpose of his serving the unexpired part of his sentence and of his supervision on release as if the sentence of detention passed upon him were a sentence of imprisonment for a like term, and the provisions of this Act and of the Prisons (Scotland) Act 1952 relating to the treatment and supervision of prisoners shall apply to him accordingly.