



Criminal Justice Act 1961

1961 CHAPTER 39

PART II

TREATMENT AND SUPERVISION OF PRISONERS AND OTHER DETAINED PERSONS

Borstal Institutions and Detention Centres

11 Term of detention and supervision under sentence of borstal training

- (1) The maximum period for which a person sentenced to borstal training after the commencement of this section may be detained under subsection (2) of section forty-five of the Prison Act, 1952, shall be two years instead of three years, and the minimum period for which such a person may be so detained shall (subject to any direction of the Secretary of State under that subsection) be six months instead of nine months.
- (2) The period for which a person sentenced to borstal training after the commencement of this section is to be under supervision under subsection (3) of the said section forty-five after his release from a borstal institution shall (subject to any order of the Prison Commissioners under that subsection) be a period of two years beginning with the date of his release instead of a period beginning with that date and continuing until the expiration of four years from the date of his sentence.

12 Return to borstal institution on re-conviction

- (1) Where a person sentenced to borstal training—
 - (a) being under supervision after his release from a borstal institution; or
 - (b) having become unlawfully at large from a borstal institution and not having returned or been returned thereto,

is convicted, whether on indictment or summarily, of an offence for which the court has power, or would have power but for the statutory restrictions upon the imprisonment of young offenders, to pass sentence of imprisonment, the court may, instead of dealing with him in any other manner, order that he be returned to a borstal institution.

- (2) A person ordered under this section to be returned to a borstal institution shall be liable to be detained for the like period, and if under supervision shall be treated for all other purposes, as if he had been recalled to a borstal institution by order of the Prison Commissioners in pursuance of section forty-five of the Prison Act, 1952, and had been taken into custody in pursuance of that order on the date of the order under this section.
- (3) Before making an order under this section in respect of an offender, the court shall consider any report made by or on behalf of the Prison Commissioners on his response to the training already undergone by him, and section thirty-seven of this Act shall apply accordingly.
- (4) Where the offender is under supervision as aforesaid, and the court by which he is convicted is a magistrates' court and has not received such a report as aforesaid, the court shall adjourn the hearing in accordance with 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.
- (5) References in this section to a person under supervision after his release from a borstal institution do not include a person who, being under supervision as aforesaid, is for the time being deemed by virtue of section forty-five of the Prison Act, 1952, to be unlawfully at large.

13 Supervision after release from detention centre

Every person who is detained in a detention centre in pursuance of an order made under section four of this Act, being an order made after the commencement of this section, shall, after his release from the detention centre, be subject to supervision under the First Schedule to this Act.

Approved Schools

14 Release and supervision

- (1) At any time during the period of a person's detention in an approved school the managers of the school may, and if the Secretary of State so directs shall, release him:

Provided that a person shall not be released within the first six months of the period without the consent of the Secretary of State.
- (2) A person who, after the commencement of this section, is released from an approved school (whether under subsection (1) of this section or at the expiration of the period of his detention, and whether he has been released on any previous occasion or not) shall, after his release, be subject to supervision under Part I of the Second Schedule to this Act.
- (3) Part II of the Second Schedule to this Act shall have effect for the purpose of enabling the managers of an approved school to exercise certain supervisory powers in relation to a person who has been under their supervision under Part I of that Schedule, if requested by him to do so.
- (4) Section seventy-four of the Children and Young Persons Act, 1933, and paragraph 6 of the Fourth Schedule to that Act, shall cease to have effect.

15 Temporary removal from approved school

- (1) If, on information on oath laid by or on behalf of the managers of an approved school, it appears to a justice of the peace on whom jurisdiction is hereinafter conferred that any person not less than fifteen years of age who is detained in the school is so seriously unruly or subversive that it is necessary for maintaining the discipline of the school that he should forthwith be removed therefrom pending inquiry as to the best means of dealing with him, the justice may issue a warrant directing him to be removed by a constable from the school to another approved school or to a remand centre or remand home, and there detained for a period of twenty-eight days unless sooner dealt with according to law.
- (2) A justice shall have jurisdiction for the purposes of subsection (1) of this section if he is a justice for the county or borough in which the approved school first mentioned in that subsection is situated, and is not one of the managers of that school.
- (3) The institution to which a person is to be removed in pursuance of a warrant under subsection (1) of this section may be specified either in the warrant as issued or by the subsequent endorsement of any justice of the peace, in either case upon intimation that arrangements have been made for the reception of that person therein; and where the institution is to be specified by endorsement, the warrant shall include directions for the removal of the person in respect of whom it is issued to a police station, and for his detention therein for a period not exceeding forty-eight hours pending his further removal pursuant to the endorsement.
- (4) Where a person has been removed to any such institution as is mentioned in subsection (1) of this section in pursuance of a warrant under that subsection, any justice of the peace may, upon intimation that arrangements have been made for the reception of that person in any other such institution, issue a warrant directing him to be removed by any person named in that behalf in the warrant, or by a constable, to that other institution and there detained for the unexpired portion of the period of twenty-eight days which began with the day on which he was first detained in any such institution under this section.
- (5) Where a person is detained in an institution or police station by virtue of a warrant under this section, then, without prejudice to any other power exercisable in relation to that person by the Secretary of State, the Secretary of State may direct that, before the expiration of the period for which that person is authorised to be so detained, he shall be returned to the school from which he was removed, or first removed.
- (6) If at the expiration of any period for which a person is authorised to be detained in an institution or police station by virtue of a warrant under this section that person has not been otherwise dealt with according to law (whether by virtue of the last foregoing subsection or any other enactment), he shall be returned to the school from which he was removed, or first removed, and the warrant shall include such directions as may be necessary for that purpose.
- (7) A person removed under this section to an approved school shall, while liable to be detained therein, be treated as if he were so liable by virtue of an approved school order; and, without prejudice to the foregoing provision, the enactments relating to persons detained in approved schools shall apply in relation to any person removed from an approved school in pursuance of a warrant under subsection (1) of this section as if he were detained in and under the care of the managers of that school.

