



Prisons (Scotland) Act 1877

1877 CHAPTER 53

PART II

SUPPLEMENTAL PROVISIONS

As to Miscellaneous Matters

44 Regulations as to hard labour

A court of law having jurisdiction to sentence to imprisonment may also sentence to hard labour, either for the whole or a portion of the sentence, and the Secretary of State may make any general or special regulations in regard to carrying out sentences of hard labour, and may from time to time vary any regulation so made. In making any regulations in pursuance of this section, the Secretary of State shall have regard to the previous convictions, the industry, and the conduct of the prisoners.

45 Special rules as to treatment of unconvicted prisoners and certain other prisoners

Whereas it is expedient that a clear difference shall be made between the treatment of persons unconvicted of crime and in law presumably innocent during the period of their detention in prison for safe custody only, and the treatment of prisoners who have been convicted of crime during the period of their detention in prison for the purpose of punishment, and that, in order to secure the observance of such difference there shall be in force in every place in which prisoners are confined for safe custody only, special rules regulating their confinement in such manner as to make it as little as possible oppressive, due regard only being had to their safe custody, to the necessity of preserving order and good government in the place in which they are confined, and to the physical and moral well-being of the prisoners themselves: Therefore be it enacted, that the Secretary of State shall make, and when made may from time to time repeal, alter, or add to, special rules—

- (1) With respect to the retention by a prisoner of the possession of any books, papers, or documents in his possession at the time of his arrest, and which may not be required

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for evidence against him, and are not reasonably suspected of forming part of property improperly acquired by him, or are not for some special reason required to be taken from him for the purposes of justice ;

- (2) With respect to communications between a prisoner, his solicitor, and friends, so as to secure to such prisoner as unrestricted and private communication between him, his solicitor, and his friends as may be possible, having regard only to the necessity of preventing any tampering with evidence, and any plans for escape, or other like considerations ; and
- (3) With respect to arrangements whereby prisoners may provide themselves with articles of diet, or may be furnished with a sufficient quantity of wholesome food,- and may be protected from being called upon to perform any unaccustomed tasks or offices; also any matter which the Secretary of State may think conducive to the amelioration of the condition of a prisoner who has not been convicted of crime, regard being had to such matters as are in this section directed to be regarded.

46 Treatment of prisoners convicted of sedition, &c

The Prison Commissioners shall see that any prisoner under sentence inflicted on conviction for sedition or seditious libel shall be treated in the manner provided in special rules to be made, and which when made may be repealed, altered, or added to, by the Secretary of State in regard to the treatment of such prisoners.

47 Treatment of persons committed for contempt of court

Any person who shall be imprisoned for contempt of any court shall be treated in the manner provided in special rules to be made, and which when made may be repealed, altered, or added to, by the Secretary of State in regard to the treatment of persons so imprisoned.

48 Test of malingering to be made only with authority of visiting committee, &c

Where the prison medical officer considers it necessary to apply any painful test to a prisoner to detect malingering or otherwise, such test shall only be applied by authority of an order from the visiting committee or a prison commissioner.

49 Duties of medical officer

The medical officer shall visit the prison at least twice in every week, and oftener if necessary, and shall see every prisoner in the course of the week. He shall daily visit the prisoners, if any, confined in punishment cells, and he shall visit daily, and oftener if necessary, such of the prisoners as are sick, and when necessary shall direct any prisoner to be removed to the sick

The medical officer shall enter daily in a register to be kept in the prison an account of the state of every sick prisoner, the name of his disease, a description of the medicines and diet, and any other treatment which he may order for such prisoner. The medical officer shall, once at least in every three months, inspect every part of the prison, and enter in his register the result of each inspection, recording therein any observations he may think fit to make on any want of cleanliness, drainage, warmth, or ventilation, any bad quality of the provisions, any insufficiency of clothing or bedding, any deficiency

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in the quantity or defect in the quality of the water, or any other cause which may affect the health of the prisoners.

