



Criminal Justice Act 1991

1991 CHAPTER 53

PART IV

PROVISION OF SERVICES

Contracted out prisons

84 Contracting out of certain prisons

(1) The Secretary of State may enter into a contract with another person for the running by him of any prison which—

- (a) is established after the commencement of this section; and
- (b) is for the confinement of remand prisoners, that is to say, persons charged with offences who are remanded in or committed to custody pending their trial, or persons committed to custody on their conviction who have not been sentenced for their offences;

and while such a contract is in force, the prison to which it relates shall be run subject to and in accordance with sections 85 and 86 below, the 1952 Act (as modified by section 87 below) and prison rules.

(2) In this Part—

“contracted out prison” means a prison as respects which such a contract is for the time being in force;

“the contractor”, in relation to such a prison, means the person who has contracted to run it.

(3) The Secretary of State may by order made by statutory instrument provide that this section shall have effect as if there were omitted from subsection (1) above either—

- (a) paragraph (a) and the word “and” immediately following that paragraph; or
- (b) paragraph (b) and the said word “and”; or
- (c) the words from “which”, in the first place where it occurs, to the end of paragraph (b).

- (4) An order under subsection (3)(b) or (c) above shall provide that section 87 below shall have effect as if subsection (5) were omitted.
- (5) No order shall be made under subsection (3) above unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

85 Officers of contracted out prisons

- (1) Instead of a governor, every contracted out prison shall have—
 - (a) a director, who shall be a prisoner custody officer appointed by the contractor and specially approved for the purposes of this section by the Secretary of State; and
 - (b) a controller, who shall be a Crown servant appointed by the Secretary of State; and every officer of such a prison who performs custodial duties shall be a prisoner custody officer who is authorised to perform such duties.
- (2) Subject to subsection (3) below, the director shall have such functions as are conferred on him by the 1952 Act (as modified by section 87 below) or as may be conferred on him by prison rules.
- (3) The director shall not—
 - (a) inquire into a disciplinary charge laid against a prisoner, conduct the hearing of such a charge or make, remit or mitigate an award in respect of such a charge; or
 - (b) except in cases of urgency, order the removal of a prisoner from association with other prisoners, the temporary confinement of a prisoner in a special cell or the application to a prisoner of any other special control or restraint.
- (4) The controller shall have such functions as may be conferred on him by prison rules and shall be under a duty—
 - (a) to keep under review, and report to the Secretary of State on, the running of the prison by or on behalf of the director; and
 - (b) to investigate, and report to the Secretary of State on, any allegations made against prisoner custody officers performing custodial duties at the prison.
- (5) The contractor shall be under a duty to do all that he reasonably can (whether by giving directions to the officers of the prison or otherwise) to facilitate the exercise by the controller of all such functions as are mentioned in or conferred by subsection (4) above.

86 Powers and duties of prisoner custody officers employed at contracted out prisons

- (1) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following powers, namely—
 - (a) to search in accordance with prison rules any prisoner who is confined in the prison; and
 - (b) to search any other person who is in or is seeking to enter the prison, and any article in the possession of such a person.

- (2) The powers conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket or gloves.
- (3) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following duties as respects prisoners confined in the prison, namely—
 - (a) to prevent their escape from lawful custody;
 - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
 - (c) to ensure good order and discipline on their part; and
 - (d) to attend to their wellbeing.
- (4) The powers conferred by subsection (1) above, and the powers arising by virtue of subsection (3) above, shall include power to use reasonable force where necessary.

87 Consequential modifications of 1952 Act

- (1) In relation to a contracted out prison, the provisions of the 1952 Act specified in subsections (2) to (8) below shall have effect subject to the modifications so specified.
- (2) In section 7(1) (prison officers), the reference to a governor shall be construed as a reference to a director and a controller.
- (3) Section 8 (powers of prison officers) and section 11 (ejection of prison officers and their families refusing to quit) shall not apply.
- (4) In sections 10(5), 12(3), 13(1) and 19(1) and (3) (various functions of the governor of a prison), references to the governor shall be construed as references to the director.
- (5) In section 12(1) and (2) (place of confinement of prisoners), any reference to a prisoner or prisoners shall be construed as a reference to a remand prisoner or prisoners.
- (6) In section 13(2) (legal custody of prisoner), the reference to an officer of the prison shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison.
- (7) In section 14(2) (cells), the reference to a prison officer shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison.
- (8) Section 35 (vesting of prison property in the Secretary of State) shall have effect subject to the provisions of the contract entered into under section 84(1) above.

88 Intervention by the Secretary of State

- (1) This section applies where, in the case of a contracted out prison, it appears to the Secretary of State—
 - (a) that the director has lost, or is likely to lose, effective control of the prison or any part of it; and
 - (b) that the making of an appointment under subsection (2) below is necessary in the interests of preserving the safety of any person, or of preventing serious damage to any property.
- (2) The Secretary of State may appoint a Crown servant to act as governor of the prison for the period—

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

- (a) beginning with the time specified in the appointment; and
 - (b) ending with the time specified in the notice of termination under subsection (4) below.
- (3) During that period—
 - (a) all the functions which would otherwise be exercisable by the director or the controller shall be exercisable by the governor;
 - (b) the contractor shall do all that he reasonably can to facilitate the exercise by the governor of those functions; and
 - (c) the officers of the prison shall comply with any directions given by the governor in the exercise of those functions.
- (4) Where the Secretary of State is satisfied—
 - (a) that the governor has secured effective control of the prison or, as the case may be, the relevant part of it; and
 - (b) that the governor's appointment is no longer necessary as mentioned in subsection (1)(b) above,he shall, by a notice to the governor, terminate the appointment at a time specified in the notice.
- (5) As soon as practicable after making or terminating an appointment under this section, the Secretary of State shall give a notice of the appointment, or a copy of the notice of termination, to the contractor, the director and the controller.