



# Prisons (Scotland) Act 1877

## 1877 CHAPTER 53

### PART II

#### SUPPLEMENTAL PROVISIONS

##### *As to Obligation to maintain Prisons*

#### **17 Termination of local obligation to maintain prisons**

On and after the commencement of this Act the obligation of any prison authority or any county or burgh to maintain a prison or to provide prison accommodation for its prisoners shall cease

#### **18 Compensation to be made in place of prison accommodation**

Where at the time of the commencement of this Act any prison authority has no prison of its own, or has not a prison or prisons of its own adequate to the accommodation of the prisoners belonging to such authority, it shall pay into the receipt of the Exchequer one hundred and twenty pounds in respect of each prisoner belonging to such prison authority for whom cell accommodation has not at such time as last aforesaid been provided by such authority in a prison of its own.

Any sum payable by a prison authority in pursuance of this section shall be deemed to be a debt due from the prison authority to the Crown, and may be recovered accordingly from the county and burgh or burghs at the passing of this Act within the jurisdiction thereof, subject to the allocation herein-after provided.

Where one prison authority has contributed a sum of money towards the construction by some other prison authority of cell accommodation for the use of the prisoners of the contributing authority, and such cell accommodation has been constructed accordingly, then in assessing the sum payable into the Exchequer by the contributing authority under this section, the contribution so made shall be taken into consideration, and a proportionate deduction be made accordingly.

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Any sum payable by a prison authority in pursuance of this section shall be allocated upon and recovered from the county and burgh or burghs at the passing of this Act within the jurisdiction of such prison authority in such proportions as shall be determined by the Secretary of State, having regard to the valuations of such county and burgh or burghs respectively. Any sum so allocated upon a county shall be a charge upon the county general assessment thereof, and any sum so allocated upon a burgh shall be a charge upon such municipal or police assessment or upon the yearly proceeds of the common good and revenues of the burgh as the magistrates may determine.

For the purposes of this section the commissioners of supply of a county, and the magistrates of a burgh, may borrow, and the Public Works Loan Commissioners may advance by way of loan, to bear interest at such rate per centum as the Treasury may determine to be sufficient to prevent any loss to the Exchequer, such sum as may be required, so that the whole amount so borrowed be discharged within a period not exceeding thirty-five years.

## **19 Compensation to be made to prison authority in respect of accommodation provided for prisoners of some other authority**

Where before the first day of January one thousand eight hundred and seventy-seven, any prison authority having more than sufficient cell accommodation for the number of prisoners belonging to such prison authority, and which prison authority is in this section called the receiving authority, has contracted with any other prison authority, in this section called the sending authority, that the receiving authority is to receive into its prisons any prisoners belonging to such sending authority, and such receiving authority has in the performance of such contract provided cell accommodation for the prisoners of the sending authority, there shall be paid to the receiving authority, out of moneys provided by Parliament, any loss it may have so sustained in relation to such contract for cell accommodation by reason of the passing of this Act, so that the expense of providing cell accommodation for any one prisoner shall not in any case be held to have exceeded the sum of one hundred and twenty pounds.

For the purposes of this section any public department of State which has made contracts with respect to prisoners shall be included under the term "prison authority."

Where it appears that any contract under this section is intended to be renewed at the expiration of its subsisting term, the intention of renewal shall be taken into consideration in estimating the loss sustained by the receiving authority.

Where a prison authority has provided a prison or prisons of its own more than adequate for the accommodation of its prisoners, it shall be entitled to receive, out of moneys to be provided by Parliament, compensation to the extent of one hundred and twenty pounds in respect of each cell provided in such prison or prisons over and above the number of cells required for the average maximum number of prisoners maintained at the expense of such authority in its own prison or prisons during the five years immediately preceding the first day of January one thousand eight hundred and seventy-seven: Provided always, that in case the Prison Commissioners shall report to the Secretary of State that the prison accommodation is in excess of the probable requirements of such prison authority for its own prisoners, or that the buildings are dilapidated or unsuitable, it shall be lawful for the Secretary of State to decline to recommend to the Treasury to make such compensation, in whole or in part, as the circumstances of the case may demand.

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Provided also, that no compensation shall be payable under such provision as last aforesaid in respect of any prison discontinued within two years after the commencement of this Act.