Whenever the medical officer has reason to believe that the mind of a prisoner is or is likely to be injuriously affected by the discipline or treatment, he shall report the case in writing to the governor, together with such directions as he may think proper, and he shall call the attention of the chaplain to any prisoner who appears to require his special notice.

The medical officer may, in any case of danger or of difficulty which appears to him to require it, call in additional medical assistance; and no serious operation shall be performed without a previous consultation being held with another medical practitioner, except under circumstances not admitting of delay, such circumstances to be recorded in his register.

50 Limitation of time of confinement in a punishment cell

It shall not be lawful for the governor to order any prisoner to be confined in a punishment cell for any term exceeding twenty-four hours; nor shall it be lawful for the visiting committee to order any prisoner to be punished by confinement in a punishment cell for any term exceeding fourteen days.

51 Duties of governor

The governor shall, as far as practicable, visit the whole of the prison, and see every male prisoner once at least in every twenty-four hours, and, in default of such daily visits, he shall state in his journal how far he has omitted them and the cause thereof.

The governor shall, without delay, call the attention of the medical officer to any prisoner whose state of mind or body appears to require attention, and shall carry into effect the written directions of the medical officer respecting alterations of the discipline or treatment of any such prisoner.

The governor shall notify to the medical officer without delay the illness of any prisoners, and shall deliver to him daily a list of such prisoners as complain of illness, or are removed to the sick cells, or confined to their cells by illness, and he shall daily deliver to the chaplain and medical officer lists of such prisoners as are confined in punishment cells.

Upon the death of a prisoner the governor shall give immediate notice thereof to the procurator fiscal of the jurisdiction within which the prison is situated, and to one of the visiting committee, as well as to the nearest relative of the deceased, where practicable.

52 As to insane prisoners

The governor shall without delay report to the visiting committee any case of insanity, or apparent insanity, occurring among the prisoners.

53 Procurator fiscal shall hold public inquiry on prisoner who has died in prison

It shall be the duty of the procurator fiscal of the jurisdiction within which a prison is situated to hold a public inquiry before the sheriff or sheriff substitute of the county on the body of every prisoner who may die within such prison. Where it is practicable,

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sufficient time shall intervene between the day of the death and the day of the holding of the inquiry, to allow the attendance of the next of kin to the deceased.

54 Transfer of duties of existing inspectors of prisons

On and after the commencement of this Act, any duties required by Act of Parliament or otherwise to be performed by an inspector of prisons appointed in pursuance of the Act of the session of the fifth and sixth years of King William the Fourth, chapter thirty-eight, may, subject to any directions to be given by the Secretary of State, be performed by any Prison Commissioner or Inspector appointed under this Act.

The persons who at the commencement of this Act hold the offices of Inspectors of Prisons under such last-mentioned Act shall become inspectors under this Act, in the same manner and liable to the performance of the same duties as if they had been appointed inspectors in pursuance of this Act, subject to the following qualifications; namely,

- (1) Every such inspector shall hold his office by the same tenure, and upon like terms and conditions, as if this Act had not passed, and shall receive a salary of not less amount than that which he has hitherto received; and
- (2) Any duties they may be required to perform in pursuance of this Act shall be the same or analogous duties to those which they performed previously to the commencement of this Act.

The seventh section of the Act of the session of the fifth and sixth years of William the Fourth, chapter thirty-eight, shall be repealed from and after the commencement of this Act, in so far as respects Scotland.

55 Power of authority to borrow on rate

The commissioners of supply of a county and the magistrates of a burgh may borrow any moneys authorised to be borrowed by them under this Act as one loan or as several loans, on the security of the county general assessment of the county, or the municipal, or police, or other assessment of the burgh, as the case may be.

The period for the discharge of a loan under this Act shall be deemed to begin at the date of the first advance of money made on account of any such loan or loans.

