



Criminal Justice Act 1948

1948 CHAPTER 58

PART III

SUPPLEMENTAL.

73 Application of ss. 1 and 2 to courts-martial.

- (1) His Majesty may by Order in Council make provision for applying sections one and two of this Act to courts-martial under the Naval Discipline Act, and the said section one to courts-martial under the Army Act and the Air Force Act, and may by Order in Council make such adaptations and modifications of the said Acts as His Majesty considers necessary or expedient in consequence of the passing of those sections.
- (2) Any Order in Council made under this section may specify the date on which any such adaptations or modifications shall come into force in any place; and the statutory provisions regarding the construction and printing of amendments to the said Acts shall apply to any such adaptations and modifications as if they were amendments made by an Act.

74 Application to supervision orders of certain, provisions relating to probation.

- (1) Subject to the provisions of this section, a supervision order (that is to say an order made under section sixty-two, section sixty-three, section sixty-four or section eighty-four of the Children and Young Persons Act, 1933, placing a child or young person under the supervision of a probation officer or of some other person appointed for the purpose by the court) may include any such requirement as to the residence of the person to whom the order relates, or as to treatment for his mental condition, as may, by virtue of subsection (4) of section three or by virtue of section four of this Act, be included in a probation order;

Provided that a supervision order containing any such provision shall not be made in the case of a young person unless he consents thereto, and any requirement as to the residence of any person included in such an order shall cease to have effect when that person attains the age of eighteen years.

Status: This is the original version (as it was originally enacted).

- (2) The court by which a supervision order is made shall forthwith give a copy of the order to the child or young person to whom the order relates, to the person under whose supervision the child or young person is placed by the order and to the person in charge of any institution in which the child or young person is required by the order to reside; and subject to the provisions of this section, subsection (7) of section three of this Act shall apply to a supervision order which requires a person to reside in any institution as it applies to a probation order containing such a requirement.
- (3) Subsections (1) to (3) of section five of this Act, and the First Schedule to this Act, shall apply in relation to the discharge, amendment and review of supervision orders as they apply in relation to the discharge, amendment and review of probation orders:

Provided that a supervision order may be amended under the said First Schedule on application made by any person.

- (4) For the purposes of their application to supervision orders under this section, the provisions of this Act specified in subsections (1) to (3) of this section shall have effect subject to the following modifications, that is to say:—
- (a) for references to a probation order there shall be substituted references to a supervision order;
 - (b) for references to the probation period there shall be substituted references to the period of supervision specified in the supervision order;
 - (c) for references to the probationer or the offender there shall be substituted references to the person in whose case the supervision order is or is to be made;
 - (d) references to the probation officer shall include references to a person not being a probation officer under whose supervision the child or young person to whom the supervision order relates is placed by virtue of the order;
 - (e) for references to the supervising court there shall be substituted references to the court by which the supervision order was made, or any other court authorised under subsection (3) of section four of the Children and Young Persons Act, 1938, to exercise the powers of that court;
 - (f) paragraph 2 of the said First Schedule shall not apply, and paragraph 5 of that Schedule shall not apply except where the amending order requires the person to whom the supervision order relates to reside in an institution or to submit to treatment for his mental condition.

75 Power to order detention in a remand centre under s. 67 of the Children and Young Persons Act, 1933.

- (1) Where the court before which a young person is brought is of opinion that an inquiry ought to be made into his physical or mental condition before it decides whether any and if so what order ought to be made under sections sixty-two to sixty-six of the Children and Young Persons Act, 1933, then, if the court has been notified by the Secretary of State that a remand centre is available for the reception from that court of persons of his class or description, and is satisfied that facilities for such an inquiry cannot conveniently be provided in a place of safety in which he could otherwise be ordered to be detained under subsection (2) of section sixty-seven of that Act, the court may order him to be detained in a remand centre; and the reference in the said subsection (2) to a place of safety shall be construed accordingly.
- (2) If a court which proposes to make an interim order under subsection (2) of the said section sixty-seven in the case of a young person is of opinion that he is of so unruly

a character that he cannot safely be detained in a remand home or of so depraved a character that he is not fit to be so detained, and the court has been notified by the Secretary of State that a remand centre is available for the reception from that court of persons of his class or description, a remand centre shall be included among the places of safety in which his' detention or continued detention may be ordered under that subsection.

