



# Criminal Justice Act 1961

## 1961 CHAPTER 39 9 and 10 Eliz 2

An Act to amend the law with respect to the powers of courts in respect of young offenders; to make further provision as to the treatment of prisoners and other persons committed to custody, including provision for their supervision after discharge, and the management of prisons, approved schools and other institutions; to re-enact with modifications and additions certain statutory provisions relating to the removal, return and supervision of prisoners within the British Islands; and for purposes connected with the matters aforesaid. [19th July 1961]

### PART I

#### POWERS OF COURTS IN RESPECT OF YOUNG OFFENDERS

1 ..... F1

#### Textual Amendments

F1 Ss. 1, 3–7 repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)

2 ..... F2

#### Textual Amendments

F2 S. 2 repealed by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, [Sch. 8 para. 16](#), [Sch. 16](#)

3–7 ..... F3

*Changes to legislation: Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**Textual Amendments**

**F3** Ss. 1, 3–7 repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)

*Fine, Probation and Attendance Centre*

**8 Fines for young offenders.**

(1) . . . <sup>F4</sup>

(2) . . . <sup>F5</sup>

(3) . . . <sup>F6</sup>

(4) . . . <sup>F7</sup>

**Textual Amendments**

**F4** S. 8(1) repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 73(2), [Sch. 6](#) and by [Criminal Law Act 1977 \(c. 45\)](#), s. 65(7), [Sch. 13](#)

**F5** S. 8(2) repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 6](#)

**F6** S. 8(3) repealed by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\)](#), [Sch. 9](#)

**F7** S. 8(4) repealed by [Criminal Justice Act 1972 \(c. 71\)](#), [Sch. 6 Pt. II](#)

**9** . . . . . <sup>F8</sup>

**Textual Amendments**

**F8** S. 9 repealed by [Powers of Criminal Courts Act 1973 \(c. 62\)](#), [Sch. 6](#)

**10** . . . . . <sup>F9</sup>

**Textual Amendments**

**F9** Ss. 10–13 repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)

**PART II**

TREATMENT AND SUPERVISION OF PRISONERS AND OTHER DETAINED PERSONS

*Borstal Institutions and Detention Centres*

**11–13** . . . . . <sup>F10</sup>

**Changes to legislation:** *Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

**Textual Amendments**

**F10** Ss. 10–13 repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), **Sch. 16**

*Approved Schools*

~~14—~~ ..... <sup>F11</sup>  
17.

**Textual Amendments**

**F11** Ss. 14–17 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), **Sch. 6**

[<sup>F12</sup>**18** **Directions as to management of approved schools.**

- (1) If it appears to the Secretary of State that the provision made in any approved school with regard to any matter relating to—
  - (a) the premises or equipment of the school,
  - (b) the number or grades of the staff employed in the school, or
  - (c) the education, training or welfare of persons under the care of the managers,is inadequate or unsuitable, he may give to the managers such directions as he thinks necessary for securing that proper provision is made with respect thereto.
- (2) Where it appears to the Secretary of State that the managers of an approved school have failed to give effect to any directions under this section, subsection (2) of section seventy-nine of the Children and Young Persons Act 1933 (which empowers the Secretary of State in certain circumstances to withdraw his certificate of approval) shall apply as it applies where he is dissatisfied as mentioned in that section.]

**Textual Amendments**

**F12** S. 18 repealed (prosp.) by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72(3), **Sch. 6**

[<sup>F13</sup>**19** **Constitution of managers.**

- (1) The Secretary of State may by order make provision for regulating the constitution and proceedings of the managers of any approved school other than a school provided by a local authority or by a joint committee representing two or more local authorities; and any such order shall have effect notwithstanding anything in any trust deed relating to the school.
- (2) Before making an order under the foregoing subsection in respect of any school, the Secretary of State shall afford to the managers of the school an opportunity for making representations with respect to the proposed order; and in making any such order the Secretary of State shall have regard to all the circumstances of the school, and to the manner in which it has been managed theretofore.
- (3) If in the case of an approved school, other than a school provided by a local authority or by a joint committee representing two or more local authorities, the Secretary of

*Changes to legislation: Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

State is satisfied that by reason of special circumstances it is necessary to do so in the interests of the efficient management of the school, he may appoint one or more persons as additional members of the body constituting the managers of the school; and any person so appointed shall, notwithstanding anything in any trust deed relating to the school or in any order made in respect of the school under subsection (1) of this section, be one of the managers of the school until such time as his appointment is terminated by the Secretary of State or under subsection (4) of this section.

