



Criminal Justice Act 1991

1991 CHAPTER 53

PART IV

PROVISION OF SERVICES

Probation services

73 Inspectors of probation

- (1) The Secretary of State may appoint such number of inspectors of probation (to be known collectively as “Her Majesty’s Inspectorate of Probation”) as he may with the approval of the Treasury determine.
- (2) The Secretary of State shall appoint one of the persons so appointed to be Her Majesty’s Chief Inspector of Probation.
- (3) It shall be the duty of inspectors of probation—
 - (a) to inspect and report to the Secretary of State on the probation service for each probation area, and the activities carried out by or on behalf of that service; and
 - (b) to discharge such other functions in connection with the provision of probation or related services (whether or not provided by or on behalf of the probation service for any area) as the Secretary of State may from time to time direct.
- (4) The Secretary of State shall make to or in respect of inspectors of probation such payments by way of remuneration, allowances or otherwise as he may with the approval of the Treasury determine.

74 Default power where probation committee fails to discharge statutory duty

- (1) The Secretary of State may make an order under this section if he is of the opinion that, without reasonable excuse, a probation committee—
 - (a) is failing properly to discharge any duty imposed on it by or under any enactment; or
 - (b) has so failed and is likely to do so again.

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- (2) An order under this section shall—
 - (a) state that the Secretary of State is of the said opinion; and
 - (b) make such provision as he considers requisite for the purpose of securing that the duty is properly discharged by the committee.
- (3) Where an order is made under this section, it shall be the duty of the committee to comply with the provision made by the order.

75 The inner London probation area

- (1) Schedule 3 to the 1973 Act (the probation service and its functions) shall be amended as follows.
- (2) In paragraph 1 (probation areas), for sub-paragraphs (3) and (4) there shall be substituted the following sub-paragraph—
 - “(3) The Secretary of State—
 - (a) shall make provision by an order under sub-paragraph (1) above for combining in one probation area (in this Schedule referred to as “the inner London probation area”) all of the petty sessions divisions of the inner London area; and
 - (b) may make provision by such an order for including in that probation area one or more other petty sessions areas.”
- (3) In paragraphs 2(3), 4, 5, 6(3), 13(3) and 18(3), for the words “inner London area”, in each place where they occur, there shall be substituted the words “inner London probation area”.
- (4) In paragraph 2(3), for paragraph (b) there shall be substituted the following paragraph—
 - “(b) of such number as may be so specified of justices of the peace for the petty sessions areas of the inner London probation area who are not metropolitan stipendiary magistrates, chosen in such manner as may be so specified by the justices for those areas who are not such magistrates;”.
- (5) For paragraph 16 there shall be substituted the following paragraph—
 - “16 (1) Paragraph 15 above shall not apply in relation to expenses incurred by the probation committee for the inner London probation area, but such sums as the Secretary of State may direct to meet the expenses and contributions which, in the case of any other probation area, would be payable by virtue of that paragraph by the local authority—
 - (a) shall be paid out of the metropolitan police fund; or
 - (b) where the inner London probation area includes one or more petty sessions areas outside the inner London area, shall be partly paid out of that fund and partly defrayed by the local authority or authorities concerned.
 - (2) Where paragraph (b) of sub-paragraph (1) above applies, the proportions to be paid or defrayed under that paragraph shall be such as may be agreed between the Receiver for the metropolitan police district and the local authority or authorities concerned or, in default of agreement, as may be determined by the Secretary of State.

