

SCHEDULES

SCHEDULE 10

CONTRACTING OUT SECURE COLLEGES

PART 1

CONTRACTING OUT PROVISION AND RUNNING OF SECURE COLLEGES

Power to contract out

- 1 (1) The Secretary of State may enter into a contract with another person for the other person to do either or both of the following—
- (a) provide a secure college or part of such a college;
 - (b) run a secure college or part of such a college.
- (2) The contract may provide for the running of the secure college, or the part of the college, to be sub-contracted.
- (3) In this Schedule—
- “contracted-out secure college” means a secure college or part of a secure college in respect of which a contract under this Part of this Schedule is for the time being in force;
 - “the contractor”, in relation to a contracted-out secure college, means the person who has contracted with the Secretary of State for the provision or running (or both) of the college;
 - “sub-contractor”, in relation to a contracted-out secure college, means a person who has contracted with the contractor for the running of the college or any part of it.

Running a contracted-out secure college

- 2 A contracted-out secure college must be run in accordance with—
- (a) this Schedule,
 - (b) the Prison Act 1952 as it applies to contracted-out secure colleges by virtue of section 43 of that Act and this Schedule, and
 - (c) secure college rules.

Leases and tenancies of land

- 3 (1) Where the Secretary of State grants a lease or tenancy of land for the purposes of a contract under this Part of this Schedule, none of the following enactments apply to the lease or tenancy—
- (a) Part 2 of the Landlord and Tenant Act 1954 (security of tenure);

Status: This is the original version (as it was originally enacted).

- (b) section 146 of the Law of Property Act 1925 (restrictions on and relief against forfeiture);
- (c) section 19 of the Landlord and Tenant Act 1927 (covenants not to assign etc);
- (d) the Landlord and Tenant Act 1988 (consent to assigning etc);
- (e) the Agricultural Holdings Act 1986.

- (2) In this paragraph—
- “lease” includes an underlease;
 - “tenancy” includes a sub-tenancy.

Principal

- 4 (1) The principal of a contracted-out secure college must be a secure college custody officer who is—
- (a) appointed by the contractor, and
 - (b) specially approved for the purposes of this paragraph by the Secretary of State.
- (2) The principal has the functions conferred on the principal by—
- (a) the Prison Act 1952 as it applies to contracted-out secure colleges, and
 - (b) secure college rules.

Monitor

- 5 (1) Every contracted-out secure college must have a monitor.
- (2) The monitor must be a Crown servant appointed by the Secretary of State.
- (3) The monitor must—
- (a) keep the running of the secure college by or on behalf of the principal under review,
 - (b) investigate any allegations made against secure college custody officers performing custodial duties at the secure college or officers of directly managed secure colleges who are temporarily attached to the secure college, and
 - (c) report to the Secretary of State on the matters described in paragraphs (a) and (b).
- (4) The monitor also has the other functions conferred on the monitor by secure college rules.
- (5) The contractor and any sub-contractor must take all reasonable steps to facilitate the carrying out by the monitor of the functions described in this paragraph.
- (6) They may do so by giving directions to officers of the secure college or otherwise.

Officers

- 6 (1) Section 8 of the Prison Act 1952 (powers of prison officers) does not apply in relation to officers of a contracted-out secure college.
- (2) Sub-paragraph (1) does not affect the powers of an officer of a directly managed secure college who is temporarily attached to a contracted-out secure college.

