



Powers of Criminal Courts Act 1973

1973 CHAPTER 62

PART II

ADMINISTRATIVE AND SUPPLEMENTAL PROVISIONS

Rehabilitation of offenders and arrangements for persons on bail

47 The probation and after-care service and its functions

The provisions of Schedule 3 to this Act shall have effect with respect to the probation and after-care service and its functions and matters connected therewith and, in particular (but without prejudice to the generality of the preceding provision), with respect to—

- (a) the constitution of probation and after-care areas and of probation and after-care committees and case committees ;
- (b) the appointment, functions, remuneration and conditions of service of probation officers ;
- (c) the making of arrangements for persons to perform work under community service orders; and
- (d) the provision and carrying on of day training centres and other establishments for use in connection with the rehabilitation of offenders.

48 Power of Secretary of State to regulate community service work and training at day training centres

- (1) The Secretary of State may make rules for regulating the performance of work under community service orders and the arrangements made under Schedule 3 to this Act for persons to perform such work.
- (2) Without prejudice to the generality of subsection (1) above, rules under this section may in particular—
 - (a) limit the number of hours' work to be done by a person under such an order on any one day;

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- (b) make provision as to the reckoning of time worked under such orders;
 - (c) make provision for the payment of travelling and other expenses in connection with the performance of work under such orders;
 - (d) provide for records to be kept of the work done by any person under such an order.
- (3) The Secretary of State may make rules for regulating the training given at day training centres and the provision and carrying on of such centres under Schedule 3 to this Act; and, without prejudice to the generality of the preceding provision, such rules may in particular—
- (a) regulate the hours of attendance, and the reckoning of days of attendance, at such centres;
 - (b) provide for records to be kept of such attendance;
 - (c) provide that no person shall be appointed to be in charge of such a centre unless the Secretary of State has consented to his appointment.
- (4) References in subsection (3) above to attendance at a day training centre include references to attendance elsewhere than at the centre for the purpose of receiving training in accordance with instructions given by, or under the authority of, the person in charge of the centre.

49 Power of Secretary of State to approve bail hostels and probation hostels and homes

- (1) The Secretary of State may approve bail hostels, probation hostels and probation homes, and probation hostels and homes so approved shall be known respectively as approved probation hostels and approved probation homes.
- (2) The Secretary of State may make rules for the regulation, management and inspection of approved bail hostels, approved probation hostels and approved probation homes ; and such rules may in particular (subject to subsection (3) below) provide that no person shall be appointed to be in charge of any such hostel or home unless the Secretary of State has consented to his appointment.
- (3) Rules made by the Secretary of State under subsection (2) above shall not prohibit the appointment of a person to be in charge of any such hostel or home in case of emergency without the previous consent of the Secretary of State, but may in that case require notice of the appointment to be given immediately to the Secretary of State and enable him, if he thinks fit, to require the appointment to be terminated.

50 Inspection of approved bail hostels and of non-approved institutions for residence of probationers

- (1) Any approved bail hostel and, subject to subsection (2) below, any institution in which a person is required by a probation order to reside otherwise than for the purpose of his submitting to treatment for his mental condition as a resident patient shall be subject to inspection by the Secretary of State unless it is, as a whole, otherwise subject to inspection by a Government department.
- (2) Subsection (1) above does not apply to an approved probation hostel or home, and applies to an institution in which a person is required as mentioned in that subsection to reside only so long as he resides there.

- (3) A person appointed by the Secretary of State to inspect any approved bail hostel or any institution to which subsection (1) above applies shall have power to enter the hostel or institution and to make such investigation of the treatment of any persons residing there as he thinks fit; and any person who obstructs him in the exercise of that power shall be liable on summary conviction to a fine not exceeding £5.

Expenses and grants

51 Expenses and grants payable out of moneys provided by Parliament

- (1) Any expenses of the Secretary of State under this Part of this Act, and any expenses incurred by the Secretary of State—
- (a) in the training of probation officers or of officers or servants serving in approved probation hostels or homes, or of persons for appointment as probation officers, or as officers or servants in such hostels or homes; or
 - (b) in the conduct of research into the causes of delinquency and the treatment of offenders, and matters connected therewith;
- shall, to such amount as may be sanctioned by the Treasury, be defrayed out of moneys provided by Parliament.
- (2) The Secretary of State may with the approval of the Treasury provide for the making of payments towards the cost of the maintenance of persons attending at day training centres and their dependants.
- (3) There shall be paid out of moneys provided by Parliament—
- (a) towards the expenditure of local authorities, and the expenditure out of the metropolitan police fund, under Schedule 3 to this Act;
 - (b) towards the expenditure of probation and after-care committees in providing and carrying on, under paragraph 11 of that Schedule, bail hostels, probation hostels and probation homes;
 - (c) towards the expenditure of any society or person in enlarging, improving or carrying on bail hostels or approved probation hostels or homes or establishing, enlarging or improving premises which, when established, enlarged or improved, will be bail hostels or approved probation hostels or homes ;
 - (d) towards the expenditure of any body approved by the Secretary of State in the training of probation officers or of persons for appointment as probation officers;
 - (e) towards the expenditure of any body approved by the Secretary of State in the training of officers or servants serving in any place in which offenders or persons awaiting trial may be detained or serving in approved probation hostels or homes or the training of persons for appointment as such officers or servants;
 - (f) towards the expenditure of any society or individual engaged in supervising or assisting persons convicted of offences with a view to their rehabilitation ;
 - (g) towards the expenditure of any body or person approved by the Secretary of State in the conduct of research into the causes of delinquency and the treatment of offenders, and matters connected therewith;