- (3) In this paragraph “the local authority or authorities concerned” means the local authority or authorities in whose area or areas the petty sessions area or areas outside the inner London area is or are situated.”
- (6) In paragraph 17 (provision of accommodation by local authorities for the probation service)—
- (a) in sub-paragraph (1), after the words “paragraph 15(1) or (3)” there shall be inserted the words “or 16(1) or (2)”; and
- (b) after sub-paragraph (3) there shall be inserted the following sub-paragraph—
- “(4) The foregoing provisions of this paragraph shall apply as if the Receiver for the metropolitan police district were a local authority and any sums required to be paid out of the metropolitan police fund were required to be defrayed by him; and any contribution received by him under sub-paragraph (3) above shall be paid into that fund.”
- (7) At the end of paragraph 19(1), there shall be added the words “and “inner London probation area” has the meaning given by paragraph 1(3) above”.

Court security

76 Provision of court security officers

- (1) In relation to each petty sessions area, the committee shall from time to time determine—
- (a) whether court security officers should be provided, that is to say, persons whose duty it is to maintain order in any court-house to which they are for the time being assigned by the committee; and
- (b) if so, how many such officers should be provided, and whether they should be provided by the committee or by the responsible authority.
- (2) As soon as practicable after the making of a determination under subsection (1)(b) above, the committee or, as the case may be, the responsible authority shall provide the required number of court security officers, on such terms and conditions as they may determine—
- (a) by employing persons to act as court security officers; or
- (b) by entering into a contract with another person for the employment by him of persons to act as such officers.
- (3) Before making any determination under subsection (1) or (2) above in relation to a petty sessions area which does not consist of or form part of the inner London area, the committee shall consult with the responsible authority.
- (4) Where, in relation to a petty sessions area which does not consist of or form part of the inner London area, the responsible authority is aggrieved by any determination made by the committee under subsection (1) or (2) above, the authority may, within one month from the receipt by the authority of written notice of the determination, appeal to the Secretary of State, whose decision shall be binding on the committee and the authority.
- (5) Any determination which, in relation to a petty sessions area which consists of or forms part of the inner London area, is made by the committee under subsection (1) or (2) above, other than a determination that court security officers should not be provided

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for that area, shall not have effect unless it is confirmed, with or without modifications, by the Secretary of State.

(6) In this section—

“the committee” means—

- (a) in relation to a petty sessions area which consists of or forms part of a non-metropolitan county, a metropolitan district, an outer London borough, the City of London or a joint committee area, the magistrates' courts committee for that county, district, borough, City or area; and
- (b) in relation to a petty sessions area which consists of or forms part of the inner London area, the committee of magistrates;

“the responsible authority” means—

- (a) in relation to a petty sessions area which consists of or forms part of a non-metropolitan county, a metropolitan district, an outer London borough or the City of London, the council of that county, district or borough or, as the case may be, the Common Council of that City; and
- (b) in relation to a petty sessions area which consists of or forms part of the inner London area, the Receiver.

77 Powers and duties of court security officers

(1) A court security officer acting in the execution of his duty shall have the following powers, namely—

- (a) to search any person who is in or is seeking to enter the court-house, and any article in the possession of such a person;
- (b) to exclude or remove from the court-house any person who refuses to permit such a search as is mentioned in paragraph (a) above, or refuses to surrender any article in his possession which the officer reasonably believes may jeopardise the maintenance of order in the court-house;
- (c) to exclude or remove any person from the court-house, or restrain any person in the court-house, where (in either case) it is reasonably necessary to do so in order—
 - (i) to maintain order in the court-house;
 - (ii) to enable court business to be carried on without interference or delay;
 - or
 - (iii) to secure his or any other person's safety.

(2) The powers conferred by subsection (1)(a) above to search a person shall not be construed as authorising a court security officer to require a person to remove any of his clothing other than an outer coat, jacket or gloves.

(3) The powers conferred by subsection (1)(b) and (c) above shall include power to use reasonable force, where necessary.

(4) In the execution of his duty, a court security officer shall act in accordance with any general or specific instructions which have been given to him (whether orally or in writing) by a person in authority.

