



# Criminal Justice Act 1948

## 1948 CHAPTER 58

### PART II

#### ADMINISTRATIVE PROVISIONS AND PROVISIONS AS TO TREATMENT OF PRISONERS, ETC.

##### *Miscellaneous.*

#### **65 Persons unlawfully at large.**

- (1) Any person who, having been sentenced to imprisonment, corrective training, preventive detention or Borstal training, or ordered to be detained in a detention centre, or having been committed to a prison or remand centre, is unlawfully at large, may be arrested by a constable without warrant and taken to the place in which he is required in accordance with law to be detained.
- (2) Where any person sentenced to imprisonment, corrective training, preventive detention or Borstal training, or ordered to be detained in a remand home or detention centre, is unlawfully at large at any time during the period for which he is liable to be detained in pursuance of the sentence or order, then, unless the Secretary of State otherwise directs, no account shall be taken, in calculating the period for which he is liable to be so detained, of any time during which he is absent from the prison, Borstal institution or detention centre, as the case may be:

Provided that—

- (a) this subsection shall not apply to any period during which any such person as aforesaid is detained in pursuance of the sentence or order or in pursuance of any other sentence of any court in a prison or other institution to which the Prison Acts, 1865 to 1898, apply;
- (b) this subsection shall not apply to a person who is unlawfully at large from a Borstal institution by reason only that he has been recalled thereto under the Second Schedule to this Act; and
- (c) nothing in this subsection shall be construed as extending the period during which a person sentenced to Borstal training is liable to supervision under that Schedule.

- (3) The provisions of the last foregoing subsection shall apply to a person who is detained in custody in default of payment of any sum of money as if he were sentenced to imprisonment.

**66 Legal custody.**

Any person required or authorised by or under this Act to be taken to any place or to be kept in custody shall, while being so taken or kept, be deemed to be in legal custody; and a constable, while taking or keeping any such person as aforesaid, shall have all the powers, authorities, protection and privileges of a constable as well beyond his constablewick as within it.

**67 Arrest on failure to surrender to bail before courts of summary jurisdiction.**

Where any person charged with or convicted of an offence has been released upon entering into a recognizance conditioned for his appearance before a court of summary jurisdiction and in breach of that recognizance fails to appear, the court may, without prejudice to any power to enforce the recognizance, issue a warrant for his apprehension.

**68 Restriction of power to arrest without warrant under 5 Geo. 4. c. 83.**

Notwithstanding anything in section six of the Vagrancy Act, 1824, a person found committing the offence of pretending or professing to tell fortunes, or using any subtle craft, means or device, by palmistry or otherwise, to deceive and impose on any of His Majesty's subjects, shall not be apprehended under that section except by a constable, and shall not be so apprehended by a constable unless the constable has reason to believe that that person will abscond unless arrested, or is not satisfied as to the identity or place of residence of that person.

**69 Commutation of death sentence to sentence of imprisonment.**

Where His Majesty pardons any person who has been sentenced to death on condition that he serves a term of imprisonment, that person shall be deemed to have been sentenced by the court before which he was convicted to imprisonment for the said term.

**70 Amendments of Forfeiture Act, 1870.**

- (1) Sections six to thirty of the Forfeiture Act, 1870 (which relate to the administration of the property of convicts) shall cease to have effect.
- (2) Where any pension or superannuation allowance has been forfeited under section two of the Forfeiture Act, 1870, the authority by whom the pension or allowance was granted may restore the pension or allowance either in whole or in part:

Provided that no payment of pension or allowance in respect of any period before the commencement of this Act shall be made by virtue of this subsection.

**71 Amendment of s. 71 of the Children and Young Persons Act, 1933.**

- (1) For subsection (1) of section seventy-one of the Children and Young Persons Act, 1933, there shall be substituted the following subsection:—

“(1) Where a court orders a child to be sent to an approved school, the order shall be an authority for his detention in an approved school until the expiration of a period of three years from the date of the order or the expiration of four months after he ceases to be of compulsory school age whichever is the later.”

- (2) In the said section seventy-one as amended by this section the expression " compulsory school age " has the meaning assigned to it by section thirty-five of the Education Act, 1944; and 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.

- (3) The provisions of the said section seventy-one shall apply as amended by this section to any approved school order made before the commencement of this Act if the period during which the person to whom it relates could be detained thereunder apart from the provisions of this section has not expired at the commencement of this Act.

- (4) This section shall, in its application to Scotland, have effect subject to the following modifications:—

- (a) for references to section seventy-one of the Children and Young Persons Act, 1933, and to subsection (1) of that section there shall be substituted references to section seventy-five of the Children and Young Persons (Scotland) Act, 1937, and to subsection (1) of that section; and
- (b) for subsection (2) there shall be substituted the following subsection:—

“(2) In the said section seventy-five as amended by this section the expression ' compulsory school age ' means school age as defined in section thirty-two of the Education (Scotland) Act, 1946:

Provided that—

- (a) subsection (4) of that section (which extends the school age in the case of certain children requiring special educational treatment); and
- (b) subsection (2) of section thirty-three of that Act (which provides that a child shall be deemed to attain any given age on the fixed date for commencing or for terminating attendance next following the day that he actually attains that age)

shall not apply”.

**72 Powers of court in relation to absconders from approved schools, etc.**

- (1) Where a person in whose case an approved school order has been made is brought before a court of summary jurisdiction under section eighty-two of the Children and Young Persons Act, 1933, or paragraph 8 of the Fourth Schedule to that Act (which relate respectively to absconders and persons guilty of serious misconduct), the court may, subject to the following provisions of this section—

- (a) in any case, either make a new approved school order in his case, or order him to be taken back to the school and extend the period of his detention under

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

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the original order by such period not exceeding six months as the court may determine; ,

- (b) if he has attained the age of sixteen years, sentence him to Borstal training.
- (2) An order under paragraph (a) of the last foregoing subsection extending the period of detention under an approved school order shall have effect notwithstanding any limitation imposed by the Children and Young Persons Act, 1933, upon the period for which a person may be detained in an approved school; and in relation to a new approved school order made under that paragraph, sections seventy-one, seventy-three and seventy-four of that Act (which relate to the period of detention under approved school orders and to supervision and recall) shall have effect as if for any reference therein to the age of nineteen years there were substituted a reference to the age of nineteen years and a half.
- (3) Subject as hereinafter provided, His Majesty may by Order in Council prohibit courts of summary jurisdiction from making orders under paragraph (b) of subsection (1) of this section; and any such Order in Council may be limited to persons of one of the sexes, and, whether so limited or not, may be made so as to apply either to any persons ordered to be detained in approved schools or only to persons ordered to be so detained otherwise than for an offence:
- Provided that no Order in Council shall be made under this subsection until the Secretary of State is satisfied that adequate methods, other than Borstal training, are available for dealing with the persons to whom the Order relates.
- (4) A draft of any Order in Council under the last foregoing subsection 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.