



Criminal Justice and Public Order Act 1994

1994 CHAPTER 33

PART VIII

PRISON SERVICES AND THE PRISON SERVICE

CHAPTER I

ENGLAND AND WALES

Prisoner escorts

93 Arrangements for the provision of prisoner escorts

(1) In subsection (1) of section 80 (arrangements for the provision of prisoner escorts) of the Criminal Justice Act 1991 (“the 1991 Act”)—

- (a) for paragraph (a) there shall be substituted the following paragraph—
 - “(a) the delivery of prisoners from one set of relevant premises to another;”;
- (b) in paragraph (b), for the words “such premises” there shall be substituted the words “the premises of any court”; and
- (c) for paragraphs (c) and (d) there shall be substituted the following paragraph—
 - “(c) the custody of prisoners temporarily held in a prison in the course of delivery from one prison to another; and”.

(2) After that subsection there shall be inserted the following subsection—

“(1A) In paragraph (a) of subsection (1) above “relevant premises” means a court, prison, police station or hospital; and either (but not both) of the sets of premises mentioned in that paragraph may be situated in a part of the British Islands outside England and Wales.”.

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- (3) In subsection (3) of that section, for the words “a warrant of commitment” there shall be substituted the words “a warrant or a hospital order or remand” and for the words “that warrant” there shall be substituted the words “the warrant, order or remand”.
- (4) After that subsection there shall be inserted the following subsection—
- “(4) In this section—
- “hospital” has the same meaning as in the Mental Health Act 1983;
- “hospital order” means an order for a person’s admission to hospital made under section 37, 38 or 44 of that Act, section 5 of the Criminal Procedure (Insanity) Act 1964 or section 6, 14 or 14A of the Criminal Appeal Act 1968;
- “hospital remand” means a remand of a person to hospital under section 35 or 36 of the Mental Health Act 1983;
- “warrant” means a warrant of commitment, a warrant of arrest or a warrant under section 46, 47, 48, 50 or 74 of that Act.”.
- (5) In subsection (1) of section 92 of that Act (interpretation of Part IV), for the definition of “prisoner” there shall be substituted the following definition—
- ““prisoner” means any person for the time being detained in legal custody as a result of a requirement imposed by a court or otherwise that he be so detained;”.
- (6) In subsection (3) of that section—
- (a) for the words from “kept” to “accommodation)” there shall be substituted the words “remanded or committed to local authority accommodation under section 23 of the 1969 Act”; and
- (b) for the words “section 80(1)(c) to (e)” there shall be substituted the words “section 80(1)(c) or (e) or (1A)”.
- (7) After that subsection there shall be inserted the following subsection—
- “(4) In sections 80, 82 and 83 above, “prison”—
- (a) so far as relating to the delivery of prisoners to or from a prison situated in Scotland, includes a remand centre or young offenders institution within the meaning of section 19 of the Prisons (Scotland) Act 1989; and
- (b) so far as relating to the delivery of prisoners to or from a prison situated in Northern Ireland, includes a remand centre or young offenders centre.”.

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

- (1) For subsection (4) of section 82 of the 1991 Act (powers and duties of prisoner custody officers acting in pursuance of such arrangements) there shall be substituted the following subsection—
- “(4) Where a prisoner custody officer acting in pursuance of prisoner escort arrangements is on any premises in which the Crown Court or a magistrates' court is sitting, it shall be his duty to give effect to any order of that court made—

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- (a) in the case of the Crown Court, under section 34A of the 1973 Act (power of Court to order search of persons before it); or
 - (b) in the case of a magistrates' court, under section 80 of the 1980 Act (application of money found on defaulter).”.
- (2) After subsection (2) of section 6 of the Imprisonment (Temporary Provisions) Act 1980 (detention in the custody of a police constable) there shall be inserted the following subsection—
- “(3) Any reference in this section to a constable includes a reference to a prisoner custody officer (within the meaning of Part IV of the Criminal Justice Act 1991) acting in pursuance of prisoner escort arrangements (within the meaning of that Part).”.

95 Breaches of discipline by prisoners under escort

For section 83 of the 1991 Act there shall be substituted the following section—

“83 Breaches of discipline by prisoners under escort

- (1) This section applies 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.
- (2) For the purposes of such prison rules as relate to disciplinary offences, the prisoner shall be deemed 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 during the period for which the prisoner custody officer was so responsible.
- (3) In the case of any breach by the prisoner at any time during that period of such prison rules as so relate, a disciplinary charge may be laid against him by the prisoner custody officer.
- (4) Nothing in this section 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.
- (5) In this section “prison rules”, in relation to a prison situated in a part of the British Islands outside England and Wales, means rules made under any provision of the law of that part which corresponds to section 47 of the 1952 Act.”.