(5) In subsection (4) above “person in authority”, in relation to any court-house, means—

- (a) a justice of the peace, chief clerk or justices' clerk who is exercising any functions in the court-house; and

- (b) any officer or staff employed to assist such a clerk and authorised by him for the purpose.
- (6) For the purposes of this section and section 78 below, a court security officer shall not be regarded as acting in the execution of his duty at any time when he is not readily identifiable as such an officer (whether by means of a uniform or badge which he is wearing or otherwise).

78 Protection of court security officers

- (1) Any person who assaults a court security officer acting in the execution of his duty shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.
- (2) Any person who resists or wilfully obstructs a court security officer acting in the execution of his duty shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

79 Duties of responsible authorities

- (1) In section 55(2) (duties of local authorities outside Greater London) of the Justices of the Peace Act 1979 (“the 1979 Act”), for paragraph (b) there shall be substituted the following paragraphs—
 - “(b) the sums payable under Part II of this Act on account of a person’s salary or expenses as justices' clerk for the non-metropolitan county or metropolitan district or any part thereof, the remuneration of any staff employed by the magistrates' courts committee to assist him and the remuneration of any court security officers employed (whether by that committee or the council) under section 76(2)(a) of the Criminal Justice Act 1991, together with—
 - (i) secondary Class I contributions payable in respect of any such person, staff or officers under Part I of the Social Security Act 1975, and
 - (ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975;
 - (bb) the sums payable under any contract entered into (whether by the magistrates' courts committee or the council) under section 76(2)(b) of the Criminal Justice Act 1991;”.
- (2) In section 58(2) of that Act (corresponding arrangements in the inner London area), for paragraph (b) there shall be substituted the following paragraphs—
 - “(b) the sums payable by way of salary or expenses to justices' clerks and other officers employed by the committee of magistrates and the remuneration of any court security officers employed (whether by that committee or the Receiver) under section 76(2)(a) of the Criminal Justice Act 1991, together with—
 - (i) secondary Class I contributions payable in respect of any such officers under Part I of the Social Security Act 1975, and
 - (ii) state scheme premiums so payable under Part III of the Social Security Pensions Act 1975;

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- (bb) the sums payable under any contract entered into (whether by the committee of magistrates or the Receiver) under section 76(2)(b) of the Criminal Justice Act 1991;”.

Prisoner escorts

80 Arrangements for the provision of prisoner escorts

- (1) The Secretary of State may make arrangements for any of the following functions, namely—
- (a) the delivery of prisoners to court premises;
 - (b) the custody of prisoners held on such premises (whether or not they would otherwise be in the custody of the court) and their production before the court;
 - (c) the delivery of prisoners so held to a prison or police station;
 - (d) the delivery of prisoners from one prison to another; and
 - (e) the custody of prisoners while they are outside a prison for temporary purposes,
- to be performed in such cases as may be determined by or under the arrangements by prisoner custody officers who are authorised to perform such functions.
- (2) Arrangements made by the Secretary of State under this section (“prisoner escort arrangements”) may include entering into contracts with other persons for the provision by them of prisoner custody officers.
- (3) Any person who, under a warrant of commitment, is responsible for the performance of any such function as is mentioned in subsection (1) above shall be deemed to have complied with that warrant if he does all that he reasonably can to secure that the function is performed by a prisoner custody officer acting in pursuance of prisoner escort arrangements.

81 Monitoring etc. of prisoner escort arrangements

- (1) Prisoner escort arrangements shall include the appointment of—
- (a) a prisoner escort monitor, that is to say, a Crown servant whose duty it shall be to keep the arrangements under review and to report on them to the Secretary of State; and
 - (b) a panel of lay observers whose duty it shall be to inspect the conditions in which prisoners are transported or held in pursuance of the arrangements and to make recommendations to the Secretary of State.
- (2) It shall also be the duty of a prisoner escort monitor to investigate and report to the Secretary of State on—
- (a) any allegations made against prisoner custody officers acting in pursuance of prisoner escort arrangements; and
 - (b) any alleged breaches of discipline on the part of prisoners for whose delivery or custody such officers so acting are responsible.
- (3) Any expenses incurred by members of lay panels may be defrayed by the Secretary of State to such extent as he may with the approval of the Treasury determine.