56 Power of Public Works Loan Commissioners to lend

The Public Works Loan Commissioners may advance to the commissioners of supply of a county, or the magistrates of a burgh, on the security of such assessments as aforesaid, and without any other or farther security, any moneys authorised to be borrowed by such commissioners of supply or magistrates for the purposes of this Act.

57 Legal estate in prison to be in the Prison Commissioners

The legal estate in every prison to which this Act applies, and in the site and land belonging thereto, and in the furniture and effects, shall on and after the commencement of this Act be deemed to be vested in the Prison Commissioners and not in the Secretary of State, but shall from time to time be disposed of by such Commissioners in such mode as the Secretary of State, with the consent of the Treasury, may direct.

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58 As to rules of Secretary of State, and repeal of inconsistent enactments

Any rule made by a Secretary of State, in pursuance of this Act, or of the Prisons (Scotland) Administration Act, 1860, may be proved in manner in which regulations made under the authority of one of Her Majesty's Principal Secretaries of State are capable of being proved in pursuance of the Documentary Evidence Act, 1868 ; and all enactments inconsistent with this Act are hereby repealed: Provided always, that all rules and regulations made under or in pursuance of the foresaid Acts shall be forthwith laid in a complete form, after the same shall have been settled and approved by such Secretary of State, before both Houses of Parliament, if Parliament be sitting, or if not, then within three weeks after the beginning of the next ensuing session of Parliament; and if any such rules or regulations shall be disapproved by either House of Parliament within forty days after the same shall have been so laid before Parliament, such rules or regulations, or such parts thereof as shall be so disapproved of, shall be void and of no effect: Provided also, that no- such rules or regulations shall come into force or operation until the same shall have been so laid before Parliament for forty days.

59 Saving clause as to pensions

Nothing in this Act contained shall entitle any existing officer of a prison to any superannuation or other allowance the conditions of whose office would not have entitled him to superannuation or other allowance under the Prisons (Scotland) Administration Act, 1860.

60 Superannuation to clerk or treasurer, &c

At any time after the passing of this Act a prison authority shall have a discretionary power to grant to any cleric or treasurer, or other officer of such authority in office at the passing of this Act, such superannuation allowance or other compensation to take effect on his ceasing to hold office, as they shall deem fit, and may declare the proportions in which such allowance or compensation shall be payable by the commissioners of supply of the county and the magistrates of the burgh or burghs at the passing of this Act within the jurisdiction of such prison authority: Provided always, that any such grant made by such prison authority may be reduced or rescinded by such commissioners of supply or magistrates, as the case may be, in so far as payable by them, if such commissioners of supply or magistrates shall consider the same excessive or

Any sums payable under this section shall be a charge against the county general assessment of a county, or any municipal, or police, or other assessment of a burgh, as the case may be.

61 Repeal of section 50 of 20 & 21 Vict. c.71, and constitution of District Boards of Lunacy

Section fifty of the Act passed in the twentieth and twenty-first years of the reign of Her present Majesty, chapter seventy-one, is hereby repealed, and in lieu thereof it is enacted as follows:

The District Boards of Lunacy elected in terms of the repealed section shall continue in office until the election of district boards elected in terms hereof.

There shall be chosen for each of the districts into which Scotland is or may hereafter be divided for the purposes and in terms of the last-recited Act and any Act amending

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the same, a board to be called the District Board of Lunacy, the number of the members whereof shall be fixed by the General Board of Lunacy in Scotland, who shall also fix the number of the members of each district board to be elected by the commissioners of supply and magistrates of burghs respectively in each county within such district, and such number shall be proportioned, as nearly as may be, to the valuation of the property situated in each such county and burgh. The members of such district board shall be elected annually by the commissioners of supply and magistrates of burghs at such time as shall be determined by the said General Board of Lunacy; and any vacancy occurring by the death or resignation of any member shall be filled up by the same body by whom the member so vacating was elected. Such district boards shall meet at such times and places as shall be fixed by the General Board of Lunacy from time to time, and shall have power to adjourn and also to appoint a chairman, who, in case of an equality of votes, shall have a casting vote, and committees of their number, to whom may be delegated all or any part of the powers by the said recited Act committed to such district boards. Three shall be a quorum of a district board.

