

1963 No. 597

## PRISONS

## ENGLAND AND WALES

**The Prison Commissioners Dissolution Order 1963***Laid before Parliament in draft**Made - - - - - 26th March 1963**Coming into Operation 1st April 1963*

At the Court of Saint James, the 26th day of March 1963

Present,

**Her Majesty Queen Elizabeth The Queen Mother****His Royal Highness The Duke of Gloucester****Lord President****Mr. Boyd-Carpenter****Chancellor of the Duchy of Lancaster****Mr. Deedes**

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the twenty-second day of January, 1963, to delegate to the following Counsellors of State (subject to the exceptions hereinafter mentioned) or any two or more of them, that is to say, His Royal Highness The Prince Philip, Duke of Edinburgh, Her Majesty Queen Elizabeth The Queen Mother, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness Prince William of Gloucester and His Royal Highness The Duke of Kent, full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

And whereas Her Majesty was further pleased to except from the number of the said Counsellors of State His Royal Highness The Prince Philip, Duke of Edinburgh, Her Royal Highness The Princess Margaret, Countess of Snowdon, His Royal Highness The Duke of Gloucester, His Royal Highness Prince William of Gloucester and His Royal Highness The Duke of Kent while absent from the United Kingdom:

And whereas a draft of this Order has been laid before Parliament and has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Duke of Gloucester, being authorized thereto by the said Letters Patent, and in pursuance of section 24 of the Criminal Justice Act 1961(a), do hereby, by and with the advice of Her Majesty's Privy Council, on Her Majesty's behalf order, and it is hereby ordered, as follows:—

*Citation, interpretation and commencement*

1.—(1) This Order may be cited as the Prison Commissioners Dissolution Order 1963.

(2) The Interpretation Act 1889(b) applies for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

(3) In this Order the expression "instrument" includes, without prejudice to the generality of that expression, any instrument made under or by virtue of an Act of Parliament.

(4) Any reference in this Order to an enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment.

(5) This Order shall come into operation on the 1st April 1963.

*Transfer of functions and dissolution of Commissioners*

2.—(1) There are hereby transferred to the Secretary of State all powers, jurisdiction and other functions of the Prison Commissioners in respect of all institutions within their superintendence, and all property, rights, liabilities and obligations of those Commissioners.

(2) The persons, who, immediately before the coming into operation of this Order, were Prison Commissioners, or officers or servants of those Commissioners, shall by virtue of this Order be transferred to the Home Department.

(3) The body corporate consisting of the Prison Commissioners is hereby dissolved.

*Consequential amendments of enactments and rules*

3.—(1) The annual reports required by section 5 of the Prison Act 1952(a) to be made to the Secretary of State shall be made and issued by the Secretary of State and laid before Parliament under that section accordingly.

(2) The said Act shall have effect subject to the adaptations set out in Schedule 1 to this Order, and the other enactments mentioned in Schedule 2 to this Order shall have effect subject to the adaptations set out in that Schedule, being in each case adaptations consequential on the provisions of this Order.

(3) In any rules in force at the coming into operation of this Order, being rules made or having effect as if made under section 47 of the Prison Act 1952,—

(a) any reference to the Commissioners shall be construed as a reference to the Secretary of State ; and

(b) any reference to a Commissioner or to an Assistant Commissioner shall be construed as a reference to an officer (not being an officer of a prison) acting on behalf of the Secretary of State,

and definitions of those expressions shall be omitted.

*Supplementary provisions*

4.—(1) Anything begun by or under the authority of the Prison Commissioners before the coming into operation of this Order may be carried on and completed by or under the authority of the Secretary of State.

(2) The Secretary of State shall be substituted for the Prison Commissioners—

(a) in any instrument (other than the rules referred to in Article 3 of this Order) and any contract made before the date of the coming into operation of this Order ; and

(b) in any legal proceedings begun before that date, other than proceedings instituted by or against those Commissioners as an authorised Government department for the purposes of the Crown Proceedings Act 1947(b), and the Home Office shall be substituted for those Commissioners in any proceedings so instituted.

(3) This Order shall not prejudice the operation of any order, appointment or direction made or given, or anything done, before the coming into operation of this Order—

(a) by the Prison Commissioners ; or

(a) 15 & 16 Geo. 6 & 1 Eliz. 2.c. 52.

