



# Criminal Justice Act 1991

## 1991 CHAPTER 53

### PART IV

#### PROVISION OF SERVICES

##### *Contracted out prisons*

#### **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—
  - (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) [<sup>F1</sup>the contractor and any sub-contractor of his shall each] 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—

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**Changes to legislation:** Criminal Justice Act 1991, Section 88 is up to date with all changes known to be in force on or before 24 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

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- (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, [<sup>F2</sup>any sub-contractor of his,]the director and the controller.

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#### Textual Amendments

- F1** Words in s. 88(3)(b) substituted (3.11.1994) by 1994 c. 33, s. 101(2).
  - F2** Words in s. 88(5) inserted (3.11.1994) by 1994 c. 33, s. 101(3).
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#### Commencement Information

- I1** S. 88 wholly in force at 31.10.1991 see s. 102(2)(3) and S.I. 1991/2208, art. 2(4) and Sch. 3

**Changes to legislation:**

Criminal Justice Act 1991, Section 88 is up to date with all changes known to be in force on or before 24 December 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 24(2)(ba) inserted by [2013 c. 22 s. 26\(7\)](#)
- s. 46(3)(aa) substituted for word by [2008 c. 4 s. 33\(7\)\(b\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 33(2)(4)(7)(8) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(a); S.I. 2012/2906, art. 2(d))
- s. 46ZA inserted by [2008 c. 4 s. 33\(2\)](#) (This amendment not applied to [legislation.gov.uk](#). S. 33(2)(4)(7)(8) omitted (3.12.2012) by virtue of 2012 c. 10, s. 118(4)(a); S.I. 2012/2906, art. 2(d))