82 Powers and duties of prisoner custody officers acting in pursuance of such arrangements

- (1) A prisoner custody officer acting in pursuance of prisoner escort arrangements shall have the following powers, namely—
 - (a) to search in accordance with rules made by the Secretary of State any prisoner for whose delivery or custody he is responsible in pursuance of the arrangements; and
 - (b) to search any other person who is in or is seeking to enter any place where any such prisoner is or is to be held, and any article in the possession of such a person.
- (2) The powers conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket or gloves.
- (3) A prisoner custody officer shall have the following duties as respects prisoners for whose delivery or custody he is responsible in pursuance of prisoner escort arrangements, namely—
 - (a) to prevent their escape from lawful custody;
 - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
 - (c) to ensure good order and discipline on their part;
 - (d) to attend to their wellbeing; and
 - (e) to give effect to any directions as to their treatment which are given by a court, and the Secretary of State may make rules with respect to the performance by prisoner custody officers of their duty under paragraph (d) above.
- (4) It shall also be the duty of a prisoner custody officer who is on any premises in which the Crown Court is sitting to give effect to any order of that Court made under section 34A of the 1973 Act (power of Court to order search of persons before it).
- (5) The powers conferred by subsection (1) above, and the powers arising by virtue of subsections (3) and (4) above, shall include power to use reasonable force where necessary.
- (6) The power to make rules under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

83 Breaches of discipline by prisoners

- (1) Where a prisoner for whose delivery or custody a prisoner custody officer has been responsible in pursuance of prisoner escort arrangements is delivered to a prison, he shall be deemed, for the purposes of such prison rules as relate to disciplinary offences, to have been—
 - (a) in the custody of the governor of the prison; or
 - (b) in the case of a contracted out prison, in the custody of its director, at all times while that officer was so responsible.
- (2) Nothing in subsection (1) above shall enable a prisoner to be punished under prison rules for any act or omission of his for which he has already been punished by a court.

Contracted out prisons

84 Contracting out of certain prisons

- (1) The Secretary of State may enter into a contract with another person for the running by him of any prison which—
 - (a) is established after the commencement of this section; and
 - (b) is for the confinement of remand prisoners, that is to say, persons charged with offences who are remanded in or committed to custody pending their trial, or persons committed to custody on their conviction who have not been sentenced for their offences;and while such a contract is in force, the prison to which it relates shall be run subject to and in accordance with sections 85 and 86 below, the 1952 Act (as modified by section 87 below) and prison rules.
- (2) In this Part—
 - “contracted out prison” means a prison as respects which such a contract is for the time being in force;
 - “the contractor”, in relation to such a prison, means the person who has contracted to run it.
- (3) The Secretary of State may by order made by statutory instrument provide that this section shall have effect as if there were omitted from subsection (1) above either—
 - (a) paragraph (a) and the word “and” immediately following that paragraph; or
 - (b) paragraph (b) and the said word “and”; or
 - (c) the words from “which”, in the first place where it occurs, to the end of paragraph (b).
- (4) An order under subsection (3)(b) or (c) above shall provide that section 87 below shall have effect as if subsection (5) were omitted.
- (5) No order shall be made under subsection (3) above unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

85 Officers of contracted out prisons

- (1) Instead of a governor, every contracted out prison shall have—
 - (a) a director, who shall be a prisoner custody officer appointed by the contractor and specially approved for the purposes of this section by the Secretary of State; and
 - (b) a controller, who shall be a Crown servant appointed by the Secretary of State; and every officer of such a prison who performs custodial duties shall be a prisoner custody officer who is authorised to perform such duties.
- (2) Subject to subsection (3) below, the director shall have such functions as are conferred on him by the 1952 Act (as modified by section 87 below) or as may be conferred on him by prison rules.
- (3) The director shall not—
 - (a) inquire into a disciplinary charge laid against a prisoner, conduct the hearing of such a charge or make, remit or mitigate an award in respect of such a charge; or

