



Criminal Justice (Scotland) Act 1949

1949 CHAPTER 94

PART I

POWERS AND PROCEEDINGS OF COURTS

Powers relating to persistent offenders

21 Corrective training and preventive detention

- (1) Where a person who is not less than twenty-one years of age—
- (a) is convicted on indictment of an offence punishable with imprisonment for a term of two years or more; and
 - (b) has been convicted on at least two previous occasions since he attained the age of seventeen of offences punishable on indictment with such a sentence,
- then, if the court is satisfied that it is expedient with a view to his reformation and the prevention of crime that he should receive training of a corrective character for a substantial time, followed by a period of supervision if released in accordance with the provisions of the Fifth Schedule to this Act before the expiry of his sentence, the court may pass, in lieu of any other sentence, a sentence of corrective training for such term of not less than two nor more than four years as the court may determine.
- (2) Where a person who is not less than thirty years of age—
- (a) is convicted in the High Court of Justiciary of an offence punishable with imprisonment for a term of two years or more; and
 - (b) has been convicted on indictment on at least three previous occasions since he attained the age of seventeen of offences punishable with such a sentence and was on at least two of those occasions sentenced to Borstal training, imprisonment or corrective training;
- then, if the Court is satisfied that it is expedient for the protection of the public that he should be detained in custody for a substantial time, followed by a period of supervision if released in accordance with the provisions of the Fifth Schedule to this Act before the expiry of his sentence, the Court may pass, in lieu of any other sentence,

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a sentence of preventive detention for such term of not less than five nor more than fourteen years as the Court may determine.

- (3) For the purposes of subsections (1) and (2) of this section, a certificate purporting to be signed by or on behalf of the Director of Public Prosecutions that an offence is punishable on indictment in England with imprisonment for a term of two years or more shall be sufficient evidence of the matter so certified.
- (4) A person sentenced to corrective training or preventive detention shall be detained in a prison for the term of his sentence subject to his release in accordance with rules made under subsection (6) of section fifty-three of this Act or the provisions of the Fifth Schedule to this Act, and while so detained shall be treated in such manner as may be prescribed by rules made under that section.
- (5) Before sentencing any offender to corrective training or preventive detention, the court shall call for and consider a report on the offender's physical and mental condition and his suitability for such a sentence, which report it shall be the duty of the Secretary of State to cause to be furnished to the court.
- (6) If on consideration of a report furnished in pursuance of the last foregoing subsection the court, either *ex proprio motu* or on the application of either party, thinks it expedient to do so, it may require any person concerned, in the preparation of the report or with knowledge of matters dealt with in the report to appear with a view to his examination on oath regarding any of the matters dealt with in the report, and such person may be examined or cross-examined accordingly.
- (7) A copy of any report furnished under subsection (5) of this section shall be given by the clerk of the court to the offender or his solicitor at least two clear days before the diet at which the sentence is to be passed.
- (8) For the purposes of paragraph (b) of subsection (2) of this section a person sentenced to Borstal training on summary conviction of an offence shall be deemed to have been convicted of that offence on indictment.

22 Power to order certain discharged prisoners to notify address

- (1) Where a person is convicted on indictment of an offence punishable with imprisonment for a term of two years or more and that person—
 - (a) has been convicted on at least two previous occasions of offences for which he was sentenced to Borstal training or imprisonment; or
 - (b) has been previously convicted of an offence for which he was sentenced to corrective training,

the court, if it sentences him to a term of imprisonment of twelve months or more, shall, unless having regard to the circumstances, including the character of the offender, it otherwise determines, order that he shall for a period of twelve months from his next discharge from prison be subject to the provisions of this section.
- (2) Where any such order as aforesaid has been made—
 - (a) the offender shall, on his next discharge from prison and thereafter from time to time, inform the appointed society of his address in accordance with such instructions as may be given to him by or on behalf of the society;
 - (b) if the offender fails to comply to the satisfaction of the appointed society with the aforesaid requirement to notify his address on his discharge, the society shall, and if he subsequently fails to keep the society informed of his address

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to their satisfaction, the society may, give notice of the failure to the Secretary of State, and shall if reasonably possible inform the offender that the notice has been given;

and as from the date on which any such notice has been given as aforesaid, the provisions of the Sixth Schedule to this Act shall apply to the offender.

- (3) It shall be the duty of the governor of a prison on the discharge from prison of an offender against whom an order has been made under this section to serve upon him a notice stating the effect of the order.
- (4) The Secretary of State may by a direction in writing relieve an offender against whom an order has been made under this section of any requirement of this section or of the Sixth Schedule to this Act; and any such direction may be made conditional upon the observance of such requirements as may be specified therein; and the Secretary of State may, if he is satisfied that any requirement so imposed has been contravened, cancel the direction.
- (5) In this section the expression " the appointed society " means a society appointed for the purposes of this section by the Secretary of State who may appoint a society either to act in all cases or to act in such cases or classes of cases as he may direct.