- (3) Where a young person detained in a remand home in pursuance of an interim order made under subsection (2) of the said section sixty-seven proves to be of so unruly a character that he cannot safely be detained in a remand home, or of so depraved a character that he is not fit to be so detained, the court which made the order, or if application cannot conveniently be made to that court, a court of summary jurisdiction having jurisdiction in the place where the court which made the order sat, may, if it has been notified by the Secretary of State that a remand centre is available for the reception from that court of persons of his class or description, revoke the order and order him to be detained in a remand centre.

76 Rules and orders.

- (1) Any power of the Secretary of State to make rules under this Act shall be exercised by statutory instrument.
- (2) A draft of any statutory instrument containing rules made under section fifty-two of this Act shall be laid before Parliament.
- (3) Any power to make Orders in Council under this Act, and any power of the Secretary of State to make orders under this Act, shall include power to revoke or vary any such Order in Council or order by a subsequent Order in Council or order.

77 Expenses and grants payable out of moneys provided by Parliament.

- (1) Any expenses of the Secretary of State under this Act and any expenses of the Prison Commissioners thereunder, and any expenses incurred by the Secretary of State—
- (a) in the training of probation officers or of officers or servants serving in approved probation hostels or homes or in remand homes or approved schools, or of persons for appointment as probation officers, or as such officers or servants as aforesaid; or
 - (b) in the conduct of research into the causes of delinquency and the treatment of offenders, and matters connected therewith,
- shall, to such amount as may be sanctioned by the Treasury, be defrayed out of moneys provided by Parliament.
- (2) Any expenses incurred by the Minister of Health or by the Board of Control in connection with Broadmoor institutions or the management thereof, to such amount as may be sanctioned by the Treasury, and any sums by which grants payable in pursuance of regulations made under subsection (1) of section sixty-seven of the National Health Service Act, 1946, are increased by reason of any provision of this Act, shall be defrayed out of moneys provided by Parliament.
- (3) There shall be paid out of moneys provided by Parliament—
- (a) towards the expenditure of local authorities, and the expenditure out of the metropolitan police fund, under the Fifth Schedule to this Act;

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- (b) towards the expenditure of any society or person in enlarging, improving or carrying on approved probation hostels or homes or establishing, enlarging or improving premises which, when established, enlarged or improved, will be approved probation hostels or homes;
- (c) towards the expenditure of any body approved by the Secretary of State in the training of probation officers or of persons for appointment as probation officers;
- (d) towards the expenditure of any body approved by the Secretary of State in the training of officers or servants serving in any place in which offenders or persons awaiting trial may be detained or serving in approved probation hostels or homes or the training of persons for appointment as such officers or servants;
- (e) towards the expenditure of any society engaged in supervising or assisting persons released from a prison, Borstal institution or detention centre;
- (f) towards the expenditure of any body or person approved by the Secretary of State in the conduct of research into the causes of delinquency and the treatment of offenders, and matters connected therewith,

such sums as the Secretary of State may with the approval of the Treasury direct, and subject to such conditions as he may with the like approval determine:

Provided that the sums paid as aforesaid towards any such expenditure as is mentioned in paragraph (a) of this subsection shall not exceed fifty per cent. of that expenditure.

