



Criminal Justice Act 1961

1961 CHAPTER 39

PART I

POWERS OF COURTS IN RESPECT OF YOUNG OFFENDERS

Borstal Training and Imprisonment

1 Conditions for and term of sentence of borstal training

- (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.
- (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 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.

2 Serious offences by children and young persons

- (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 ".

3 Elimination of intermediate and short prison sentences

- (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;

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- (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 Detention of offenders aged 14 to 20

- (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.
- (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 from 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 Detention of defaulters aged 14 to 16

- (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.

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- (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.
- (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 Defaulters already detained in detention centre

- (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.
- (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,
 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.

7 Consecutive terms and aggregate periods of detention

- (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

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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

8 Fines for young offenders

- (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 Breach of probation, etc.

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 Attendance at attendance centres

- (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.
- (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.