62 Provision for expense of Lunacy District Board where there is no district asylum

Where it shall happen that in any such district as is mentioned in the preceding section there shall be no district asylum, the clerk of the district board shall divide and apportion the total amount of the expenses incurred by the district board of such district between the landward part of the county and the burghs situated therein, according to the total value of lands and heritages as appearing in the valuation rolls of such county and burghs respectively, and shall transmit to the convener of the commissioners of supply of the county, and to the chief magistrate of each burgh situated therein, a notification of the total amount of such expenses, and of the proportion thereof to be paid by the landward part of the county and by each burgh respectively.

The sums so apportioned as due by the landward part of the county shall be a charge upon and shall be paid out of the county general assessment of such county, and the sums so apportioned as due by each burgh shall be a charge upon and shall be paid out of any assessment levied in such burgh, and payable one half by the owner and one half by the tenant or occupier of the lands and heritages within the burgh, and if there be no such assessment, then out of any other assessment levied in such burgh.

63 Provision for levying certain assessments heretofore levied along with the prison assessment

Where assessments under any Act of Parliament may be imposed, levied, and recovered in the same way and manner as the assessments imposed and levied under the Prisons (Scotland) Administration Act, 1860, such assessments maybe imposed, levied, and recovered in the same way and manner and with the like powers as any other assessment which may be leviable by the commissioners of supply within any county or the magistrates within any burgh upon the lands and heritages within the same, as appearing on the valuation roll thereof; provided that in a county such assessments shall be payable wholly by the owner of lands and heritages within the county, and that in a burgh such assessments shall be payable one half by the owner and one half by the tenant or occupier of the lands or heritages within the burgh, but the whole of such last-mentioned assessments may be levied on and recovered from the tenant or occupier who, on production of a receipt by the collector therefor, shall be entitled to deduct one half of the amount from the rent payable to the owner: Provided also, that it shall be lawful for such commissioners of supply to exempt from such assessments in any county any lands and heritages the annual Value of which,

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as appearing from the valuation roll, shall not exceed two pounds sterling, on account of the poverty of the owner thereof; and that it shall be lawful for such magistrates to exempt from the whole or any part of such assessments in any burgh the tenant or occupier of any lands and heritages the annual value of which, as appearing from the valuation roll, shall not exceed five pounds sterling, on account of the poverty of such occupier. And all such assessments shall in the case of bankruptcy or insolvency be paid out of the first proceeds of the estate, and shall be preferable to all other debts of a private nature due by the persons assessed.

Nothing herein contained shall prejudice the power of levying any assessments in any other way or manner not affected by the repeal of certain provisions of the Prisons (Scotland) Administration Act, 1860.

64 8 & 9 Vict. c.19 incorporated with this Act for acquisition of lands

For enabling the Prison Commissioners to purchase, take, and acquire lands for the purposes of this Act, "The Lands Clauses Consolidation (Scotland) Act, 1845," excepting section one hundred and sixteen thereof, and any Act amending the said Act, shall be incorporated with and form part of this Act: Provided that the clauses of the said Lands Clauses Consolidation Acts with respect to the purchase and taking of lands otherwise than by agreement shall not be incorporated herewith, except for the purpose of acquiring lands adjoining or adjacent to a prison for the purpose of enlarging, improving, or isolating such prison; and the expression " the special Act" in the said Lands Clauses Consolidation Acts shall mean this Act, and the expression "the promoters of the undertaking" in the said Act shall mean and include the said Prison Commissioners.

65 Returns of warrants of imprisonment and sentences

The clerk of every court, judge, sheriff, magistrate, justice of the peace, or other judicial officer, by whom any warrant for imprisonment or any sentence of imprisonment or penal servitude is pronounced, shall make a return thereof to the Prison Commissioners at such time and in such' form and under such penalty as the Secretary of State may determine.