such sums as the Secretary of State may with the approval of the Treasury direct, and subject to such conditions as he may with the like approval determine.

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- (4) Subject to subsection (5) below, the Secretary of State may, with the consent of the Treasury, make regulations providing for the deduction from any sums which would otherwise be paid out of moneys provided by Parliament to local authorities, whether under subsection (3) above or under the Children and Young Persons Act 1933, of such amounts as may be prescribed by the regulations in respect of expenditure incurred by the Secretary of State—
- (a) in the training of any such officers, servants or other persons as are mentioned in subsection (1) above;
 - (b) in making any payments under paragraph (c) or (d) of subsection (3) above;
 - (c) in making payments under paragraph (e) of subsection (3) above in respect of expenditure incurred in the training of officers or servants serving in approved probation hostels or homes or the training of persons for appointment as such officers or servants.
- (5) The sums to be deducted in respect of any expenditure of the Secretary of State in pursuance of any regulations made under subsection (4) above shall not exceed half that expenditure.
- (6) The conditions subject to which any sums are paid to a probation and after-care committee under paragraph (b) of subsection (3) above may include conditions for securing the repayment in whole or in part of the sums received by the committee if the hostel or home in question ceases to be used as such.
- (7) The conditions subject to which any sums are paid to any society or person under paragraph (c) of subsection (3) above may include conditions for securing the repayment in whole or in part of the sums received by the society or person—
- (a) where the sums are paid in respect of a bail hostel, if it ceases to be used as such;
 - (b) where the sums are paid in respect of an approved probation hostel or home, if it ceases to be approved ;
- and, notwithstanding anything in the constitution of the hostel or home in question or of the managers thereof, or in the trusts, if any, to which the property of the hostel or home or of the managers is subject, the managers and any persons who are trustees of any of the property in question may accept those sums on those conditions, and execute any instrument required for carrying into effect those conditions, and shall be bound by those conditions and by any instrument so executed and have power to fulfil the conditions and the obligations created by the instrument.
- (8) All sums received by the Secretary of State under this section shall be paid into the Consolidated Fund.

Miscellaneous and supplemental

52 Evidence with respect to offences punishable in Scotland

For the purposes of this Act a certificate purporting to be signed by or on behalf of the Lord Advocate that an offence is punishable in Scotland with imprisonment or is punishable in Scotland on indictment with imprisonment for a term specified in the certificate shall be evidence of the matter so certified.

53 Execution of process between England and Wales and Scotland

Section 4 of the Summary Jurisdiction (Process) Act 1881 (execution of process of English courts in Scotland and vice versa) shall apply to any process issued under Part I of this Act or under section 5 of the Criminal Justice (Scotland) Act 1949 as it applies to process issued under the Magistrates' Courts Act 1952 by a magistrates' court.

54 Rules and orders

- (1) Any power of the Secretary of State to make rules or orders under this Act shall be exercised by statutory instrument.
- (2) Subject to subsection (3) below, any rules or orders made by the Secretary of State under this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Subsection (2) above does not apply to rules under section 49 of this Act nor to orders under section 14 of or paragraph 1 of Schedule 3 to this Act, but no order shall be made by the Secretary of State under section 14 unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.
- (4) Any order made by the Secretary of State under section 14 or 39 of this Act may be revoked by a subsequent order of the Secretary of State under that section, an order under section 26(2)(a) may be revoked by a subsequent order under that paragraph or under section 26(2)(b), and an order under paragraph 1 of Schedule 3 to this Act may be varied or revoked by a subsequent order.

55 Transitional provisions

Schedule 4 to this Act shall have effect for the purpose of the transition to the provisions of this Act from the law in force before the commencement of this Act.

56 Consequential amendments and repeals

- (1) The enactments specified in Schedule 5 to this Act shall have effect subject to the amendments set out in that Schedule, being amendments consequential on the preceding provisions of this Act, but the amendment of any enactment by that Schedule shall not be taken as prejudicing the operation of section 38 of the Interpretation Act 1889 (which relates to the effect of repeals).
- (2) The enactments specified in Schedule 6 to this Act (which include enactments which were spent before the passing of this Act) are hereby repealed to the extent specified in the third column of that Schedule.