- (4) The Secretary of State may, with the consent of the Treasury, make regulations providing for the deduction from any sums which would otherwise be paid out of moneys provided by Parliament to local authorities, whether under the last foregoing subsection or under the Children and Young Persons Acts, 1933 and 1938, of such amounts as may be prescribed by the regulations in respect of expenditure incurred by the Secretary of State—
 - (a) in the training of any such officers, servants or other persons as are mentioned in subsection (1) of this section;
 - (b) in making any payments under paragraph (b) or paragraph (c) of the last foregoing subsection;
 - (c) in making payments under paragraph (d) of that subsection in respect of expenditure incurred in the training of officers or servants serving in remand homes or in approved probation hostels or homes or in approved schools, or the training of persons for appointment as such officers or servants:

Provided that the sums to be deducted in respect of any expenditure of the Secretary of State in pursuance of any such regulations as aforesaid shall not exceed fifty per cent. of that expenditure.

- (5) The conditions subject to which any sums are paid to any society or person under paragraph (b) of subsection (3) of this section may include conditions for securing the repayment in whole or in part of the sums received by the society or person if the probation hostel or home in respect of which those sums are paid ceases to be approved; and, notwithstanding anything in the constitution of the hostel or home or of the managers thereof, or in the trusts, if any, to which the property of the hostel or home or of the managers is subject, the managers and any persons who are trustees of any of the said property may accept those sums on those conditions, and execute any instrument required for carrying into effect those conditions, and shall be bound by those conditions and by any instrument so executed and have power to fulfil the conditions and the obligations created by the instrument.

- (6) There shall be paid out of moneys provided by Parliament any sums by which any grants under section one hundred and four of the Children and Young Persons Act, 1933, towards the expenses of councils of counties and county boroughs are increased by reason of any provisions of this Act.
- (7) All sums received by the Secretary of State under this Act (including any sums so received under arrangements made with respect to the cost of removing and maintaining persons removed from the Isle of Man or the Channel Islands to institutions in England under section sixty-one of this Act) shall be paid into the Exchequer.

78 Transitory provisions.

Without prejudice to the provisions of the Interpretation Act, 1889, with respect to repeals, the transitory provisions set out in the Eighth Schedule to this Act shall have effect for the purposes of the transition to the provisions of this Act from the law in force before the commencement of this Act.

79 Consequential and minor amendments.

The enactments mentioned in the first column of the Ninth Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule (being amendments consequential upon the foregoing provisions of this Act or relating to matters of minor detail).

80 Interpretation.

- (1) In this Act, unless the context otherwise requires, the following expressions have the meaning hereby respectively assigned to them, that is to say:—
- " Approved probation hostel " and " Approved probation home " have the meaning assigned to them by section forty-six of this Act;
 - " Approved school " means a school approved under section seventy-nine of the Children and Young Persons Act, 1933;
 - " Court " does not include a court-martial;
 - " Court of summary jurisdiction " includes examining justices within the meaning of the Criminal Justice Act, 1925;
 - " Detention centre " has the meaning assigned to it by section forty-eight of this Act;
 - " Enactment " includes an enactment contained in a local Act and any order, regulation or other instrument having effect by virtue of an Act;
 - " England " includes Wales;
 - " Impose imprisonment " means pass a sentence of imprisonment or commit to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone;
 - " Local authority " means, in relation to any probation area, any authority out of whose funds the salary of the clerk to the justices for a petty sessional division or place contained in the probation area is paid ;
 - " Mental hospital " includes a Broadmoor institution;

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" Metropolitan police court area " means the area consisting of the police court divisions for the time being constituted under the Metropolitan Police Courts Acts, 1839 and 1840;

" Offence the sentence for which is fixed by law " means an offence for which the court is required to sentence the offender to death or imprisonment for life or to detention during His Majesty's pleasure;

" Order for conditional discharge " has the meaning assigned to it by section seven of this Act;

" Period of conditional discharge " has the meaning assigned to it by section seven of this Act;

" Probationer " means a person for the time being under supervision by virtue of a probation order;

" Probation order " has the meaning assigned to it by section three of this Act;

