



Criminal Justice Act 1961

1961 CHAPTER 39

PART III

TRANSFER, SUPERVISION AND RECALL OF PRISONERS WITHIN THE BRITISH ISLANDS

26 Transfer to serve sentence

- (1) The responsible Minister may, on the application of a person serving a sentence of imprisonment or detention in any part of the United Kingdom, make an order for his transfer to another part of the United Kingdom, there to serve the remainder of his sentence, and for his removal to an appropriate institution in that part of the United Kingdom.
- (2) Where a person has been sentenced to imprisonment or detention in any of the Channel Islands or the Isle of Man, the Secretary of State may, without application in that behalf, make an order for his transfer to any part of the United Kingdom, there to serve his sentence or the remainder of his sentence, as the case may be, and for his removal to an appropriate institution in that part of the United Kingdom.
- (3) Where a girl or woman has been sentenced to borstal training in Northern Ireland, the Minister of Home Affairs for Northern Ireland may, without application in that behalf, make an order for her transfer to another part of the United Kingdom, there to serve her sentence or the remainder of her sentence, as the case may be, and for her removal to a borstal institution in that part of the United Kingdom.
- (4) Subject to the following provisions of this section, a person transferred under this section to any part of the United Kingdom there to serve his sentence or the remainder of his sentence shall be treated for purposes of detention, release, recall and otherwise as if that sentence (and any other sentence to which he may be subject) had been passed by a court in that part of the United Kingdom and, where it is not a sentence which could be so passed, as if it could be so passed.
- (5) Where a person sentenced to borstal training is transferred under this section to any part of the United Kingdom, the provisions applicable to him shall be those applicable to a person sentenced to borstal training by a court in that part of the United Kingdom:

Provided that—

- (a) where a person so sentenced after the commencement of section eleven of this Act is transferred from England and Wales, the maximum and minimum periods for which he may be detained in a borstal institution shall be those prescribed by subsection (2) of section forty-five of the Prison Act, 1952, as amended by the said section eleven, and not those applicable to the corresponding sentence in Scotland or Northern Ireland ;
 - (b) where a person so sentenced at any time in Scotland or Northern Ireland is transferred to England and Wales, the period after his release during which, under subsections (3) and (4) of the said section forty-five, he remains under supervision and is liable to be recalled shall end not later than the date on which he would have ceased to be under supervision under the law of the place where he was sentenced, if he had been released there.
- (6) Where a person sentenced to imprisonment or detention, not being a person sentenced to borstal training, is released and, by reason of his having been transferred under this section, his release occurs otherwise than in his place of sentence (that is to say, the part of the United Kingdom or island in which his sentence was passed)—
- (a) he shall not on his release be subject to supervision under the law of the part of the United Kingdom in which he is at the time of his release unless he would have been subject to supervision if he had been released at that time in his place of sentence without having been transferred from that place ; and
 - (b) if in accordance with the foregoing provisions of this section he is on his release subject to supervision under the law of the part of the United Kingdom in which he is at the time of his release, the period after his release for which he is so subject shall not extend beyond the expiration of the maximum period after his release for which he could have continued to be subject to supervision under the law of his place of sentence if he had been released in that place at the said time:

Provided that this subsection shall not apply in the case of a person sentenced in any of the Channel Islands or the Isle of Man to corrective training or preventive detention.

- (7) In subsection (6) of this section references to supervision include references to any obligation to comply with requirements or conditions imposed by a licence or otherwise imposed by law on or in connection with release from a prison or other institution, and any liability to be recalled or returned thereto ; and for the purposes of that subsection it shall be assumed that a person who, if released in his place of sentence, could have been placed under supervision, would have been so placed.

27 Temporary transfer

- (1) The responsible Minister may, on the application of a person serving a sentence of imprisonment or detention in any part of the United Kingdom, make an order for his temporary transfer to another part of the United Kingdom or to any of the Channel Islands or the Isle of Man and for his removal to an appropriate institution there.
- (2) The Secretary of State may, on the application of a person serving a sentence of imprisonment or detention in any of the Channel Islands or the Isle of Man, make an order for his temporary transfer to any part of the United Kingdom or another of those islands and for his removal to an appropriate institution there.

- (3) A person removed in pursuance of any such order from one country or island to another shall while in the country or island to which he is so removed be kept in custody except so far as the Minister by whom the order was made may in any particular case or class of case otherwise direct.
- (4) A person removed in pursuance of any such order from one country or island to another may without further order be returned to the country or island from which he was removed.

28 Transferrer trial

- (1) If it appears to the responsible Minister that a person serving a sentence of imprisonment or detention in any part of the United Kingdom should be transferred to another part of the United Kingdom for the purpose of attending criminal proceedings against him there, that Minister may make an order for his transfer to that other part, and for his removal to a prison or other institution there.
- (2) During the period for which a person transferred under subsection d) of (this section remains in the part of the United Kingdom to which he is transferred, the provisions of section twenty-six of this Act relating to the treatment of persons transferred under that section shall apply to him as if he had been transferred to that part under that section.
- (3) Where a person has been transferred under subsection (1) of this section for the purpose of any proceedings, the responsible Minister may—
 - (a) if that person is sentenced to imprisonment or detention in those proceedings, make an order under section twenty-six of this Act (but without application in that behalf) transferring him back to the country from which he was transferred under subsection (1) of this section;
 - (b) if he is not so sentenced, make an order for his return to the said country, and for his removal to an appropriate institution in that country, there to serve the remainder of the sentence referred to in subsection (1) of this section.

