



Imprisonment (Temporary Provisions) Act 1980

CHAPTER 57

ARRANGEMENT OF SECTIONS

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ELIZABETH II



Imprisonment (Temporary Provisions)

Act 1980

1980 CHAPTER 57

An Act to make provision with respect to the detention of persons who may lawfully be detained in penal institutions in England and Wales and the release from custody of such persons; to make provision for reducing the numbers committed to such institutions; to modify the law relating to remands; and for connected purposes. [29th October 1980]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I

TEMPORARY PROVISIONS

1.—(1) This section applies to any person whose detention in a prison, remand centre, Borstal institution or detention centre is for the time being authorised by law. Detention of prisoners in places approved by Secretary of State.

(2) A person to whom this section applies may be lawfully detained in any place in England or Wales for the time being approved for the purposes of this section by the Secretary of State; and in this section “approved place” means a place for the time being so approved.

(3) In relation to a person to whom this section applies, whether detained in an approved place or not, the Secretary of State shall have all such powers as he would have if every approved place were a prison.

PART I

(4) Subject to subsection (5), the enactments relating to prisons and to persons required to be detained therein shall apply to any approved place and to persons required to be detained therein by virtue of subsection (2) as if that place were a prison.

(5) In the case of any particular approved place the said enactments shall apply in accordance with subsection (4) only so far as is practicable in the circumstances; and the Secretary of State may by order direct that any rules in force under section 47 of the Prison Act 1952 shall, in their application to approved places generally, or to any approved place specified in the order, have effect with such modifications as may be so specified.

1952 c. 52.

(6) Any person—

(a) appointed by the Secretary of State as an officer responsible for the custody of persons detained in an approved place; or

(b) authorised by the Secretary of State (whether individually or as a member of a class) to assist any person so appointed,

shall, while acting as such, have all the powers, authority, protection and privileges of a constable.

(7) In this section “enactment” includes an enactment contained in this Act or in subordinate legislation.

Remand.

2.—(1) Where a person has been remanded in custody by a magistrates’ court otherwise than under section 105(5) of the Magistrates’ Courts Act 1952 (remand in the custody of a constable)—

1952 c. 55.

(a) he shall not be brought before a magistrates’ court at the end of the period of remand unless the remanding court has given a direction requiring him to be brought before such a court at the end of that period; and

(b) at the end of that period the magistrates’ court before which he would otherwise have been brought may further remand him (on bail or in custody) in his absence.

(2) Subsection (1) shall have effect notwithstanding any other enactment or any rule of law, but shall not affect any power of a magistrates’ court to require a person remanded in custody to be brought before it at any time before the end of the period of remand.

Release of persons committed or remanded in custody.

3.—(1) In the case of any person committed in custody for trial, or committed in custody to be sentenced or otherwise dealt with by the Crown Court, or remanded in custody by any court, the Secretary of State may direct that he shall be released; but

the Secretary of State shall not give a direction under this subsection unless he is satisfied that it is necessary to do so in order to make the best use of the places available for detention.

(2) A person released under this section may be required by the Secretary of State to comply with such requirements as the Secretary of State thinks fit.

(3) A person released under this section shall be under a duty to surrender himself into the custody of such court, and to do so at such time and place, as may be specified in a notice in writing given to him on behalf of the Secretary of State at or after the time of his release; and that duty shall be enforceable in accordance with section 6 of the Bail Act 1976 as if his release under this section were release on bail in criminal proceedings. 1976 c. 63.

(4) For the purposes of the application of the said section 6 in the case of a person released under this section—

(a) “surrender to custody” shall mean surrendering himself into custody in accordance with subsection (3) of this section; and

(b) subsections (4), (8) and (9) of that section shall not apply; and in any proceedings against such a person for an offence under subsection (1) or (2) of that section a document purporting to be a copy of a notice given to him under subsection (3) of this section and to be certified on behalf of the Secretary of State to be a true copy thereof shall be evidence of the time and place specified for that person to surrender to custody.

(5) Where a person has been released under this section, the Secretary of State may cause him to be given a notice in writing requiring him (notwithstanding any notice given to him under subsection (3)) to surrender himself into custody at a time and place specified in the notice under this subsection; and if a notice is given to him under this subsection, any notice previously given to him under subsection (3) shall cease to have effect.

(6) A person who has been released under this section may be arrested without warrant by a constable—

(a) if the constable has reasonable grounds for believing that that person is not likely to surrender himself into custody in accordance with subsection (3); or

(b) if the constable has reasonable grounds for believing that that person is likely to fail to comply with any requirement imposed on him under subsection (2) or has reasonable grounds for suspecting that that person has failed to comply with any such requirement; or

(c) if that person has failed to surrender himself into custody in accordance with a notice given to him under subsection (5).

PART

(7) A person arrested in pursuance of subsection (6) shall be detained in the custody of a constable or in a prison until he is delivered in due course of law.

Restriction on committal for non-payment of money, etc.

4.—(1) Where a magistrates' court has been notified by the Secretary of State that this section applies to it, it shall not commit any person to prison—

(a) for failure to pay any sum of money; or

(b) for want of sufficient distress to satisfy any sum of money.

(2) A notification under this section may be revoked by a subsequent notification thereunder.

