



# Criminal Justice Act 1948

## 1948 CHAPTER 58

### PART I

#### POWERS AND PROCEEDINGS OF COURTS.

##### *Powers relating to young offenders.*

#### **16 Restriction on sentence of death.**

The following subsection shall be substituted for subsection (1) of section fifty-three of the Children and Young Persons Act, 1933:—

“(1) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he was under the age of eighteen years; but in lieu thereof the court shall sentence him to be detained during His Majesty's pleasure; and if so sentenced he shall be liable to be detained in such place and under such conditions as the Secretary of State may direct.”

#### **17 Restriction on imprisonment.**

- (1) A court of summary jurisdiction shall not impose imprisonment on a person under seventeen years of age; and a court of assize or quarter sessions shall not impose imprisonment on a person under fifteen years of age.
- (2) No court shall impose imprisonment on a person under twenty-one years of age unless the court is of opinion that no other method of dealing with him, is appropriate; and for the purpose of determining whether any other method of dealing with any such person is appropriate the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.
- (3) Where a court of quarter sessions or a court of summary jurisdiction imposes imprisonment on any such person as is mentioned in the last foregoing subsection, the

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court shall state the reason for its opinion that no other method of dealing with him is appropriate, and if the court is a court of summary jurisdiction the reason shall be specified in the warrant of commitment and entered in the register required to be kept under section twenty-two of the Summary Jurisdiction Act, 1879.

- (4) His Majesty may by Order in Council prohibit courts of summary jurisdiction from—
- (a) sentencing to imprisonment persons under the age of twenty-one years or such lower age as may be specified in the Order;
  - (b) committing such persons to prison in default of payment of a sum adjudged to be paid by a conviction;

and any such Order may be limited to persons of one of the sexes:

Provided that no Order in Council shall be made under this subsection until the Secretary of State is satisfied that the methods, other than imprisonment, available for the treatment of offenders afford to courts of summary jurisdiction adequate means of dealing with the persons to whom the Order relates.

- (5) A draft of any Order in Council under this section shall be laid before Parliament, and the draft shall not be submitted to His Majesty in Council unless each House of Parliament presents an Address to His Majesty praying that the Order be made.
- (6) In this section the expression " court " includes a justice of the peace.

## **18 Detention in a detention centre.**

- (1) Where a court has power, or would but for the last foregoing section have power, to impose imprisonment on a person who is not less than fourteen but under twenty-one years of age, the court may, if it 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, order him to be detained in a detention centre to be specified in the order for a term of three months:

Provided that—

- (a) if the maximum term of imprisonment which the court might, or might but for the last foregoing section, impose is less than three months, the term for which he is ordered to be detained as aforesaid shall (except as provided by paragraph (c) of this proviso) be a term equal to that maximum term of imprisonment;
  - (b) if the maximum term of imprisonment aforesaid exceeds three months and the court is of opinion, having regard to any special circumstances, that a term of three months' detention would be insufficient, the term for which he is ordered to be detained as aforesaid shall be any term not exceeding six months or the maximum term of imprisonment aforesaid, whichever is the shorter; and
  - (c) if the offender is of compulsory school age and the court is of opinion that a term of detention of three months, or equal to the maximum term of imprisonment aforesaid, would be excessive, the term for which he is ordered to be detained as aforesaid may be any term of not less than one month and not more than three months or the maximum term of imprisonment aforesaid.
- (2) A court shall not order a person to be detained in a detention centre—
- (a) if he has been previously sentenced to imprisonment or Borstal training;
  - (b) if he is not less than seventeen years of age, and has previously been ordered to be so detained since attaining that age;

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and shall not order any other person to be so detained unless the court has considered every other method (except imprisonment) by which the court might deal with him and is of opinion that none of those methods is appropriate.