(b) 10 & 11 Geo. 6. c. 44.

(b) by any Prison Commissioner or Assistant Commissioner ;

but any such order, appointment, direction or other matter shall, if then in force, continue in force to the like extent and subject to the like provisions as if it had been duly made, given or done by or on behalf of the Secretary of State.

*W. G. Agnew.*

### SCHEDULE 1

#### ADAPTATIONS OF PRISON ACT 1952

##### Section 2.

The section shall be omitted.

##### Section 3.

In subsection (1) for the words from "may appoint" to "as the Secretary of State" there shall be substituted the words "may, for the purposes of this Act, appoint such officers and servants as he".

In subsection (2) for the words from "the inspectors" to "Commissioners" there shall be substituted the words "the officers and servants appointed under this section".

##### Section 4.

In subsection (1) for the words "The Prison Commissioners" there shall be substituted the words "The Secretary of State".

In subsection (2) for the words "the Prison Commissioners by themselves or their officers" there shall be substituted the words "officers of the Secretary of State duly authorised in that behalf".

In subsection (3) for the words "the Prison Commissioners" there shall be substituted the words "the Secretary of State and his officers".

##### Section 5.

For subsection (1) there shall be substituted the following subsection:—

"(1) The Secretary of State shall issue an annual report on every prison and shall lay every such report before Parliament."

##### Section 6.

In subsection (4) for the words "the Prison Commissioners" there shall be substituted the words "the Secretary of State".

##### Section 7.

Subsection (5) shall be omitted.

##### Section 10.

In subsection (3) for the words "The Prison Commissioners" there shall be substituted the words "The Secretary of State".

##### Section 11.

In subsection (1) for the words "the Prison Commissioners" there shall be substituted the words "the Secretary of State".

In subsection (2) for the words "the Prison Commissioners or any person appointed by them", there shall be substituted the words "a person acting on behalf of the Secretary of State".

##### Section 14.

For any reference to an inspector there shall be substituted a reference to an officer (not being an officer of a prison) acting on behalf of the Secretary of State.

##### Section 17.

For the words "a Prison Commissioner" there shall be substituted the words "the Secretary of State".

##### Section 25.

For the words "Prison Commissioners", wherever those words occur, there shall be substituted the words "Secretary of State", and for the word "they" where it appears in subsections (2) and (4) there shall be substituted the word "he".

##### Section 26.

In subsection (2) for the words "Prison Commissioners", in the first place where those words occur, there shall be substituted the words "Secretary of

State"; after the words "section forty-seven" there shall be inserted the words "or, if the Secretary of State thinks fit, at any earlier time"; and the proviso shall be omitted.

In subsection (3) for the words "Prison Commissioners", in both places where those words occur, there shall be substituted the words "Secretary of State".

In subsection (4) for the words from the beginning to "they may" there shall be substituted the words "If before the expiration of the sentence of a person released on licence under subsection (2) of this section the Secretary of State is satisfied that that person has failed to comply with any requirement for the time being specified in the licence, the Secretary of State may".

In subsection (5) for the words "Prison Commissioners" there shall be substituted the words "Secretary of State".

#### Section 31.

For the words "Prison Commissioners" there shall be substituted the words "Secretary of State".

#### Section 32.

For the words "Prison Commissioners", in both places where these words occur, there shall be substituted the words "Secretary of State".

#### Section 33.

In subsection (5) for the words "Prison Commissioners" there shall be substituted the words "Secretary of State".

#### Section 35.

For section 35 there shall be substituted the following section—

"Prison  
property.

35.—(1) Every prison and all real and personal property belonging to a prison shall be vested in the Secretary of State and may be disposed of in such manner as the Secretary of State, with the consent of the Treasury, may determine.

(2) For the purposes of this section the Secretary of State shall be deemed to be a corporation sole.

(3) Any instrument in connection with the acquisition, management or disposal of any property to which this section applies may be executed on behalf of the Secretary of State by an Under-Secretary of State or any other person authorised by the Secretary of State in that behalf; and any instrument purporting to have been so executed on behalf of the Secretary of State shall be deemed, until the contrary is proved, to have been so executed on his behalf.

(4) The last foregoing subsection shall be without prejudice to the execution of any such instrument as aforesaid, or of any other instrument, on behalf of the Secretary of State in any other manner authorised by law."