" Probation period " means the period for which a probationer is placed under supervision by a probation order;

" Remand centre " has the meaning assigned to it by section forty-eight of this Act;

" Remand home " means premises established or used by the council of a county or county borough under the provisions of section seventy-seven of the Children and Young Persons Act, 1933;

" Sentence " includes an order for detention in a detention centre, an order for custody in a remand home under section fifty-four of the Children and Young Persons Act, 1933, and an order sending an offender to an approved school, but does not include a committal in default of payment of any sum of money or failing to do or abstain from doing anything required to be done or left undone;

" Sum adjudged to be paid by a conviction " includes any costs, damages or compensation adjudged to be paid by the conviction of which the amount is ascertained by the conviction;

" Supervising court " means, in relation to a probation order, a court of summary jurisdiction acting for the petty sessional division or place for the time being named in the order; and where the probationer was a child or young person within the meaning of the Children and Young Persons Act, 1933, when the probation order was made, means a juvenile court for that division or place;

" Supervision order " has the meaning ascribed to it by section seventy-four of this Act.

- (2) Any reference in this Act to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; any such reference to a previous sentence of Borstal training shall be construed as including a reference to a previous sentence of detention in a Borstal institution; and any such reference to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of Great Britain and to a previous sentence passed by any such court.
- (3) Where the age of any person at any time is material for the purposes of any provision of this Act, or of any Order in Council made thereunder, regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which

appears to the court after considering any available evidence to be or to have been his age at that time.

- (4) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under this Act upon the imprisonment of offenders of his age, but shall not be construed as including an offence for which the court is required to impose a sentence of imprisonment for life.
- (5) For the purposes of this Act, except subsection (6) of section three thereof, where a probation order or an order for conditional discharge has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought.
- (6) Where any provision of this Act empowers a court on conviction of an offender to pass a sentence or make an order in lieu of dealing with him in any other manner, the said provision shall not be construed as taking away any power of the court to order the offender to pay costs, damages or compensation.
- (7) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment including this Act.

81 Application to Scotland.

The following provisions of this Act shall extend to Scotland that is to say—

- section two;
- subsection (3) of section eight;
- sections nine and ten;
- subsection (5) of section eleven;
- section twelve;
- section thirty;
- subsection (2) of section sixty;
- section sixty-one (except subsections (2) and (4) of that section);
- section sixty-three;
- subsection (1) of section sixty-five, so far as relates to any person unlawfully at large who is in Scotland;
- section sixty-six;
- section seventy-one ;
- section seventy-three;
- Part II of the Seventh Schedule, and all other provisions which, by the said Part II, are extended to Scotland; and
- Parts II and III of the Tenth Schedule, and subsection (3) of section eighty-three so far as it relates to the enactments specified in the said Parts II and III ;

but except as far as aforesaid this Act shall not extend to Scotland.

82 Application to Northern Ireland.

The following provisions of this Act shall extend to Northern Ireland, that is to say—

- section thirty;
- section seventy-three;

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Part III of the Tenth Schedule, and subsection (3) of section eighty-three so far as it relates to the enactments specified in the said Part III;
but except as aforesaid this Act shall not extend to Northern Ireland.

83 Short title, commencement and repeals.

- (1) This Act may be cited as the Criminal Justice Act, 1948.
- (2) This Act shall come into operation on such day as His Majesty may by Order in Council appoint:

Provided that different days may be appointed for the purposes of different provisions of this Act, and any reference" in any provision of this Act to the commencement of this Act shall, unless otherwise provided by any such Order, be construed as a reference to the commencement of that provision.

- (3) The enactments specified in Parts I to III of the Tenth Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule but without prejudice to the provisions of subsection (5) of section sixty-one, and of section seventy-eight of this Act; and Regulations 13, 15A and 17A of the Defence (Administration of Justice) Regulations, 1940, shall cease to have effect.