



Criminal Justice (Scotland) Act 1980

1980 CHAPTER 62

PART III

PENALTIES

45 Detention of young offenders.

(1) For section 207 of the 1975 Act there shall be substituted the following provision—

“207 Detention of young offenders

- (1) It shall not be competent to impose imprisonment on a person under 21 years of age.
- (2) Subject to section 205(2) and (3) of this Act and to subsections (3) and (4) below a court may impose detention (whether by way of sentence or otherwise) on a person, who is not less than 16 but under 21 years of age, where but for subsection (1) above the court would have power to impose a period of imprisonment ; and the period of detention imposed under this section on any person shall not exceed the maximum period of imprisonment which might otherwise have been imposed.
- (3) The court shall not under subsection (2) above impose detention on a person unless it is of the opinion that no other method of dealing with him is appropriate ; and the court shall state its reasons for that opinion, and, except in the case of the High Court, those reasons shall be entered in the record of proceedings.
- (4) To enable the court to form an opinion under subsection (3) above, it shall obtain (from an officer of a local authority or otherwise) such information as it can about the offender’s circumstances ; and it shall also take into account any information before it concerning the offender’s character and physical and mental condition.
- (5) Subject to subsections (6) and (8) below—

Status: Point in time view as at 01/02/1991. This version of this provision has been superseded.

Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1980, Section 45. (See end of Document for details)

- (a) in a case where a court by way of sentence imposes detention, under subsection (2) above, on a male person for a period of at least 28 days but not exceeding 4 months the court shall order that the detention be in a detention centre ; and
- (b) in any other case it shall order that the detention be in a young offenders institution.

(6) Where detention in a detention centre would be required by subsection (5) above but the court is of the opinion that—

- (a) the convicted person is physically or mentally unfit to be detained in a detention centre ; or
- (b) for any special reason, which the court shall state and which shall, except in the case of the High Court, be entered in the record of the proceedings. a young offenders institution is a more appropriate place of detention,

it may under this subsection order that the detention be in a young offenders institution.

(7) Where detention imposed under subsection (5) above is (either or both)—

- (a) for a period of less than 28 days ;
- (b) imposed other than by way of sentence,

but the convicted Person is already detained in a detention centre, the detention under the said subsection (5) shall, notwithstanding the terms of the order made under that subsection by the court, be in a detention centre.

(8) Periods of detention imposed at the same time and ordered to be consecutive shall, for the purposes of this section. be treated as a single period of detention.

(9) Where a person is serving a period of detention in a detention centre when a period of detention is ordered which is—

- (a) consecutive to the period being served and the periods together total more than 5 months; or
- (b) concurrent with the period being served and is for more than 5 months,

the convicted person shall, notwithstanding the terms of any order made under subsection (5) above, be transferred to a young offenders institution to serve the remainder of that total period or as the case may be of those concurrent periods.

(10) Where the Secretary of State is satisfied that a person is physically or mentally unfit to be detained in a detention centre, he may transfer such person to a young offenders institution.

(11) Section 20 of the Prisons (Scotland) Act 1952 (remission for good conduct) and sections 59 to 62 and 64 of the Criminal Justice Act 1967 (release on licence) shall apply to a person sentenced under this section as those enactments apply to a person sentenced to a period of imprisonment.”;

and the same provision shall (with the appropriate section number) be substituted for section 415 of the 1975 Act, except that in subsection (2) of the provision the words “section 205(2) and (3) of this Act and to” shall be omitted.

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Changes to legislation: There are currently no known outstanding effects for the Criminal Justice (Scotland) Act 1980, Section 45. (See end of Document for details)

- (3) In the 1975 Act, sections 204 and 414 (Borstal training) and sections 209 and 418 (detention in detention centre) shall cease to have effect.
- (4) Without prejudice to any specific amendment made by this Act, in Scotland a reference in any enactment to which this subsection applies—
- (a) to a Borstal institution, shall be construed as a reference to a young offenders institution; and
 - (b) to a period of training in a Borstal institution, shall be construed as a reference to a period of detention in a young offenders institution.
- (5) The enactments to which subsection (4) above applies are—
- (a) any Act passed before, or during the same session as, this Act; and
 - (b) any subordinate legislation made before the commencement of this Act;
- and in this subsection

“Act” and “subordinate legislation” have the same meanings as in the ^{M1} Interpretation Act 1978.

Textual Amendments

F1 Ss. 44, 45(2) repealed by Prisons (Scotland) Act 1989 (c. 45, SIF 39:1), s. 45(2), Sch. 3

Modifications etc. (not altering text)

- C1** The text of ss. 6, 11, 13–22, 24, 25, 27–30, 33–38, 40, 43, 45(1), (3), 46(1)(e)(f), (2), 47–51, 53, 54, 56, 57, 79, 83(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C2** The text of ss. 6, 11, 13–22, 24, 25, 27–30, 33–38, 40, 43, 45(1), (3), 46(1)(e)(f), (2), 47–51, 53, 54, 56, 57, 79, 83(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
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Marginal Citations

M1 1978 c. 13.

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