- (4) Any order or appointment made under this section in respect of an approved school shall cease to have effect if that school ceases to be an approved school; but nothing in this subsection shall affect the validity of anything done while the order or appointment was in force.
- (5) In this section “trust deed”, in relation to any school, includes any instrument (not being an order under this section) regulating the constitution of the school, or its maintenance, management or conduct, or the constitution or proceedings of its managers.]

.....

**Textual Amendments**  
**F13** S. 19 repealed (prosp.) by [Children and Young Persons Act 1969 \(c. 54\)](#), s. 72(3), **Sch. 6**

*Miscellaneous*

20 ..... <sup>F14</sup>

.....

**Textual Amendments**  
**F14** S. 20 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), s. 60(7), **Sch. 7 Pt. I**

21 ..... <sup>F15</sup>

.....

**Textual Amendments**  
**F15** S. 21 repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\)](#), **Sch. Pt. XI**

**22 Penalties for assisting escape from prison, etc.**

<sup>F16</sup>(1) .....

- (2) If any person knowingly harbours a person who has escaped from a prison or other institution to which the said section thirty-nine applies, or who, having been sentenced in any part of the United Kingdom or in any of the Channel Islands or the Isle of Man to imprisonment or detention, is otherwise unlawfully at large, or gives to any such person any assistance with intent to prevent, hinder or interfere with his being taken into custody, he shall be liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding one hundred pounds, or to both;

**Changes to legislation:** *Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (b) on conviction on indictment, to imprisonment for a term not exceeding [<sup>F17</sup>ten years], or to a fine, or to both.

[<sup>F18</sup>(2A) The reference in subsection (2) to a person who has been sentenced as mentioned there includes—

- (a) a person on whom a custodial sentence within the meaning of the Armed Forces Act 2006 has been passed (anywhere) in respect of a service offence within the meaning of that Act;
- (b) a person in respect of whom an order under section 214 of that Act (detention for commission of offence during currency of order) has been made. ]

(4) . . . <sup>F19</sup>

#### Textual Amendments

- F16** S. 22(1) repealed (16.5.1992) by [Prison Security Act 1992 \(c. 25\)](#), **ss. 2(3)(4)**, 3(2).
- F17** Words in s. 22(2)(b) substituted (16.5.1992) by [Prison Security Act 1992 \(c. 25\)](#), **ss. 2(2)(4)**, 3(2).
- F18** S. 22(2A) substituted for s. 22(3) (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), **Sch. 16 para. 46**; S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, art. 4
- F19** Ss. 22(4), 25 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), **Sch. 6**

#### Modifications etc. (not altering text)

- C1** S. 22 modified (24.4.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [The Armed Forces Act 2006 \(Transitional Provisions etc\) Order 2009 \(S.I. 2009/1059\)](#), art. 1(3), **Sch. 1 para. 8**

## 23 Prison Rules.

- (1) For the purposes of rules under section forty-seven of the <sup>M1</sup>Prison Act 1952 (which authorises the making of rules for the regulation and management of prisons and the discipline and control of persons required to be detained therein) any offence against the rules committed by a prisoner may be treated as committed in the prison in which he is for the time being confined.
- (2) Without prejudice to any power to make provision by rules under the said section forty-seven for the confiscation of money or articles conveyed or deposited in contravention of the said Act or of the rules, provision may be made by such rules for the withholding from prisoners (subject to such exceptions as may be prescribed by the rules) of any money or other article sent to them [<sup>F20</sup>by post], and for the disposal of any such money or article either by returning it to the sender (where the sender's name and address are known) or in such other manner as may be prescribed by or determined under the rules:
- Provided that in relation to a prisoner committed to prison in default of payment of any sum of money, the rules shall provide for the application of any money withheld as aforesaid in or towards the satisfaction of the amount due from him unless, upon being informed of the receipt of the money, he objects to its being so applied.
- (3) A prisoner who would, apart from this subsection, be discharged on any of the days to which this subsection applies in his case shall [<sup>F21</sup>(subject to subsection (3B))] be discharged on the next preceding day which is not one of those days.