#### Section 36.

In subsection (1), for the words from the beginning to "to purchase" there shall be substituted the words "The Secretary of State may purchase by agreement or".

For subsection (2) there shall be substituted the following subsection—

"(2) The Acquisition of Land (Authorisation Procedure) Act 1946 shall apply to the compulsory purchase of land by the Secretary of State under this section as if such a purchase were included among those referred to in subsection (1) of section one of that Act."

In subsection (3) for the words "Prison Commissioners" there shall be substituted the words "Secretary of State".

#### Section 44.

In subsection (1) for the words "authorise the Prison Commissioners to transfer him" there shall be substituted the words "transfer that person".

## Section 45.

For subsection (2) there shall be substituted the following subsection—

“(2) A person sentenced to Borstal training shall be detained in a Borstal institution for such period, not extending beyond two years after the date of his sentence and not being less than six months from that date, as the Secretary of State may determine, and shall then be released:

Provided that the Secretary of State may, if he thinks fit, direct that any such person shall be released from a Borstal institution before the expiration of the said six months.”

In relation to a person sentenced to Borstal training before the coming into force of section 11 of the Criminal Justice Act 1961, the subsection set out above shall have effect as if for the reference to two years there were substituted a reference to three years and for the references to six months there were substituted references to nine months.

In subsection (3) for the words “Prison Commissioners”, wherever those words occur, there shall be substituted the words “Secretary of State”.

In subsection (4) for the words “Prison Commissioners are” there shall be substituted the words “Secretary of State is” and for the word “they”, where it first occurs, and the words “Prison Commissioners”, where they last occur, there shall be substituted the words “Secretary of State”.

In subsection (6) for the words “Prison Commissioners”, “their” and “them” there shall be substituted the words “Secretary of State”, “his” and “him” respectively.

## Section 49.

In subsection (4) for the words “Prison Commissioners” there shall be substituted the words “Secretary of State”.

## Section 51.

The words “or the Prison Commissioners” shall be omitted.

## SCHEDULE 2

## ADAPTATIONS OF OTHER ACTS

## Criminal Justice Act 1948

11 & 12 *Geo. 6. c. 58*

In sections 20 and 21 for the words “Prison Commissioners”, wherever those words occur, there shall be substituted the words “Secretary of State”.

In section 77 (1) the words “and any expenses of the Prison Commissioners thereunder” shall be omitted.

## Magistrates' Courts Act 1952

15 & 16 *Geo. 6 & 1 Eliz. 2. c. 55*

In section 28 (2) for the words “Prison Commissioners” there shall be substituted the words “Secretary of State”.

## Mental Health Act 1959

7 & 8 *Eliz. 2. c. 72*

In section 75 (1) (b) the words “the Prison Commissioners or, as the case may be” shall be omitted.

## Criminal Justice Act 1961

9 & 10 *Eliz. 2. c. 39*

In sections 1 (3), 4 (4) (a), 11 (2), 12 (2) and (3), 20 (2) (c), 34 (1), 34 (3) (b), 34 (6) and 37, for the words “Prison Commissioners” there shall be substituted the words “Secretary of State”.

In Schedule 1, in paragraphs 1 and 3, for the words “Prison Commissioners”, wherever those words occur, there shall be substituted the words “Secretary of State”, and in paragraph 2, for the words “Prison Commissioners are” there shall be substituted the words “Secretary of State is” and for the word “they” there shall be substituted the words “the Secretary of State”.

In Schedule 3, in paragraphs 2, 4, 7, 8, 11, 12, 18 and 25, for the words "Prison Commissioners" and "Commissioners" there shall be substituted the words "Secretary of State", and paragraph 21 shall be omitted.

**EXPLANATORY NOTE**

*(This Note is not part of the Order, but is intended to indicate its general purport.)*

This Order, which is made under section 24 of the Criminal Justice Act 1961, transfers to the Secretary of State all functions, property, rights and liabilities of the Prison Commissioners, a body corporate established to assist the Secretary of State in the performance of his functions relating to prisons and other institutions for offenders. The Order transfers the existing Commissioners and their staff to the Home Department and provides for the dissolution of the Commissioners. The remaining provisions of the Order, which is to come into operation on 1st April 1963, are consequential and supplementary and consist mainly of adaptations of the Prison Act 1952 and other enactments containing references to the Prison Commissioners.