



Criminal Justice (Scotland) Act 1949

1949 CHAPTER 94

PART II

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

Removal and transfer to and from prisons and other institutions

59 Temporary detention of persons liable to detention in a Borstal institution

A person who is required to be taken to a Borstal institution may, until arrangements can be made for taking him there, be temporarily detained elsewhere, and the period for which he is so detained shall count as part of the period for which he is liable to be detained in a Borstal institution under this Act.

60 Transfers from prison to Borstal institution and vice versa

- (1) If the Secretary of State is satisfied that a person serving a sentence of imprisonment is under twenty-one years of age and might with advantage be detained in a Borstal institution, he may, after consultation where practicable with the judge by whom or the presiding chairman of the court by which the sentence was passed, transfer such person to a Borstal institution; and the provisions of the Fourth Schedule to this Act shall thereupon apply to him as if he had on the date of the transfer been sentenced to Borstal training:

Provided that if on that date the unexpired term of his sentence is less than three years those provisions shall apply to him as if he had been sentenced to Borstal training three years before the expiration of that term.

- (2) If a person detained in a Borstal institution is reported to the Secretary of State by the visiting committee to be incorrigible, or to be exercising a bad influence on the other inmates of the institution, the Secretary of State may present an application to the sheriff within whose jurisdiction the institution is situate for commutation to imprisonment of the unexpired part of the term for which the said person is then liable to be detained in a Borstal institution and on any such application the sheriff may

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commute the said unexpired part to such a term of imprisonment, not exceeding the said unexpired part, as he may think fit; and for the purpose of this Act the said person shall be treated as if he had been sentenced to imprisonment for that term.

61 Removal of prisoners, etc., for judicial and other purposes

- (1) Rules under section fifty-three of this Act may provide in what manner an appellant within the meaning of the Criminal Appeal (Scotland) Act, 1926, when in custody, is to be taken to, kept in custody at, and brought back from, any place at which he is entitled to be present for the purposes of that Act, or any place to which the High Court of Justiciary or any judge thereof may order him to be taken for the purpose of any proceedings of that court.
- (2) The Secretary of State may—
 - (a) if he is satisfied that the attendance at any place in Great Britain of a person detained in Scotland in a prison, remand centre, detention centre, Borstal institution or remand home is desirable in the interests of justice or for the purposes of any public inquiry, direct him to be taken to that place;
 - (b) if he is satisfied that a person so detained requires medical or surgical treatment of any description, direct him to be taken to a hospital or other suitable place for the purpose of the treatment;

and where any person is directed under this subsection to be taken to any place he shall, unless the Secretary of State otherwise directs, be kept in custody while being so taken, while at that place, and while being taken back to the prison or other institution in which he is required in accordance with law to be detained.

62 Removal of prisoners, etc., to and from England and from the Isle of Man or Channel Islands

- (1) The Secretary of State may, on the application of a person serving a sentence of imprisonment, corrective training, preventive detention or Borstal training, order his removal to a prison or Borstal institution in England; and any person so removed may be detained, released, recalled and otherwise dealt with as if he had been sentenced by a court in England and as if his sentence were one which could be imposed by such a court.
- (2) Any person sentenced, under the law for the time being in force, by any court in the Isle of Man or the Channel Islands to penal servitude, imprisonment, corrective training, preventive detention, detention in a Borstal institution, Borstal training or detention in a detention centre may, if the Secretary of State so orders, be removed to a prison, Borstal institution or detention centre, as the case may be, in Scotland.
- (3) Any person ordered to be removed under the last foregoing subsection, and any person sentenced by a court in England who, under any enactment extending to England, is ordered to be removed to a prison or Borstal institution in Scotland, may be detained, released, recalled and otherwise dealt with as if his sentence had been passed by a court in Scotland and as if his sentence were one which could be imposed by such a court:

Provided that—

- (a) where a person so removed was undergoing or liable to undergo a term of penal servitude, he shall be treated as if that term were a term of imprisonment;

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- (b) where a person so removed was sentenced to detention in a Borstal institution he shall be treated as if he had been sentenced to Borstal training under this Act.
- (4) Any person removed under this section from the Isle of Man or the Channel Islands to a pason or Borstal institution in Scotland may, on his release under the provisions of the Fourth or Fifth Schedule to this Act or under section fifty-six of this Act, as the case may be, be placed under supervision in the Isle of Man or the Channel Islands, as the case may be, and those provisions (including the provisions of the Eighth Schedule to this Act), shall apply to him therein; and if any person so released is recalled under the provisions aforesaid, he may, if in the Isle of Man or the Channel Islands, be arrested without warrant and removed to Scotland for the purpose of being taken to a prison or Borstal institution as the case may be.
- (5) The provisions of the Ninth Schedule to this Act shall have effect in relation to persons for the time being in England who have been discharged from prisons and other institutions in Scotland (including persons who, before being so discharged, had been removed to such institutions under any enactment extending to England).
- (6) For the purposes of this section, a person sentenced to death by a court in England or in the Isle of Man or the Channel Islands who has been pardoned by His Majesty on condition that he serves a term of penal servitude or imprisonment shall be deemed to have been sentenced to penal servitude or imprisonment by that court.