---

*Changes to legislation: Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

[<sup>F22</sup>The days] to which this subsection applies are Sunday, Christmas Day, Good Friday and any day which under the <sup>M2</sup>Bank Holidays Act 1871 is a bank holiday in England and Wales and, in the case of a person who is serving a term of more than [<sup>F23</sup>five days], any Saturday.

<sup>F24</sup>(3A) . . . . .

[<sup>F25</sup>(3B) The Secretary of State may direct that a prisoner who would, apart from this subsection, be discharged on a working day immediately before a non-working day, must instead be discharged on a day referred to in subsection (3C).

(3C) The days are—

- (a) the last eligible working day before the day on which the prisoner would otherwise be discharged;
- (b) the last eligible working day before that eligible working day.

(3D) In this section—

“eligible working day” means a working day that is not immediately followed by a non-working day;

“non-working day” means—

- (a) a Saturday or Sunday, Christmas Day, or Good Friday, or
- (b) any day that is a bank holiday under section 1 of the Banking and Financial Dealings Act 1971 in England and Wales;

“working day” means a day that is not a non-working day.]

(4) In this section the references to prisons and prisoners include references respectively to [<sup>F26</sup>a young offender institution][<sup>F27</sup>, a secure college][<sup>F28</sup>secure training centres] and remand centres and to persons detained therein.

[<sup>F29</sup>(5) In subsections (3), (3B) and (3C), the references to a prisoner also include references to a person detained in—

- (a) a secure children’s home, or
- (b) a secure 16 to 19 Academy,

in pursuance of a sentence or order referred to in section 163(1) of the Police, Crime, Sentencing and Courts Act 2022.

(6) In subsection (5)—

“secure children’s home” means—

- (a) a children’s home in England, within the meaning given in section 1 of the Care Standards Act 2000, which provides accommodation for the purposes of restricting liberty;
- (b) residential premises in Wales which provide a secure accommodation service, within the meaning given in Part 1 of the [Regulation and Inspection of Social Care \(Wales\) Act 2016 \(anaw 2\)](#);

“secure 16 to 19 Academy” has the meaning given in section 1B of the Academies Act 2010.]

#### Textual Amendments

**F20** Words in s. 23(2) substituted (26.3.2001) by [S.I. 2001/1149, art. 3\(1\)](#), [Sch. 1 para. 17](#)

**F21** Words in s. 23(3) inserted (12.12.2023) by [Offenders \(Day of Release from Detention\) Act 2023 \(c. 25\)](#), [ss. 1\(2\), 3\(3\)](#); [S.I. 2023/1329, reg. 2](#)

**Changes to legislation:** Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- F22** Words in s. 23(3) substituted (3.12.2012) by Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 2(a)**; S.I. 2012/2906, art. 2(h)
- F23** Words substituted by Criminal Justice Act 1982 (c. 48, SIF 39:1), **Sch. 14 para. 10(a)**
- F24** S. 23(3A) omitted (3.12.2012) by virtue of Legal Aid, Sentencing and Punishment of Offenders Act 2012 (c. 10), s. 151(1), **Sch. 10 para. 2(b)**; S.I. 2012/2906, art. 2(h)
- F25** S. 23(3B)-(3D) inserted (12.12.2023) by Offenders (Day of Release from Detention) Act 2023 (c. 25), **ss. 1(3)**, 3(3); S.I. 2023/1329, reg. 2
- F26** Words in Act substituted (1.10.1988) by Criminal Justice Act 1988 (c. 33), **Sch. 8 para. 1**
- F27** Words in s. 23(4) inserted (20.3.2015) by Criminal Justice and Courts Act 2015 (c. 2), s. 95(1), **Sch. 9 para. 6**; S.I. 2015/778, art. 2(1)(c)
- F28** Words in s. 23(4) inserted (3.2.1995) by 1994 c. 33, s. 168(2), **Sch. 10 para. 11**; S.I. 1995/127, art. 2(1), **Sch. Appendix B**
- F29** S. 23(5)(6) inserted (12.12.2023) by Offenders (Day of Release from Detention) Act 2023 (c. 25), **ss. 1(4)**, 3(3); S.I. 2023/1329, reg. 2

**Modifications etc. (not altering text)**

- C2** S. 23(3) excluded (1.9.2001) by 2001 c. 17, s. 42, **Sch. 7 para. 2(1)(c)**; S.I. 2001/2161, **art. 2**

**Marginal Citations**

- M1** 1952 c. 52.  
**M2** 1871 c. 17.