- (b) except in cases of urgency, order the removal of a prisoner from association with other prisoners, the temporary confinement of a prisoner in a special cell or the application to a prisoner of any other special control or restraint.
- (4) The controller shall have such functions as may be conferred on him by prison rules and shall be under a duty—
 - (a) to keep under review, and report to the Secretary of State on, the running of the prison by or on behalf of the director; and
 - (b) to investigate, and report to the Secretary of State on, any allegations made against prisoner custody officers performing custodial duties at the prison.
- (5) The contractor shall be under a duty to do all that he reasonably can (whether by giving directions to the officers of the prison or otherwise) to facilitate the exercise by the controller of all such functions as are mentioned in or conferred by subsection (4) above.

86 Powers and duties of prisoner custody officers employed at contracted out prisons

- (1) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following powers, namely—
 - (a) to search in accordance with prison rules any prisoner who is confined in the prison; and
 - (b) to search any other person who is in or is seeking to enter the prison, and any article in the possession of such a person.
- (2) The powers conferred by subsection (1)(b) above to search a person shall not be construed as authorising a prisoner custody officer to require a person to remove any of his clothing other than an outer coat, jacket or gloves.
- (3) A prisoner custody officer performing custodial duties at a contracted out prison shall have the following duties as respects prisoners confined in the prison, namely—
 - (a) to prevent their escape from lawful custody;
 - (b) to prevent, or detect and report on, the commission or attempted commission by them of other unlawful acts;
 - (c) to ensure good order and discipline on their part; and
 - (d) to attend to their wellbeing.
- (4) The powers conferred by subsection (1) above, and the powers arising by virtue of subsection (3) above, shall include power to use reasonable force where necessary.

87 Consequential modifications of 1952 Act

- (1) In relation to a contracted out prison, the provisions of the 1952 Act specified in subsections (2) to (8) below shall have effect subject to the modifications so specified.
- (2) In section 7(1) (prison officers), the reference to a governor shall be construed as a reference to a director and a controller.
- (3) Section 8 (powers of prison officers) and section 11 (ejection of prison officers and their families refusing to quit) shall not apply.
- (4) In sections 10(5), 12(3), 13(1) and 19(1) and (3) (various functions of the governor of a prison), references to the governor shall be construed as references to the director.

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- (5) In section 12(1) and (2) (place of confinement of prisoners), any reference to a prisoner or prisoners shall be construed as a reference to a remand prisoner or prisoners.
- (6) In section 13(2) (legal custody of prisoner), the reference to an officer of the prison shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison.
- (7) In section 14(2) (cells), the reference to a prison officer shall be construed as a reference to a prisoner custody officer performing custodial duties at the prison.
- (8) Section 35 (vesting of prison property in the Secretary of State) shall have effect subject to the provisions of the contract entered into under section 84(1) above.

88 Intervention by the Secretary of State

- (1) This section applies where, in the case of a contracted out prison, it appears to the Secretary of State—
 - (a) that the director has lost, or is likely to lose, effective control of the prison or any part of it; and
 - (b) that the making of an appointment under subsection (2) below is necessary in the interests of preserving the safety of any person, or of preventing serious damage to any property.
- (2) The Secretary of State may appoint a Crown servant to act as governor of the prison for the period—
 - (a) beginning with the time specified in the appointment; and
 - (b) ending with the time specified in the notice of termination under subsection (4) below.
- (3) During that period—
 - (a) all the functions which would otherwise be exercisable by the director or the controller shall be exercisable by the governor;
 - (b) the contractor shall do all that he reasonably can to facilitate the exercise by the governor of those functions; and
 - (c) the officers of the prison shall comply with any directions given by the governor in the exercise of those functions.
- (4) Where the Secretary of State is satisfied—
 - (a) that the governor has secured effective control of the prison or, as the case may be, the relevant part of it; and
 - (b) that the governor's appointment is no longer necessary as mentioned in subsection (1)(b) above,
 he shall, by a notice to the governor, terminate the appointment at a time specified in the notice.
- (5) As soon as practicable after making or terminating an appointment under this section, the Secretary of State shall give a notice of the appointment, or a copy of the notice of termination, to the contractor, the director and the controller.