Officers who perform custodial duties

- 7 Every officer of a contracted-out secure college who performs custodial duties at the college must be—
- (a) a secure college custody officer, or
 - (b) an officer of a directly managed secure college who is temporarily attached to the contracted-out secure college.
- 8 A secure college custody officer performing custodial duties at a contracted-out secure college has the following duties in relation to persons detained there—
- (a) to prevent their escape from lawful custody,
 - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts,
 - (c) to ensure good order and discipline on their part, and
 - (d) to attend to their well-being.
- 9 (1) A secure college custody officer performing custodial duties at a contracted-out secure college may search the following in accordance with secure college rules—
- (a) a person who is detained in the secure college,
 - (b) any other person who is in the secure college or who is seeking to enter the secure college, and
 - (c) an article in the possession of a person described in paragraph (b).
- (2) The power under sub-paragraph (1)(b) does not include power to require a person to submit to an intimate search (within the meaning of section 164(5) of the Customs and Excise Management Act 1979).
- 10 If authorised to do so by secure college rules, a secure college custody officer may use reasonable force where necessary in carrying out functions under paragraph 8 or 9.
- 11 (1) This paragraph applies where a secure college custody officer performing custodial duties at a contracted-out secure college has reason to believe that a person who is in the college or seeking to enter the college, other than a person detained there, is committing or has committed an offence under any of sections 39 to 40D of the Prison Act 1952.
- (2) The officer may require the person to wait with the officer for the arrival of a constable for such period as is necessary, except that the person may not be required to wait for longer than 2 hours.
 - (3) The officer may use reasonable force to prevent the person from making off during that period.
 - (4) A person who makes off during that period is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
 - (5) In sub-paragraph (1), the reference to an offence under any of sections 39 to 40D of the Prison Act 1952 (a “1952 Act offence”) includes—
 - (a) an offence of attempting to commit a 1952 Act offence,
 - (b) an offence of conspiracy to commit a 1952 Act offence, and
 - (c) an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) in relation to which a 1952 Act offence is the offence which the person intended or believed would be committed.

Status: This is the original version (as it was originally enacted).

Intervention by Secretary of State

- 12 (1) This paragraph applies where it appears to the Secretary of State that—
- (a) the principal of a contracted-out secure college has lost effective control of the secure college or a part of it or is likely to do so, and
 - (b) it is necessary for the Secretary of State to exercise the power under sub-paragraph (2) in the interests of preserving a person’s safety or preventing serious damage to property.
- (2) The Secretary of State may appoint a Crown servant (the “appointed person”) to act as principal of the secure college for the period—
- (a) beginning at the time specified in the appointment, and
 - (b) ending at the time specified in the notice of termination under sub-paragraph (4).
- (3) During that period—
- (a) all of the functions of the principal or monitor are to be carried out by the appointed person,
 - (b) the contractor and any sub-contractor must take all reasonable steps to facilitate the carrying out by the appointed person of those functions, and
 - (c) the officers of the secure college must comply with any directions given by the appointed person in carrying out those functions.
- (4) The Secretary of State must, by notice to the appointed person, terminate the person’s appointment if satisfied that—
- (a) the person has secured effective control of the secure college or, as the case may be, the relevant part of it, and
 - (b) the person’s appointment is no longer necessary as mentioned in sub-paragraph (1)(b).
- (5) The Secretary of State must—
- (a) give notice of an appointment under this paragraph to the persons listed in sub-paragraph (6) as soon as practicable after making the appointment, and
 - (b) give a copy of a notice of termination of such an appointment to those persons as soon as practicable after terminating it.
- (6) Those persons are—
- (a) the contractor,
 - (b) any sub-contractor,
 - (c) the principal, and
 - (d) the monitor.

Obstruction etc of secure college custody officers

- 13 (1) A person who resists or wilfully obstructs a secure college custody officer performing custodial duties at a contracted-out secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Assault of secure college custody officers

- 14 (1) A person who assaults a secure college custody officer performing custodial duties at a contracted-out secure college commits an offence.
- (2) A person who commits an offence under this paragraph is liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or a fine (or both).
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003, the reference in sub-paragraph (2) to 51 weeks is to be read as a reference to 6 months.
- (4) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in sub-paragraph (2) to a fine is to be read as a reference to a fine not exceeding level 5 on the standard scale.

Wrongful disclosure of information relating to persons in youth detention accommodation

- 15 (1) A person who is or has been employed at a contracted-out secure college (whether as a secure college custody officer or otherwise) commits an offence if the person discloses information—
- (a) which the person acquired in the course of the employment, and
- (b) which relates to a particular person detained in youth detention accommodation.
- (2) It is not an offence under this paragraph for a person to disclose information—
- (a) in the course of the person's duty, or
- (b) when authorised to do so by the Secretary of State.
- (3) A person who commits an offence under this paragraph is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine (or both), and
- (b) on summary conviction, to imprisonment for a term not exceeding 12 months or a fine (or both).
- (4) In relation to an offence committed before section 154(1) of the Criminal Justice Act 2003 comes into force, the reference in sub-paragraph (3)(b) to 12 months is to be read as a reference to 6 months.
- (5) In relation to an offence committed before section 85 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force, the reference in sub-paragraph (3)(b) to a fine is to be read as a reference to a fine not exceeding the statutory maximum.