**24 Management of prisons, etc.**

- (1) Subject to the provisions of this section, Her Majesty may by Order in Council make provision for transferring to the Secretary of State any or all of the functions of the Prison Commissioners (in this section referred to as “the Commissioners”).
- (2) An Order in Council under this section may contain such incidental, consequential and supplemental provisions as may be necessary or expedient in connection with the transfer effected by that or any previous Order thereunder, including provisions—
- (a) for the transfer of any property, rights or liabilities to which the Commissioners are entitled or subject, and for the vesting in the person from time to time holding office as Secretary of State of land or other property transferred by any such Order, or acquired under powers so transferred;
  - (b) for the carrying on and completion by or under the authority of the Secretary of State of anything begun by or under the authority of the Commissioners before the date of transfer;
  - (c) for the substitution of the Secretary of State for the Commissioners in any instrument, contract or legal proceeding made or begun before that date;
  - (d) for the transfer to the Home Department of Commissioners and inspectors, officers or servants of the Commissioners and (in the case of the transfer of the powers and jurisdiction of the Commissioners in respect of all institutions within their superintendence) for the dissolution of the Commissioners.
- (3) An Order in Council under this section may make such adaptations or repeals in the enactments relating to the Commissioners, or to institutions within their superintendence, as may be necessary or expedient in consequence of the Order or any previous Order thereunder, and shall in particular make provision for securing that any report which, apart from any such Order, would be required by subsection (1) of section five of the <sup>M3</sup>Prison Act 1952 to be made to the Secretary of State by the

*Changes to legislation: Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commissioners shall be issued by the Secretary of State and laid before Parliament under that section accordingly.

- (4) A certificate of the Secretary of State that any property vested in the Commissioners has been transferred to the Secretary of State by virtue of an Order in Council under this section shall be conclusive evidence of the transfer.
- (5) No recommendation shall be made to Her Majesty in Council to make an Order under this section unless a draft of the Order has been laid before Parliament and has been approved by resolution of each House of Parliament.
- (6) In this section “functions” includes powers and duties, and “the date of transfer” means the date on which an Order in Council under this section transferring functions of the Commissioners comes into force.

**Marginal Citations**

**M3** 1952 c. 52.

**25** ..... **F30**

**Textual Amendments**

**F30** Ss. 22(4), 25 repealed by Children and Young Persons Act 1969 (c. 54), **Sch. 6**

**<sup>F31</sup>PART III**

**Textual Amendments**

**F31** Pt. III (ss. 26-33) repealed (1.10.1997) by 1997 c. 43, s. 56(2), **Sch. 6**; S.I. 1997/2200, **art. 2(1)(o)**(with saving in art. 5(6) and subject to amendments (1.3.1998) by 1994 c. 33, s. 168(2), **Sch. 10 para. 12**; S.I. 1998/277, **art. 3(2)**)



---

**Changes to legislation:** *Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

## PART IV

### SUPPLEMENTAL

34 ..... F69

---

#### Textual Amendments

F69 S. 34 repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)

### 35 Legal custody.

- (1) Any person required or authorised by or under this Act to be taken to any place or to be kept in custody shall, while being so taken or kept, be deemed to be in legal custody.
- (2) A constable, or any other person required or authorised by or under this Act to take any person to or keep him at any place shall, while taking or keeping him there have all the powers, authorities, protection and privileges which a constable has within the area for which he acts as constable.

### 36 General provisions as to orders.

- (1) Any power of the Secretary of State to make orders under this Act (other than orders under subsection (1) of section nineteen <sup>F70</sup>. . .) shall be exercisable by statutory instrument.
- (2) Any Order in Council or order under this Act may be varied or revoked by a subsequent Order in Council or order.

---

#### Textual Amendments

F70 Words in [s. 36\(1\)](#) repealed (1.10.1997) by [1997 c. 43, s. 56\(2\)](#), [Sch. 6](#); [S.I. 1997/2200, art. 2\(1\)\(o\)](#) (with [art. 5\(6\)](#))

### 37 Prison Commissioners' reports.

In any case where a court is required by this Act to consider a report made by or on behalf of the [<sup>F71</sup>Secretary of State] in respect of an offender, the court shall cause a copy of the report to be given to the offender or his counsel or solicitor.

