



# Criminal Justice (Scotland) Act 1949

## 1949 CHAPTER 94

### PART II

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

##### *Miscellaneous*

#### **70 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-six of the Children and Young Persons (Scotland) Act, 1937, or paragraph 8 of the Second 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 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, and the order for his detention was made in respect of an offence, sentence him to Borstal training:

Provided that if the court before which any person is brought as aforesaid is a court of summary jurisdiction other than a sheriff court or a stipendiary magistrate's court it shall have, in lieu of the power to pass a sentence of Borstal training, power to remit the person to the sheriff court in the manner provided by section nine of the Summary Jurisdiction (Scotland) Act, 1908, and the sheriff court shall on any such remit being made have the like power with regard to the person as if he had been brought before that court as aforesaid.

- (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 (Scotland) Act, 1937, 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-five,

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seventy-seven and seventy-eight 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:

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.