16 Removal to borstal institution

- (1) The managers of an approved school may, with the consent of the Secretary of State, bring before a magistrates' court any person not less than fifteen years of age who is detained in the school as an offender and who, in the opinion of the managers, ought to be removed from the school to a borstal institution under this section.
- (2) Where a person detained in an approved school is brought before a court under this section and the court, having regard to his conduct while in that or any other approved school—
 - (a) is satisfied that his continued detention in an approved school would be ineffective for the purposes of his own reformation or would be detrimental to the training or welfare of other persons therein ; and
 - (b) is of opinion that it is in his interests that he should receive training in a borstal institution,the court may order him to be removed to such an institution.
- (3) Where an order is made under this section for the removal of any person to a borstal institution, that person shall thereafter be treated for all purposes as if he had been sentenced to borstal training on the date of the order, except that—
 - (a) where the period for which he would have been liable to be detained in an approved school would have expired within two years from that date, he shall not be liable to be detained in a borstal institution after the expiration of the first-mentioned period ; and
 - (b) subsection (4) of section forty-five of the Prison Act, 1952, shall apply to him as if for the reference to the period of two years from the date of his sentence there were substituted a reference to the period for which he is liable to be detained under this subsection.
- (4) On the making of an order under this section in respect of a person detained in an approved school, the order under which he was so detained shall cease to have effect.
- (5) The reference in this section to a person detained in an approved school as an offender is a reference to a person who is for the time being subject to an approved school order under section fifty-seven of the Children and Young Persons Act, 1933, or an order of the Secretary of State under section fifty-eight of that Act, or an approved school order under any other enactment made by virtue of his being or having been subject to an order under either of those sections, and includes a person who, being subject to any such order as aforesaid, is for the time being detained in an approved school in pursuance of a warrant under section fifteen of this Act.

17 Proceedings for removal under s. 16

- (1) Proceedings under section sixteen of this Act for the removal of any person from an approved school may be taken—
 - (a) in any case, before a magistrates' court having jurisdiction where that school is situate ;
 - (b) if that person has already been removed from that school to another approved school in pursuance of a warrant under section fifteen of this Act, before a magistrates' court having jurisdiction where that other school is situate;and where that person is detained in another approved school in pursuance of a warrant under the said section fifteen, such proceedings may be taken either by the managers

of the school from which he was removed, or first removed, under the said section fifteen or by the managers of the school in which he is detained.

- (2) If the court before which a person is brought under the said section sixteen is not in a position to decide whether to make an order under that section in his case, the court may make such interim order as it thinks fit for his detention or further detention for a period not exceeding twenty-one days in another approved school or in a remand centre or remand home; and subsection (3) of section fifteen of this Act shall apply in relation to any such order as it applies in relation to a warrant under that section.
- (3) An interim order under subsection (2) of this section may from time to time be varied or extended by the court which made the order or by a magistrates' court acting for the same petty sessions area; but a person shall not be detained by virtue of an interim order (whether in the same institution or in different institutions) for a period exceeding eight weeks in all.
- (4) Where a court having power under subsection (3) of this section to vary or extend an interim order made under subsection (2) of this section in the case of any person is satisfied on any occasion that, by reason of illness or accident, that person is unable to appear personally before the court, the court may exercise the said power on that occasion in his absence.
- (5) Subject to the provisions of this section, the provisions of the Magistrates' Courts Act, 1952, and of any other enactment relating to summary proceedings (other than provisions relating to remand) shall apply in relation to proceedings for the removal of any person under the said section sixteen as they apply in relation to proceedings against a person charged with a summary offence.