---

#### Textual Amendments

F71 Words substituted by [S.I. 1963/597, Sch. 2](#)

### 38 Construction of references to sentence of imprisonment, etc.

- (1) Except as provided by subsection (3) of this section, the expression “sentence” in this Act does not include a committal for default or the fixing of a term to be served in the event of default, or a committal or attachment for contempt of court.

---

*Changes to legislation: Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

- (2) For the purposes of any provisions of this Act referring to a person who is serving or has served a sentence of any description, the expression “sentence” includes—
- (a) in any case, a sentence of that description passed by a court in Scotland, Northern Ireland, any of the Channel Islands or the Isle of Man; and
  - (b) in the case of imprisonment, <sup>F72</sup>... a sentence which is treated by virtue of the <sup>M18</sup>Colonial Prisoners Removal Act 1884 as a sentence passed by a court in England and Wales.
- (3) <sup>F73</sup>For the purposes . . . of sections twenty-two and thirty-four of this Act—
- <sup>F74</sup>(a) the expression “imprisonment or detention” means imprisonment, custody for life, detention in a [<sup>F75</sup>young offender ] institution or in a secure training centre [<sup>F76</sup>or secure college] or detention under an equivalent sentence passed by a court in the Channel Islands or the Isle of Man;]
  - (b) the expression “sentence” includes <sup>F77</sup>... any order made by any court imposing imprisonment or detention, and “sentenced” shall be construed accordingly.
  - <sup>F78</sup>(c) any reference to a person serving a sentence of, or sentenced to, imprisonment or detention shall be construed as including a reference to a person who, under any enactment relating to children and young persons in force in any part of the United Kingdom or any of the Channel Islands or the Isle of Man, has been sentenced by a court to be detained for an offence and is liable to be detained in accordance with [<sup>F79</sup>a determination of the Secretary of State or of a person authorised by him, in accordance with arrangements made by the Secretary of State or in accordance with] directions given by the Secretary of State, . . . <sup>F80</sup> or by the Governor of the Isle of Man with the concurrence of the Secretary of State, and any other reference to a sentence of imprisonment or detention shall be construed accordingly.]
- (4) For the purposes of any reference in this Act to a term of imprisonment or of detention in a detention centre or to a term of imprisonment or detention, consecutive terms and terms which are wholly or partly concurrent shall be treated as a single term.
- <sup>F81</sup>(5) For the purposes of this Act (and of any enactment referred to in Part III of this Act)—
- (a) a sentence [<sup>F82</sup>of detention in a young offenders institution passed in Scotland, and a sentence] of penal servitude passed in any of the Channel Islands or the Isle of Man shall be treated as a sentence of imprisonment for the like term;
  - <sup>F83</sup>(aa) [ An order for detention in a young offenders centre passed in Northern Ireland shall be treated as a sentence of imprisonment for the like term.]
  - (b) a sentence of detention in a borstal institution passed as aforesaid shall be treated as a sentence of borstal training;
  - (c) a sentence of death passed by any court (including a court-martial) on a person subsequently pardoned by Her Majesty on condition of his serving a term of imprisonment or penal servitude shall be treated as a sentence of imprisonment or penal servitude passed by that court for that term; and
  - (d) without prejudice to paragraph (c) of this subsection, any reference to a person on whom a sentence of any description has been passed includes a reference to a person who under the law of any part of the United Kingdom, any of the Channel Islands or the Isle of Man is treated as a person on whom a sentence of that description has been passed;
- and “sentenced” shall be construed accordingly.]
- <sup>F84</sup>(6) The Secretary of State may by order designate as equivalent sentences for the purposes of this Act <sup>F73</sup>. . . a description of sentence which a court with

**Changes to legislation:** *Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

jurisdiction in one part of the United Kingdom or in the Channel Islands or the Isle of Man may pass and a description of sentence which a court elsewhere in the United Kingdom or in those Islands may pass;]