- (3) Where a person has been ordered to be detained in a detention centre in default of the payment of any sum of money then, on the payment of the whole or part of that sum, he shall be discharged, or, as the case may be, the term of his detention shall be reduced, in the same manner as if the term were a term of imprisonment.
- (4) A court shall not make an order that an offender who is not less than fourteen years of age be committed to custody in a remand home under section fifty-four of the Children and Young Persons Act, 1933, if it 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.
- (5) In this section the expression " court " includes a justice of the peace, and the expression " compulsory school age " has the meaning assigned to it by section thirty-five of the Education Act, 1944:

Provided that section eight of the Education Act, 1946 (which provides that a person who attains a particular age during a school term shall be deemed not to have attained that age until the end of the term) shall not apply.

## **19 Attendance at an attendance centre.**

- (1) Where a court of summary jurisdiction has power, or would but for section seventeen of this Act have power, to impose imprisonment on a person who is not less than twelve but under twenty-one years of age, or to deal with any such person under section six of this Act for failure to comply with any of the requirements of a probation order, the court may, if it has been notified by the Secretary of State that an attendance centre is available for the reception from that court of persons of his class or description, order him to attend at such a centre, to be specified in the order, for such number of hours, not exceeding twelve in the aggregate, as may be so specified:

Provided that no such order shall be made in the case of a person who has been previously sentenced to imprisonment, Borstal training or detention in a detention centre, or has been ordered to be sent to an approved school.

- (2) The times at which an offender is required to attend at an attendance centre by virtue of an order made under this section shall be such as to avoid interference, so far as practicable, with his school hours or working hours, and the first such time shall be specified in the order (being a time at which the centre is available for the attendance of the offender in accordance with the notification of the Secretary of State) and the subsequent times shall be fixed by the officer in charge of the centre, having regard to the offender's circumstances:

Provided that an offender shall not be required under this section to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.

- (3) The court by which an order has been made under subsection (1) of this section, or any justice acting for the petty sessional division or place for which that court acts, may, on the application of the offender or of the officer in charge of the attendance centre specified in the order—
  - (a) by order discharge the order; or

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- (b) by order vary the day or hour specified therein for the offender's first attendance at the centre;
- and where the application is made by the said officer, the court or justice may deal with it without summoning the offender.
- (4) Where an order is made under subsection (1) or subsection (3) of this section, the clerk to the justices shall deliver or send a copy of the order to the officer in charge of the attendance centre specified therein, and shall also deliver a copy to the offender or send a copy by registered post addressed to the offender's last or usual place of abode.
- (5) Where a person has been ordered to attend at an attendance centre in default of the payment of any sum of money then—
- (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;
- (b) on the payment of a part of the said sum as aforesaid, the total number of hours for which the offender is required to attend at the centre shall be reduced proportionately, that is to say by such number of complete hours as bears to the said total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the said sum.
- (6) Provision may be made by rules under section twenty-nine of the Summary Jurisdiction Act, 1879, as to the application of sums paid under the last foregoing subsection and for determining the persons authorised to receive such payments and the conditions under which such payments may be made.
- (7) Where an order under subsection (1) of this section has been made and it appears on information to a justice acting for the petty sessional division or place for which the court which made the order acts that the person in whose case the order was made—
- (a) has failed without reasonable excuse to attend at the centre in accordance with the order; or
- (b) while attending at the centre has committed a breach of the rules made under section fifty-two of this Act which cannot be adequately dealt with under those rules;
- the justice may issue a summons requiring the offender to appear at the place and time specified therein before a court of summary jurisdiction for the petty sessional division or place for which the justice acts, or may, if the information is in writing and on oath, issue a warrant for his arrest requiring him to be brought before such a court.
- (8) If it is proved to the satisfaction of the court before which an offender appears or is brought under the last foregoing subsection that he has failed to attend as aforesaid, or has committed such a breach of rules as aforesaid, that court may revoke the order requiring his attendance at the attendance centre and deal with him in any manner in which he could have been dealt with by the court which made the order if the order had not been made.