Supplemental

89 Certification of prisoner custody officers

- (1) In this Part “prisoner custody officer” means a person in respect of whom a certificate is for the time being in force certifying—
 - (a) that he has been approved by the Secretary of State for the purpose of performing escort functions or custodial duties or both; and
 - (b) that he is accordingly authorised to perform them.
- (2) The provisions of Schedule 10 to this Act shall have effect with respect to the certification of prisoner custody officers.
- (3) In this section and Schedule 10 to this Act—
 - “custodial duties” means custodial duties at a contracted out prison;
 - “escort functions” means the functions specified in section 80(1) above.

90 Protection of prisoner custody officers

- (1) Any person who assaults a prisoner custody officer acting in pursuance of prisoner escort arrangements, or performing custodial duties at a contracted out prison, shall be liable on summary conviction to fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months or to both.
- (2) Section 17(2) of the Firearms Act 1968 (additional penalty for possession of firearms when committing certain offences) shall apply to offences under subsection (1) above.
- (3) Any person who resists or wilfully obstructs a prisoner custody officer acting in pursuance of prisoner escort arrangements, or performing custodial duties at a contracted out prison, shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (4) For the purposes of this section, a prisoner custody officer shall not be regarded as acting in pursuance of prisoner escort arrangements at any time when he is not readily identifiable as such an officer (whether by means of a uniform or badge which he is wearing or otherwise).

91 Wrongful disclosure of information

- (1) A person who is or has been employed (whether as a prisoner custody officer or otherwise) in pursuance of prisoner escort arrangements, or at a contracted out prison, shall be guilty of an offence if he discloses, otherwise than in the course of his duty or as authorised by the Secretary of State, any information which he acquired in the course of his employment and which relates to a particular prisoner.
- (2) A person guilty of an offence under subsection (1) above shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both;
 - (b) on summary conviction, to imprisonment for a term not exceeding six months or a fine not exceeding the statutory maximum or both.

92 Interpretation of Part IV

(1) In this Part—

“contracted out prison” and “the contractor” have the meanings given by section 84(2) above;

“court-house” means a petty sessional court-house within the meaning of the 1980 Act or an occasional court-house appointed under section 147 of that Act;

“court security officer” has the meaning given by section 76(1) above;

“prison” includes a young offender institution or remand centre;

“prisoner” means any person who—

(a) is held in custody in a prison;

(b) is kept in police detention after being charged with an offence;

(c) has been committed to detention at a police station under section 128(7) of the 1980 Act; or

(d) is in the custody of a court;

“prisoner custody officer” has the meaning given by section 89(1) above;

“prisoner escort arrangements” has the meaning given by section 80(2) above.

(2) Unless the contrary intention appears, expressions used in sections 76 to 79 above which are also used in the 1979 Act have the same meanings as in that Act.

(3) Sections 80, 81(1) and (2)(a), 82 and 89 to 91 above, subsection (1) above and Schedule 10 to this Act shall have effect as if—

(a) any reference in section 80(1), 81(1), 82 or 91 above to prisoners included a reference to persons kept in secure accommodation by virtue of a security requirement imposed under section 23(4) of the 1969 Act (remands and committals to local authority accommodation); and

(b) any reference in section 80(1)(c) to (e) above to a prison included a reference to such accommodation.