29 Removal for other judicial purposes

- (1) If the responsible Minister is satisfied, in the case of a person detained in any part of the United Kingdom in a prison, borstal institution, remand centre, detention centre or remand home, that the attendance of that person at any place in that or any other part of the United Kingdom is desirable in the interests of justice or for the purposes of any public inquiry, the responsible Minister may direct that person to be taken to that place.
- (2) Where any person is directed under this section to be taken to any place he shall, unless the responsible Minister 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.

30 Prisoners unlawfully at large

- (1) The following enactments (relating to the arrest and return of prisoners and other persons unlawfully at large) that is to say—
 - (a) subsection (1) of section forty-nine of the Prison Act, 1952;
 - (b) subsection (1) of section thirty-seven of the Prisons (Scotland) Act, 1952 ; and

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

(c) subsection (1) of section thirty-eight of the Prison Act (Northern Ireland) 1953,

shall extend throughout the United Kingdom, the Channel Islands and the Isle of Man ; and any reference in those enactments to a constable shall include a reference to a person being a constable under the law of any part of the United Kingdom or of the Isle of Man, to a member of the police in Jersey, and to an officer of police within the meaning of section fortythree of the Larceny (Guernsey) Law, 1958, or any corresponding law for the time being in force.

- (2) The enactments mentioned in subsection (1) of this section shall also apply to persons who, being unlawfully at large under any law of the Channel Islands or of the Isle of Man, are for the time being within the United Kingdom as they apply respectively to persons unlawfully at large under the law of England, Scotland and Northern Ireland; and any person arrested in the United Kingdom under the said enactments as applied by this subsection may be taken to the place in the Channel Islands or the Isle of Man in which he is required in accordance with the law in force therein to be detained.
- (3) Where a person who, having been sentenced to imprisonment or detention, is unlawfully at large during any period during which he is liable to be detained in a prison, borstal institution or detention centre in any part of the United Kingdom is sentenced to imprisonment or detention by a court in another part of the United Kingdom, the provisions of section twenty-six of this Act relating to the treatment of persons transferred under that section shall apply to him, while he remains in that other part of the United Kingdom, as if he had been transferred there under that section immediately before he was so sentenced, and the responsible Minister may, if he thinks fit, make an order under that section (but without application in that behalf) transferring him back to the part of the United Kingdom from which he was unlawfully at large.
- (4) In paragraph (a) of the proviso to subsection (2) of section forty-nine of the Prison Act, 1952 (which in effect enables a person who is unlawfully at large during the currency of his original sentence to count towards that sentence any period during which he is detained in pursuance of a sentence of any court) and in the proviso to subsection (2) of section thirty-seven of the Prisons (Scotland) Act, 1952, and in subsection (3) of section thirty-eight of the Prison Act (Northern Ireland), 1953 (which contain corresponding provisions for Scotland and Northern Ireland) references to a court shall include references to any court in the United Kingdom.

31 Subsequent sentence in case of persons transferred or removed under Part III

- (1) The power of a court in any part of the United Kingdom to order that the term of any sentence of imprisonment or detention passed by the court shall commence at or before the expiration of another term of imprisonment or detention shall include power to make such an order where that other term was imposed by sentence of a court elsewhere in the United Kingdom or in any of the Channel Islands or the Isle of Man if the offender—
- (a) is serving that other sentence in that part of the United Kingdom; or
 - (b) is for the time being present in that part of the United Kingdom,
- by virtue of an order under this Part of this Act, or is unlawfully at large under the law of the country in which that other sentence was passed.
- (2) The provisions of this section shall be without prejudice to the powers exercisable by any court apart from those provisions.

32 Supervision and recall

- (1) The enactments mentioned in the next following subsection, so far as they make provision—
 - (a) for the supervision of persons released from a prison or other institution in any part of the United Kingdom ;
 - (b) for the imposition upon persons so released of requirements or conditions to be complied with by them ; or
 - (c) for the recall or return of persons so released to such a prison or institution,shall apply to a person so released who is for the time being in any other part of the United Kingdom or in the Channel Islands or the Isle of Man ; and for that purpose those enactments shall extend throughout the United Kingdom, the Channel Islands and the Isle of Man.
- (2) The following are the enactments extended by this section, that is to say:—
 - (a) sections twenty-five, twenty-six, twenty-seven and forty five of the Prison Act, 1952;
 - (b) sections nineteen, twenty, twenty-one, twenty-three and thirty-three of the Prisons (Scotland) Act, 1952;
 - (c) sections twenty, twenty-one, twenty-two and twenty-three of the Prison Act (Northern Ireland), 1953, and the First, Second and Third Schedules to that Act; and
 - (d) sections thirteen and twenty of this Act and the First and Third Schedules to this Act.
- (3) Part II of the Third Schedule to this Act shall have effect for the purposes of that Schedule as extended by this section.

33 Orders under Part III

Any order of a Secretary of State under this Part of this Act shall be given under the hand of the Secretary of State or of an Under-Secretary or Assistant Under-Secretary of State.