## **20 Borstal training.**

- (1) Where a person is convicted on indictment of an offence punishable with imprisonment, then if on the day of his conviction he is not less than sixteen but under twenty-one years of age, and the court is satisfied having regard to his character and previous conduct, and to the circumstances of the offence, that it is expedient for his reformation and the prevention of crime that he should undergo a period of training

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in a Borstal institution, the court may, in lieu of any other sentence, pass a sentence of Borstal training.

- (2) A person sentenced to Borstal training shall be detained in a Borstal institution, and after his release therefrom shall be subject to supervision, in accordance with the provisions of the Second Schedule to this Act; subject, however, to the power of the Secretary of State under this Act to commute in certain cases the unexpired part of the term for which a person is liable to be so detained to a term of imprisonment.
- (3) Where a person is convicted by a court of summary jurisdiction of an offence punishable on summary conviction with imprisonment, then if on the day of his conviction he is not less than sixteen but under twenty-one years of age, and the court is satisfied of the matters mentioned in subsection (1) of this section, the court may commit him in custody to quarter sessions for sentence in accordance with the following provisions of this section.
- (4) An offender so committed as aforesaid shall be committed—
  - (a) where the court of summary jurisdiction acts for a county other than the County of London or for a borough not having a separate court of quarter sessions, to the appeal committee of the quarter sessions for that county or for the county in which that borough is situated, as the case may be;
  - (b) in any other case, to the next court of quarter sessions having jurisdiction in the county, borough or place for which the court of summary jurisdiction acts;and where the offender is so committed to an appeal committee, the clerk to the court of summary jurisdiction shall notify the clerk of the peace, and the clerk of the peace shall give notice to the prosecutor and to the governor of the remand centre or prison to which the offender is committed of the date on which the case will be dealt with by the appeal committee, being the next available sitting of a court consisting of members of that committee.
- (5) Where an offender is so committed for sentence as aforesaid, the following provisions shall have effect, that is to say:—
  - (a) the appeal committee or court of quarter sessions shall inquire into the circumstances of the case and may—
    - (i) if satisfied of the matters mentioned in subsection (1) of this section, sentence him to Borstal training; or
    - (ii) in any case, deal with him in any manner in which the court of summary jurisdiction might have dealt with him;
  - (b) the Poor Prisoners Defence Act, 1930, shall apply as if the offender were committed for trial for an indictable offence, subject to the modifications that in subsection (2) of section one the words " after reading the depositions " and in subsection (2) of section three the words " and the costs of a copy of the depositions " shall be omitted;
  - (c) the Costs in Criminal Cases Act, 1908, shall apply in relation to the proceedings before the appeal committee or court of quarter sessions as it applies in relation to the prosecution of an indictable offence before a court of quarter sessions;
  - (d) if the appeal committee or court of quarter sessions passes a sentence of Borstal training, the offender may appeal against the sentence to the Court of Criminal Appeal as if he had been convicted on indictment, and the provisions of the Criminal Appeal Act, 1907, shall apply accordingly.

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- (6) References to a court of quarter sessions or a court in any enactment as applied by the last foregoing subsection, or in any other enactment relating to persons dealt with by quarter sessions (including any such enactment contained in this Act) shall be construed as including references to an appeal committee of quarter sessions by whom an offender is dealt with under that subsection.
- (7) Before a sentence of Borstal training is passed under this section, and before a person is committed for sentence under subsection (3) of this section, the court or committee shall consider any report or representations made by or on behalf of the Prison Commissioners on the offender's physical and mental condition and his suitability for the sentence; and if the court is a court of summary jurisdiction and has not received such a report or representations it shall after conviction remand the offender in custody for such a period or periods, not exceeding three weeks in the case of any single period, as the court thinks necessary to enable the report or representations to be made.
- (8) A copy of any report or representations in writing made to a court or appeal committee by the Prison Commissioners for the purposes of the last foregoing subsection shall be given .by the court or committee to the offender or his counsel or solicitor.