A prison authority shall not be entitled to receive under this section more than one hundred and twenty pounds in the whole in respect of the same cell.

" Probable requirements " means the probable future requirements of a prison authority calculated as from the, passing of this Act.

The average maximum number of prisoners of a prison authority maintained in any prison in any period of five years shall be calculated by finding the greatest number of such prisoners confined therein on the day on which such prison contained most of such prisoners as aforesaid in each of the said five years, and dividing the aggregate so found by five, excluding fractions.

Any sums which a prison authority shall be entitled to receive under this section shall be payable and divisible in the same manner and subject to the same conditions as herein-after provided in regard to any balance due to a prison authority.

## **20 Allowance to be made to prison authority in respect of uncompleted prison**

Where at the time of the commencement of this Act a prison authority has contracted to construct a building to be used as a prison, but such building has not been completed or become a prison within the meaning of this Act, the Secretary of State may, if he thinks fit so to do, allow the prison authority time to complete such building as a prison, and when so completed it shall pass over to and vest in the Secretary of State as a prison completed at the commencement of this Act; but if the Secretary of State does not think fit to allow time for the completion of such prison as aforesaid, he shall, nevertheless, in assessing the amount of compensation payable in respect of cell accommodation, make, with the consent of the Treasury, from the compensation payable as aforesaid, such deduction as, having regard to all the circumstances of the case, may be agreed upon, or as may, in the event of disagreement between the Secretary of State and the prison authority, be determined by arbitration.

## **21 Power to prison authority to erect new prison**

Where any prison authority has, at the passing of this Act, a prison or prisons containing cell accommodation, one half of which is not satisfactory to the Secretary of State, such prison authority may build a new prison or prisons containing adequate cell accommodation in terms of this Act, in such situation or situations and in accordance with such plans as may be approved-of by the Secretary of State; and upon such new prison or prisons being completed to the satisfaction of the Secretary of State within such time or extended time as he may fix, the same shall pass over to and vest in him as a prison or prisons completed at the commencement of this Act; or otherwise such authority may agree with the Secretary of State, with the consent of the Treasury, to make payment of a sum or sums of money in lieu of building such new prison or prisons.

For the purposes of building such new prison or prisons, and of acquiring land therefor, and of paying the cost thereof, or of making payment of a sum or sums of money as herein-before provided, the provisions of " The Prisons (Scotland) Administration Act, 1860," and of the Act of the session of the twenty-eighth and twenty-ninth years of Her

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present Majesty, chapter eighty-four, relating to the acquiring of lands, the building of prisons, and the imposing, levying, collecting, and recovery of building assessments, shall be applicable thereto, and the prison authority may for said purposes borrow money, and assign such building assessments in security thereof.

Upon the new prison or prisons vesting in the Secretary of State under the provisions of this section, or upon payment of a sum or sums of money as herein-before provided, the existing prison or prisons and land and premises appertaining thereto shall by virtue of this Act be and the same are hereby reinvested in and transferred to the prison authority of the county within which the same are situated, and be sold and disposed of by such authority by public

If the price received shall, after deducting the expenses of and incident 'to such sale, be insufficient to meet the costs of and incident to the erection of the new prison or prisons, including therein any moneys borrowed for the purpose, the deficit shall be allocated and recovered in the same way as any sum payable by a prison authority in respect of inadequate cell accommodation is by this Act provided to be allocated and recovered, and the powers of borrowing and advancing by way of loan by this Act conferred on the commissioners of supply of a county, the magistrates of a burgh, and the Public Works Loan Commissioners respectively, for the said purposes, shall apply to such deficit. If there be an overplus such overplus shall be disposed of in like manner as is herein-after provided in regard to any balance due to any prison authority in respect of building assessments or assessments for current expenses.

The prison authority and all other authorities, and their clerks, treasurers, and other officers, shall continue to exercise the powers, duties, and functions conferred on them under any statute so far as necessary for the purposes of this section, except where by this section it is otherwise specially provided.

The members of the prison authority who are in office at the commencement of this Act, and the survivors and survivor of them, shall, for the purposes of this section, continue without re-election to be the prison authority, and there shall be no election of members or supplying of vacancies after the commencement of this Act.