#### Textual Amendments

- F72** Words in s. 38(2)(b) repealed (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F73** Words in s. 38(3)(6) repealed (1.10.1997) by [1997 c. 43](#), s. 56(2), [Sch. 6](#); S.I. 1997/2200, art. 2(1)(o)
- F74** S. 38(3)(a) substituted (1.3.1998) by 1994 by virtue of c. 33, s. 168(2), [Sch. 10 para. 12\(5\)](#); S.I. 1998/277, art. 3(2)
- F75** Words in s. 38(3)(a) substituted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 9 para. 7\(a\)](#); S.I. 2015/778, art. 2(1)(c)
- F76** Words in s. 38(3)(a) inserted (20.3.2015) by [Criminal Justice and Courts Act 2015 \(c. 2\)](#), s. 95(1), [Sch. 9 para. 7\(b\)](#); S.I. 2015/778, art. 2(1)(c)
- F77** Words in s. 38(3)(b) repealed (28.3.2009 for specified purposes) by [Armed Forces Act 2006 \(c. 52\)](#), s. 383(2), [Sch. 17](#); S.I. 2009/812, art. 3(a)(b) (with transitional provisions in S.I. 2009/1059)
- F78** S. 38(3)(c) added by [Criminal Justice Act 1967 \(c. 80\)](#), s. 69(1)
- F79** Words in s. 38(3)(c) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 4](#); S.I. 2008/1586, art. 2(1), [Sch. 1 para. 48\(c\)](#)
- F80** Words repealed by S.I. 1973/2163, [Sch. 6](#)
- F81** S. 38(5) repealed (*prosp.*) except that the repeal is in force (E.W.N.I.) so far as regards subsection (a) and (b) and is in force (S.) except as regards subparas. (c) and (d) by [Criminal Justice Act 1982 \(c. 48\)](#), SIF 39:1), s. 80(2), [Sch. 16](#)
- F82** Words inserted by [Criminal Justice \(Scotland\) Act 1963 \(c. 39\)](#), [Sch. 5](#)
- F83** S. 38(5)(aa) inserted by [Treatment of Offenders Act \(Northern Ireland\) 1968 \(c. 29\)](#), [Sch. 3 Pt. III](#)
- F84** S. 38(6) inserted by [Criminal Justice Act 1982 \(c. 48\)](#), SIF 39:1), [Sch. 14 para. 15\(b\)](#)

#### Modifications etc. (not altering text)

- C7** S. 38(2)–(5) extended by [Criminal Justice Act 1967 \(c. 80\)](#), s. 14(4)

#### Marginal Citations

- M18** 1884 c. 31.

## 39 Interpretation.

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby assigned to them, that is to say:—

[<sup>F85</sup>[<sup>F86</sup>“appropriate institution”, in relation to any person, means, subject to subsection (1A) of this section, any institution which would be appropriate for the detention of an offender of the same age serving an equivalent sentence passed by a court in the place to which he has been transferred;]]

<sup>F87</sup> ...

“default” means failure to pay, or want of sufficient distress to satisfy, any fine or other sum of money, or failure to do or abstain from doing any thing required to be done or left undone;

“enactment” includes an enactment of the Parliament of Northern Ireland;

“prison” does not include a naval, military or air force prison;

[<sup>F86</sup>“responsible Minister” means—

- (a) in relation to persons detained in England and Wales or in Scotland, a Secretary of State;

---

*Changes to legislation: Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

(b) in relation to persons detained in Northern Ireland, [<sup>F88</sup>the Secretary of State]];

...  
<sup>F89</sup>

[<sup>F90</sup>(1ZA) In the definition of “default” in subsection (1) the reference to want of sufficient distress to satisfy a fine or other sum includes a reference to circumstances where—

- (a) there is power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 to recover the fine or other sum from a person, but
- (b) it appears, after an attempt has been made to exercise the power, that the person's goods are insufficient to pay the amount outstanding (as defined by paragraph 50(3) of that Schedule).]

[<sup>F91</sup> Subsection (1) of this section shall have effect in relation to a person serving a sentence  
<sup>F92</sup>(1A) of a length which could not have been passed on an offender of his age by a court in the place to which he has been transferred as if it defined “appropriate institution” as meaning such place as the Secretary of State may direct.]

(1B) Any reference in this Act to a sentence being equivalent to another sentence is to be construed as a reference to its having been so designated under section 38(6) of this Act.]

(2) [<sup>F93</sup>Except as otherwise expressly provided, references in this Act to a court do not include the Court Martial, the Summary Appeal Court, the Service Civilian Court, the Court Martial Appeal Court or the Supreme Court on an appeal brought from the Court Martial Appeal Court.]