Contracted out prisons etc.

96 Contracted out parts of prisons, etc

For section 84 of the 1991 Act there shall be substituted the following section—

“84 Contracting out prisons etc

- (1) The Secretary of State may enter into a contract with another person for the provision or running (or the provision and running) by him, or (if the contract

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so provides) for the running by sub-contractors of his, of any prison or part of a prison.

- (2) While a contract under this section for the running of a prison or part of a prison is in force—
- (a) the prison or part 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; and
 - (b) in the case of a part, that part and the remaining part shall each be treated for the purposes of sections 85 to 88A below as if they were separate prisons.
- (3) Where the Secretary of State grants a lease or tenancy of land for the purposes of any contract under this section, none of the following enactments shall apply to it, namely—
- (a) Part II of the Landlord and Tenant Act 1954 (security of tenure);
 - (b) section 146 of the Law of Property Act 1925 (restrictions on and relief against forfeiture);
 - (c) section 19(1), (2) and (3) of the Landlord and Tenant Act 1927 and the Landlord and Tenant Act 1988 (covenants not to assign etc.); and
 - (d) the Agricultural Holdings Act 1986.

In this subsection “lease or tenancy” includes an underlease or sub-tenancy.

- (4) In this Part—
- “contracted out prison” means a prison or part of a prison for the running of which a contract under this section is for the time being in force;
- “the contractor”, in relation to a contracted out prison, means the person who has contracted with the Secretary of State for the running of it; and
- “sub-contractor”, in relation to a contracted out prison, means a person who has contracted with the contractor for the running of it or any part of it.”.

97 Temporary attachment of prison officers

- (1) At the end of subsection (1) of section 85 of the 1991 Act (officers of contracted out prisons) there shall be inserted the words “or a prison officer who is temporarily attached to the prison”.
- (2) At the end of paragraph (b) of subsection (4) of that section there shall be inserted the words “or prison officers who are temporarily attached to the prison”.
- (3) For subsection (3) of section 87 of that Act (consequential modifications of 1952 Act) there shall be substituted the following subsection—

“(3) Section 8 (powers of prison officers) shall not apply in relation to a prisoner custody officer performing custodial duties at the prison.”.
- (4) After subsection (4) of that section there shall be inserted the following subsection—

“(4A) Section 11 (ejection of prison officers and their families refusing to quit) shall not apply.”.

- (5) At the end of subsections (6) and (7) of that section there shall be inserted the words “or a prison officer who is temporarily attached to the prison”.

98 Prisoners temporarily out of prison

After subsection (1) of section 92 of the 1991 Act (interpretation of Part IV) there shall be inserted the following subsection—

- “(1A) Any reference in this Part to custodial duties at a contracted out prison includes a reference to custodial duties in relation to a prisoner who is outside such a prison for temporary purposes.”.

Miscellaneous

99 Contracted out functions at directly managed prisons

After section 88 of the 1991 Act there shall be inserted the following section—

“Contracted out functions

88A Contracted out functions at directly managed prisons

- (1) The Secretary of State may enter into a contract with another person for any functions at a directly managed prison to be performed by prisoner custody officers who are provided by that person and are authorised to perform custodial duties.
- (2) Section 86 above shall apply in relation to a prisoner custody officer performing contracted out functions at a directly managed prison as it applies in relation to such an officer performing custodial duties at a contracted out prison.
- (3) In relation to a directly managed prison—
 - (a) the reference in section 13(2) of the 1952 Act (legal custody of prisoners) to an officer of the prison; and
 - (b) the reference in section 14(2) of that Act (cells) to a prison officer,shall each be construed as including a reference to a prisoner custody officer performing custodial duties at the prison in pursuance of a contract under this section.
- (4) Any reference in subsections (1) to (3) above to the performance of functions or custodial duties at a directly managed prison includes a reference to the performance of functions or such duties for the purposes of, or for purposes connected with, such a prison.
- (5) In this Part—

“contracted out functions” means any functions which, by virtue of a contract under this section, fall to be performed by prisoner custody officers;

“directly managed prison” means a prison which is not a contracted out prison.”.