18 Directions as to management of approved schools

- (1) If it appears to the Secretary of State that the provision made in any approved school with regard to any matter relating to—
 - (a) the premises or equipment of the school,
 - (b) the number or grades of the staff employed in the school, or
 - (c) the education, training or welfare of persons under the care of the managers,is inadequate or unsuitable, he may give to the managers such directions as he thinks necessary for securing that proper provision is made with respect thereto.
- (2) Where it appears to the Secretary of State that the managers of an approved school have failed to give effect to any directions under this section, subsection (2) of section seventy-nine of the Children and Young Persons Act, 1933 (which empowers the Secretary of State in certain circumstances to withdraw his certificate of approval) shall apply as it applies where he is dissatisfied as mentioned in that section.

19 Constitution of managers

- (1) The Secretary of State may by order make provision for regulating the constitution and proceedings of the managers of any approved school other than a school provided by a local authority or by a joint committee representing two or more local authorities ; and any such order shall have effect notwithstanding anything in any trust deed relating to the school.
- (2) Before making an order under the foregoing subsection in respect of any school, the Secretary of State shall afford to the managers of the school an opportunity for making

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

representations with respect to the proposed order ; and in making any such order the Secretary of State shall have regard to all the circumstances of the school, and to the manner in which it has been managed theretofore.

- (3) If in the case of an approved school, other than a school provided by a local authority or by a joint committee representing two or more local authorities, the Secretary of State is satisfied that by reason of special circumstances it is necessary to do so in the interests of the efficient management of the school, he may appoint one or more persons as additional members of the body constituting the managers of the school; and any person so appointed shall, notwithstanding anything in any trust deed relating to the school or in any order made in respect of the school under subsection (1) of this section, be one of the managers of the school until such time as his appointment is terminated by the Secretary of State or under subsection (4) of this section.
- (4) Any order or appointment made under this section in respect of an approved school shall cease to have effect if that school ceases to be an approved school; but nothing in this subsection shall affect the validity of anything done while the order or appointment was in force.
- (5) In this section " trust deed ", in relation to any school, includes any instrument (not being an order under this section) regulating the constitution of the school, or its maintenance, management or conduct, or the constitution or proceedings of its managers.

Miscellaneous

20 Supervision of certain prisoners after release

- (1) The provisions of Part I of the Third Schedule to this Act shall have effect with respect to the supervision after release from prison of persons to whom this section applies, and the return to prison of such persons in the event of failure to comply with the requirements of their supervision.
- (2) This section applies to persons serving the following sentences of imprisonment (being sentences commencing after such date as may be prescribed by order of the Secretary of State), that is to say—
 - (a) a sentence for a term of four years or more;
 - (b) a sentence for a term of six months or more passed on a person who has served at least one previous sentence, being a sentence of imprisonment for a term of three months or more or a sentence of corrective training, preventive detention or borstal training; and
 - (c) a sentence for a term of six months or more passed on a person appearing to the Prison Commissioners to have been under the age of twenty-six at the commencement of the sentence,
 but does not apply to a person serving a sentence of imprisonment for life.
- (3) Different dates may be prescribed by order under this section in respect of sentences described in paragraphs (a), (b) and (c) respectively of subsection (2) of this section ; and different dates may be so prescribed in respect of different sentences comprised in the said paragraph (b), either according to the length of the term of the relevant sentence or to the previous sentences of the person on whom it is passed, or to both.

21 Repeal of provisions for notifying address

Section twenty-two of the Criminal Justice Act, 1948, section twenty-nine of the Prison Act, 1952, and the First Schedule to the last mentioned Act (which contain provisions requiring certain discharged prisoners to notify their addresses) shall cease to have effect.

22 Penalties for assisting escape from prison, etc.

- (1) The maximum term of imprisonment which may be imposed for an offence under section thirty-nine of the Prison Act, 1952 (which relates to assisting prisoners to escape) shall be five years instead of two years.
- (2) If any person knowingly harbours a person who has escaped from a prison or other institution to which the said section thirty-nine applies, or who, having been sentenced in any part of the United Kingdom or in any of the Channel Islands or the Isle of Man to imprisonment or detention, is otherwise unlawfully at large, or gives to any such person any assistance with intent to prevent, hinder or interfere with his being taken into custody, he shall be liable—
 - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both ;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, or to a fine, or to both.
- (3) In the following enactments (which make provision for the application of sections thirty-nine to forty-two of the Prison Act, 1952) that is to say, subsection (3) of section one hundred and twenty-two of the Army Act, 1955, subsection (3) of section one hundred and twenty-two of the Air Force Act, 1955, and subsection (3) of section eighty-two of the Naval Discipline Act, 1957, references to the said section thirty-nine shall be construed as including references to subsection (2) of this section.
- (4) The maximum term of imprisonment and the maximum fine which may be imposed for an offence under subsection (4) of section seventy-two, subsection (4) of section seventy-eight or subsection (4) of section eighty-two of the Children and Young Persons Act, 1933 (which relate to assisting persons to escape from approved schools and remand homes, and other like offences), shall be respectively six months and one hundred pounds instead of two months and twenty pounds.