(3) Where the age of any person at any time is material for the purposes of any provision of this Act regulating the powers of a court or justice of the peace, his age at the material time shall be deemed to be or to have been that which appears to the court or justice, after considering any available evidence, to be or to have been his age at that time.

(4) Any reference in this Act to any other enactment is a reference thereto as amended, and includes a reference thereto as extended or applied, by or under any other enactment, including this Act.

#### Textual Amendments

- F85** Definition substituted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 14 para. 16\(a\)](#)
- F86** Definitions in s. 39(1) repealed (E.W.) (1.10.1997) by [1997 c. 43, s. 56\(2\)](#), [Sch. 6](#); S.I. 1997/2200, [art. 2\(1\)\(o\)](#)
- F87** Words in s. 39(1) repealed (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\)](#), [Sch. 17](#); S.I. 2009/812, [art. 3\(a\)\(b\)](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)
- F88** Words substituted by [Criminal Law Act 1977 \(c. 45\)](#), [Sch. 12](#)
- F89** Definition repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)
- F90** [S. 39\(1ZA\)](#) inserted (6.4.2014) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), s. 148](#), [Sch. 13 para. 26](#) (with s. 89); S.I. 2014/768, [art. 2\(1\)\(b\)](#)
- F91** [S. 39\(1A\)\(1B\)](#) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 14 para. 16\(b\)](#)
- F92** [S. 39\(1A\)](#) repealed (E.W.) (1.10.1997) by [1997 c. 43, s. 56\(2\)](#), [Sch. 6](#); S.I. 1997/2200, [art. 2\(1\)\(o\)](#)
- F93** [S. 39\(2\)](#) substituted (28.3.2009 for specified purposes, 31.10.2009 in so far as not already in force) by [Armed Forces Act 2006 \(c. 52\), s. 383\(2\)](#), [Sch. 16 para. 47](#); S.I. 2009/812, [art. 3\(a\)\(b\)](#) (with transitional provisions in S.I. 2009/1059); S.I. 2009/1167, [art. 4](#)

---

**Changes to legislation:** *Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

#### 40 Legislative powers of Parliament of Northern Ireland.

(1) . . . <sup>F94</sup>

[<sup>F95</sup>(2) Any reference in this Act to an enactment of the Parliament of Northern Ireland, or to an enactment which that Parliament has power to amend, shall be construed, in relation to Northern Ireland, as a reference to that enactment as amended by any Act of that Parliament, whether passed before or after this Act, and to any enactment of that Parliament passed after this Act and re-enacting the said enactment with or without modifications.]

---

##### Textual Amendments

**F94** S. 40(1) repealed by [Northern Ireland Constitution Act 1973 \(c. 36\), Sch. 6 Pt. I](#)

**F95** S. 40(2) added by [Criminal Justice Act 1967 \(c. 80\), Sch. 6 para. 25](#)

#### 41 Minor and consequential amendments and repeals.

(1) The enactments described in the Fourth Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule, being minor amendments and amendments consequential on the foregoing provisions of this Act.

(2) . . . <sup>F96</sup>

<sup>F97</sup>(3) . . . . .

<sup>F97</sup>(4) . . . . .

---

##### Textual Amendments

**F96** S. 41(2) repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\), Sch. Pt. XI](#)

**F97** S. 41(3)(4) repealed (5.11.1993) by [1993 c. 50, s. 1\(1\) Sch. 1 Pt. I](#) Group1.

#### 42 Application to Scotland and Northern Ireland.

(1) The following provisions of this Act shall extend to Scotland, that is to say—

<sup>F98</sup>  
. . .

section thirty-five;

[<sup>F99</sup>section thirty-six;]

sections thirty-eight and thirty-nine;

section forty-one and the Fourth <sup>F100</sup>. . . Schedules so far as they relate to enactments which extend to Scotland;

but except as aforesaid, and except so far as it relates to the commencement of the said provisions, this Act shall not extend to Scotland.

(2) The following provisions of this Act shall extend to Northern Ireland, that is to say—

<sup>F98</sup>  
. . .

section thirty-five;

[<sup>F99</sup>section thirty-six;]

sections thirty-eight to forty;

---

**Changes to legislation:** Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

---

section forty-one and the Fourth <sup>F100</sup> . . Schedules, so far as they relate to enactments which extend to Northern Ireland;  
but except as aforesaid, and except so far as it relates to the commencement of the said provisions, this Act shall not extend to Northern Ireland.