57 Interpretation

- (1) In this Act, except so far as the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say—
 - " the appropriate officer of the court " means, in relation to a magistrates' court, the clerk of the court;
 - " approved bail hostel " means a bail hostel approved by the Secretary of State under section 49(1) of this Act;

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" approved probation hostel " and " approved probation home " mean respectively a probation hostel and a probation home approved by the Secretary of State under section 49(1) of this Act;

" bail hostel " means premises for the accommodation of persons remanded on bail;

" community service order " has the meaning assigned to it by section 14(1) of this Act;

" compensation order " has the meaning assigned to it by section 35(1) of this Act;

" court " does not include a court-martial;

" criminal bankruptcy order " means an order under section 39(1) of this Act;

" day training centre " means premises at which persons may be required to attend by a probation order containing a requirement under section 4 of this Act;

" detention centre " has the meaning assigned to it by section 43 of the Prison Act 1952 ;

" extended sentence certificate " has the meaning assigned to it by section 28 of this Act;

" local authority " means, in relation to any probation and after-care area, any authority out of whose funds the salary of the clerk to the justices for a petty sessions area contained in the probation and after-care area is paid;

" order for conditional discharge " has the meaning assigned to it by section 7 of this Act;

" period of conditional discharge " has the meaning assigned to it by section 7 of this Act;

" probationer " means a person for the time being under supervision by virtue of a probation order ;

" probation hostel " means premises for the accommodation of persons who may be required to reside there by a probation order, being persons who are employed outside the premises or are awaiting such employment, and " probation home " has the same meaning save only that the premises are for the accommodation of persons not so employed or awaiting such employment;

" probation order " has the meaning assigned to it by section 2 of this Act;

" probation period " means the period for which a probationer is placed under supervision by a probation order;

" the register " means the register of proceedings before a magistrates' court required by rules made under section 15 of the Justices of the Peace Act 1949 to be kept by the clerk of the court;

" sentence of imprisonment " does not include a committal in default of payment of any sum of money, or for want of sufficient distress to satisfy any sum of money, or for failure to do or abstain from doing anything required to be done or left undone;

" supervising court " has the meaning assigned to it by section 2(2) of this Act;

" supervision order " has the meaning assigned to it by section 26(1) of this Act;

" suspended sentence " means a sentence to which an order under section 22(1) of this Act relates.

- (2) For the purposes of any reference in this Act, however expressed, to the term of imprisonment or other detention to which a person has been sentenced or which, or part of which, he has served, consecutive terms and terms which are wholly or partly concurrent shall, unless the context otherwise requires, be treated as a single term.
- (3) Without prejudice to sections 20(1) and 21(1) of this Act, any reference in this Act however expressed to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of Great Britain and to a previous sentence passed by any such court.
- (4) Without prejudice to the meaning of references in sections 14, 43 and 44 of this Act to an offence punishable with imprisonment, any such reference elsewhere in this Act shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under any enactment on the imprisonment of offenders of his age.
- (5) For the purposes of this Act a compensation order, supervision order or community service order made on appeal from a decision of a magistrates' court or the Crown Court shall be treated as if it had been made by a magistrates' court or the Crown Court, as the case may be.
- (6) 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.

58 Application to Scotland

The following provisions of this Act shall extend to Scotland, that is to say—

- (a) sections 8(4), 10, 13, 25(3), 29(7), 33, 53 and this section; and
- (b) section 56 and Schedules 5 and 6 so far as they amend or repeal any enactment or any part of an enactment which extends to Scotland ;

but, except as provided by this section, this Act shall not extend to Scotland.

59 Northern Ireland

- (1) Section 29(7) of this Act and this section shall extend to Northern Ireland but except as provided by this subsection this Act shall not extend to Northern Ireland.
- (2) For the purposes of section 6 of the Government of Ireland Act 1920, in so far as, notwithstanding its repeal by the Northern Ireland Constitution Act 1973, it continues to operate in relation to the power of Her Majesty to make laws under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972, section 29(7) of this Act shall be deemed to be a provision of an Act passed before the appointed day within the meaning of that section.
- (3) The references in section 29(6) and (7) of this Act to section 26 of the Criminal Justice Act 1961 shall be construed, in relation to Northern Ireland, as references to that section as amended by any Act of the Parliament of Northern Ireland, or Measure of the Northern Ireland Assembly, whether passed before or after this Act.
- (4) Nothing in any repeal made by this Act shall affect any power exercisable by Her Majesty by virtue of section 63(1) of the Criminal Justice Act 1972 (notwithstanding its repeal by the Northern Ireland Constitution Act 1973) to make laws under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972 for purposes

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corresponding to any of the purposes of the Criminal Justice Act 1972 as originally enacted.

60 Short title and commencement

- (1) This Act may be cited as the Powers of Criminal Courts Act 1973.
- (2) This Act shall come into force on such day as the Secretary of State may by order appoint, and different days may be so appointed for different provisions; and any reference in any provision of this Act to the commencement of this Act shall be construed as a reference to the day so appointed for the coming into force of that provision.