23 Prison Rules

- (1) For the purposes of rules under section forty-seven of the Prison Act, 1952 (which authorises the making of rules for the regulation and management of prisons and the discipline and control of persons required to be detained therein) any offence against the rules committed by a prisoner may be treated as committed in the prison in which he is for the time being confined.
- (2) Without prejudice to any power to make provision by rules under the said section forty-seven for the confiscation of money or articles conveyed or deposited in contravention of the said Act or of the rules, provision may be made by such rules for the withholding from prisoners (subject to such exceptions as may be prescribed by the rules) of any money or other article sent to them through the post office, and for the disposal of any such money or article either by returning it to the sender (where the sender's name and address are known) or in such other manner as may be prescribed by or determined under the rules:

Provided that in relation to a prisoner committed to prison in default of payment of any sum of money, the rules shall provide for the application of any money withheld as aforesaid in or towards the satisfaction of the amount due from him unless, upon being informed of the receipt of the money, he objects to its being so applied.

- (3) A prisoner who would, apart from this subsection, be discharged on any of the days to which this subsection applies in his case shall be discharged on the next preceding day which is not one of those days.

The days to which this subsection applies are Sunday, Christmas Day, Good Friday and any day which under the Bank Holidays Act, 1871, is a bank holiday in England and Wales and, in the case of a person who is serving a term of more than one month, any Saturday.

- (4) In this section the references to prisons and prisoners include references respectively to borstal institutions, detention centres and remand centres and to persons detained therein.

24 Management of prisons, etc.

- (1) Subject to the provisions of this section, Her Majesty may by Order in Council make provision for transferring to the Secretary of State any or all of the functions of the Prison Commissioners (in this section referred to as " the Commissioners ").
- (2) An Order in Council under this section may contain such incidental, consequential and supplemental provisions as may be necessary or expedient in connection with the transfer effected by that or any previous Order thereunder, including provisions—
- (a) for the transfer of any property, rights or liabilities to which the Commissioners are entitled or subject, and for the vesting in the person from time to time holding office as Secretary of State of land or other property transferred by any such Order, or acquired under powers so transferred;
 - (b) for the carrying on and completion by or under the authority of the Secretary of State of anything begun by or under the authority of the Commissioners before the date of transfer ;
 - (c) for the substitution of the Secretary of State for the Commissioners in any instrument, contract or legal proceeding made or begun before that date ;
 - (d) for the transfer to the Home Department of Commissioners and inspectors, officers or servants of the Commissioners and (in the case of the transfer of the powers and jurisdiction of the Commissioners in respect of all institutions within their superintendence) for the dissolution of the Commissioners.
- (3) An Order in Council under this section may make such adaptations or repeals in the enactments relating to the Commissioners, or to institutions within their superintendence, as may be necessary or expedient in consequence of the Order or any previous Order thereunder, and shall in particular make provision for securing that any report which, apart from any such Order, would be required by subsection (1) of section five of the Prison Act, 1952, to be made to the Secretary of State by the Commissioners shall be issued by the Secretary of State and laid before Parliament under that section accordingly.
- (4) A certificate of the Secretary of State that any property vested in the Commissioners has been transferred to the Secretary of State by virtue of an Order in Council under this section shall be conclusive evidence of the transfer.

- (5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before Parliament and has been approved by resolution of each House of Parliament.
- (6) In this section " functions" includes powers and duties, and " the date of transfer " means the date on which an Order in Council under this section transferring functions of the Commissioners comes into force.

25 Reports to Parliament on approved schools, remand homes and attendance centres

- (1) The Secretary of State shall lay before Parliament—
 - (a) in every year, a statement of statistical information relating to approved schools, remand homes and attendance centres in England and Wales ;
 - (b) in the year nineteen hundred and sixty-four and every third subsequent year, a report on the functioning of the approved school system in England and Wales (including supervision after release) and of remand homes and attendance centres in England and Wales, and on the work of the Home Department in relation thereto.
- (2) The information to be comprised in any statement laid in pursuance of paragraph (a) of subsection (1) of this section shall include the following particulars, that is to say—
 - (a) in the case of approved schools, the number of such schools, and the numbers of admissions, releases and recalls during the period covered by the statement;
 - (b) in the case of remand homes, the number of such homes and the number of admissions during that period ;
 - (c) in the case of attendance centres, the number of such centres, and the number of orders for attendance at such centres made during that period,together with such additional information as the Secretary of State thinks appropriate in each case.