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100 Provision of prisons by contractors

- (1) For subsection (2) of section 33 of the Prison Act 1952 (power to declare buildings etc. to be prisons) there shall be substituted the following subsection—
 - “(2) The Secretary of State may provide new prisons by declaring to be a prison—
 - (a) any building or part of a building built for the purpose or vested in him or under his control; or
 - (b) any floating structure or part of such a structure constructed for the purpose or vested in him or under his control.”.
- (2) Subsections (3) and (4) below apply where the Secretary of State enters into a contract with another person (“the contractor”) for the provision by him of a prison.
- (3) Section 33(2) of the Prison Act 1952 shall have effect as if it also included references to—
 - (a) any building or part of a building built by the contractor for the purpose or vested in him or under his control; and
 - (b) any floating structure or part of such a structure constructed by the contractor for the purpose or vested in him or under his control.
- (4) Nothing in section 35(1) of that Act (prison property to be vested in the Secretary of State) shall require the prison or any real or personal property belonging to the prison to be vested in the Secretary of State.

Supplemental

101 Minor and consequential amendments

- (1) In subsection (5) of section 85 of the 1991 Act (officers of contracted out prisons), for the words “The contractor shall” there shall be substituted the words “The contractor and any sub-contractor of his shall each”.
- (2) In subsection (3)(b) of section 88 of that Act (intervention by the Secretary of State), for the words “the contractor shall” there shall be substituted the words “the contractor and any sub-contractor of his shall each”.
- (3) In subsection (5) of that section, after the words “the contractor,” there shall be inserted the words “any sub-contractor of his,”.
- (4) In subsection (3) of section 89 of that Act (certification of prisoner custody officers), for the words “contracted out prison” there shall be substituted the words “contracted out or directly managed prison”.
- (5) In subsections (1) and (3) of section 90 of that Act (protection of prisoner custody officers), for the words from “acting” to “prison” there shall be substituted the words—
 - “(a) acting in pursuance of prisoner escort arrangements;
 - (b) performing custodial duties at a contracted out prison; or
 - (c) performing contracted out functions at a directly managed prison.”.
- (6) In subsection (1) of section 91 of that Act (wrongful disclosure of information), for the words from “is or has been” to “prison” there shall be substituted the words—

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- “(a) 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; or
 - (b) is or has been employed to perform contracted out functions at a directly managed prison.”.
- (7) In subsection (1) of section 92 of that Act (interpretation of Part IV)—
 - (a) after the words “In this Part” there shall be inserted the words “unless the context otherwise requires”;
 - (b) in the definitions of “contracted out prison” and “contractor”, for the words “section 84(2)” there shall be substituted the words “section 84(4)”;
 - (c) after those definitions there shall be inserted the following definitions—
 - ““contracted out functions” and “directly managed prison” have the meanings given by section 88A(5) above;”;
 - (d) after the definition of “prison” there shall be inserted the following definitions—
 - ““prison officer” means an officer of a directly managed prison;
 - “prison rules” means rules made under section 47 of the 1952 Act;”;
 - and
 - (e) after the definition of “prisoner escort arrangements” there shall be inserted the following definition—
 - ““sub-contractor” has the meaning given by section 84(4) above.”.
- (8) After subsection (7) of section 102 of the 1991 Act (short title, commencement and extent) there shall be inserted the following subsection—
 - “(7A) Sections 80, 82 and 83 above, so far as relating to the delivery of prisoners to or from premises situated in a part of the British Islands outside England and Wales, extend to that part of those Islands.”.
- (9) For sub-paragraph (1) of paragraph 3 of Schedule 10 to that Act (certification of prisoner custody officers) there shall be substituted the following sub-paragraph—
 - “(1) This paragraph applies where at any time—
 - (a) in the case of a prisoner custody officer acting in pursuance of prisoner escort arrangements, it appears to the prisoner escort monitor for the area concerned that the officer is not a fit and proper person to perform escort functions;
 - (b) in the case of a prisoner custody officer performing custodial duties at a contracted out prison, it appears to the controller of that prison that the officer is not a fit and proper person to perform custodial duties; or
 - (c) in the case of a prisoner custody officer performing contracted out functions at a directly managed prison, it appears to the governor of that prison that the officer is not a fit and proper person to perform custodial duties.”.
- (10) In sub-paragraph (2) of that paragraph, for the words “or controller” there shall be substituted the words “controller or governor”.