Early release of prisoners.

5.—(1) The Secretary of State may direct that persons of any class specified in the direction who are serving a sentence of imprisonment, other than imprisonment for life, shall be released from prison at such time earlier (but not more than six months earlier) than they would otherwise be so released as may be fixed by the direction; but the Secretary of State shall not give a direction under this section unless he is satisfied that it is necessary to do so in order to make the best use of the places available for detention.

(2) A direction under this section—

(a) may define a class of persons in any way;

(b) may relate to one or more specified prisons, or to prisons of a specified class (however defined), or to prisons generally; and

(c) may make the time at which a person of any specified class is to be released depend on any circumstances whatever.

(3) Where a person who is to be released from prison in pursuance of a direction under this section is—

(a) a person serving a sentence of imprisonment in respect of whom an extended sentence certificate (within the meaning of the Powers of Criminal Courts Act 1973) was issued when the sentence was passed; or

(b) a person serving a sentence of imprisonment for a term of eighteen months or more who was under the age of twenty-one when the sentence was passed,

he shall be so released on licence under section 60 of the Criminal Justice Act 1967, irrespective of whether at the time of his release he could have been released on licence under that section by virtue of subsection (3) thereof.

1973 c. 62.

1967 c. 80.

(4) Where a person not within subsection (3)(a) or (b) is released from prison in pursuance of a direction under this section, his sentence shall expire on his release.

PART I

(5) Subsections (1) and (2) shall apply in relation to detention centres and persons detained in them as they apply in relation to prisons and persons serving such sentences of imprisonment as are mentioned in subsection (1).

PART II

OTHER PROVISIONS

6.—(1) This section applies to any person in the custody of a constable whose duty it is to take him to a prison, remand centre, Borstal institution or detention centre in which his detention is authorised by law, and shall be deemed always to have applied to persons in the custody of a constable in those circumstances.

Detention in the custody of a constable.

(2) It is hereby declared that where it is for any reason not practicable to secure the admission of a person to whom this section applies to the prison, remand centre, Borstal institution or detention centre in which his detention is so authorised, he may lawfully be detained in the custody of a constable until such time as he can be admitted there or is required to appear before a court.

7. There shall be paid out of money provided by Parliament—

Financial provisions.

- (a) any expenses incurred by the Secretary of State in consequence of this Act; and
- (b) any increase attributable to the provisions of this Act in the sums payable out of money provided by Parliament under any other Act.

8.—(1) The provisions of Part I of this Act shall remain in force until the expiry of the period of one month beginning with the date on which this Act is passed and shall then expire unless continued in force by an order under subsection (2)(a).

Duration, expiry and revival of Part I, etc.

(2) The Secretary of State may by order provide—

- (a) that all or any of the provisions of Part I which are for the time being in force (including any in force by virtue of an order under this paragraph or paragraph (b)) shall continue in force for a period not exceeding one month from the coming into operation of the order; or
- (b) that all or any of the said provisions which are not for the time being in force shall come into force again and remain in force for a period not exceeding one month from the coming into operation of the order.

PART II

(3) Any power to make an order conferred by subsection (2) shall be exercisable by statutory instrument.

(4) No order under subsection (2) shall be made unless—

- (a) a draft of the order has been laid before Parliament and approved by resolution of each House of Parliament; or
- (b) it is declared in the order that it appears to the Secretary of State that by reason of urgency it is necessary to make the order without a draft having been so approved.

(5) Every order under subsection (2) (except such an order of which a draft has been so approved)—

- (a) shall be laid before Parliament; and
- (b) shall cease to have effect at the expiry of a period of 7 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by resolution of each House of Parliament, but without prejudice to anything previously done or to the making of a new order.

In reckoning for the purposes of this subsection any period of 7 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(6) Subject to subsection (7), Part I of this Act and the preceding provisions of this section shall by virtue of this subsection be repealed as from the end of the period of twelve months beginning with the date on which this Act is passed.

(7) The Secretary of State may by order made by statutory instrument postpone or further postpone the time as from which the repeal provided for in subsection (6) is to have effect; but any particular order under this subsection shall not postpone or further postpone that time beyond the end of the period of twelve months beginning with the coming into operation of that order.

(8) Every order under subsection (7)—

- (a) shall be laid before Parliament; and
- (b) shall cease to have effect at the expiry of a period of 40 days beginning with the date on which it was made unless, before the expiry of that period, the order has been approved by resolution of each House of Parliament, but without prejudice to anything previously done or to the making of a new order.

In reckoning for the purposes of this subsection any period of 40 days, no account shall be taken of any period during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

(9) The expiry or repeal at any time of section 3 shall not affect the operation of that section in the case of a person released thereunder while it was in force; and subsections (3) to (7) of that section shall continue to apply in relation to any such person accordingly.

PART II

9.—(1) This Act may be cited as the Imprisonment (Temporary Provisions) Act 1980. Citation and extent.

(2) This Act extends to England and Wales only.

PRINTED IN ENGLAND BY BERNARD M. THIMONT
Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament

c. 57 *Imprisonment (Temporary Provisions) Act 1980*

LONDON: PUBLISHED BY HER MAJESTY'S STATIONERY OFFICE

£1.40 net

(51437)

ISBN 0 10 545780 9