#### Textual Amendments

- F98** Words in s. 42(1)(2) repealed (1.10.1997) by 1997 c. 43, s. 56(2), **Sch. 6**; S.I. 1997/2200, **art. 2(1)(o)** (with **art. 5(6)**)
- F99** Words inserted by **Criminal Justice Act 1982** (c. 48, SIF 39:1), **Sch. 14 para. 17**
- F100** Words in s. 42(1)(2) repealed (5.11.1993) by 1993 c. 50, s. 1(1) **Sch. 1 Pt. I** Group 1.

#### 43 Expenses.

There shall be paid out of moneys provided by Parliament any increase attributable to the provisions of this Act in the sums which, under any other enactment, are payable out of moneys so provided.

#### 44 Commencement.

- (1) The foregoing provisions of this Act (including the Schedules therein referred to) shall come into operation on such date as the Secretary of State may by order appoint.
- (2) Different dates may be appointed by order under this section for different purposes of this Act; and any reference in this Act to the commencement of any provision of this Act shall be construed as a reference to the date appointed for the purposes of that provision.

#### 45 Short title.

This Act may be cited as the Criminal Justice Act 1961.

---

**Changes to legislation:** Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

---

## SCHEDULES

### FIRST SCHEDULE

F101

. . .

---

#### Textual Amendments

**F101** Schs. 1, 6 repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [Sch. 16](#)

### SECOND SCHEDULE

F102

. . .

---

#### Textual Amendments

**F102** Sch. 2 repealed by [Children and Young Persons Act 1969 \(c. 54\)](#), [Sch. 6](#)

### THIRD SCHEDULE

F103

. . .

---

#### Textual Amendments

**F103** Sch. 3 repealed by [Criminal Justice Act 1967 \(c. 80\)](#), [Sch. 7 Pt. I](#)

### FOURTH SCHEDULE

Section 41.

### MINOR AND CONSEQUENTIAL AMENDMENTS

---

#### Modifications etc. (not altering text)

**C8** The text of Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as indicated, does not reflect any amendments or repeals which may have been made prior to 1. 2. 1991

*Changes to legislation: Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Enactment	Amendment
F104	F104
...	...
	F105
	...
	F105
	...
	F105
	...
	F105
	...
	F105
	...
	F105
	...
F105	F105
...	...
F105	F105
...	...
F105	F105
...	...
The Criminal Justice Act, 1948. 11 & 12 Geo. 6. c. 58.	Section eighteen shall cease to have effect.
The Criminal Justice Act, 1948. 11 & 12 Geo. 6. c. 58	F105
	...
	In section thirty-eight , in subsection (4), for the words “ The Second Schedule to this Act” there shall be substituted the words “section forty five of the Prison Act, 1952”
	F106
	...
	F105
	...
	In section fifty-two, subsection (2) shall cease to have effect.
	F105
	...
	In section eighty, in subsection (1), in the definition of “ Sentence ”, <sup>F105</sup> . . . and after



---

**Changes to legislation:** *Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

The Prison Act, 1952. 15 & 16 Geo. 6 & 1 Eliz. 2. c.52

that definition there shall be inserted the following definition:-

“The statutory restrictions upon the imprisonment of young offenders’ has the same meaning as in the Criminal Justice Act, 1961”;

and in subsection (4), for the words “ this Act or section one hundred and seven of the Magistrates’ Courts Act, 1952 ” there shall be substituted the words “ any enactment”.

In section thirteen, at the end of subsection (2) there shall be added the words “and while he is being taken to any place to which he is required or authorised by or under this Act to be taken, or is kept in custody in pursuance of any such requirement or authorisation ”.

In section twenty-five, in subsection (2) after the word “ sentence ”, in the second place where it occurs, there shall be inserted the words “ and is not a person to whom section twenty of the Criminal Justice Act, 1961, applies”; in subsection (3) at the end there shall be inserted the words “ or order that a person who is under supervision as aforesaid shall cease to be under supervision.”; and for subsection (7) there shall be substituted the following subsection:-

“(7) A person who is committed to prison in default of payment of a sum adjudged to be paid by a conviction shall be treated for the purposes of subsection (1) of this section, but not for the purpose of subsection (2) thereof, as undergoing a sentence of imprisonment for the term for which he is committed, and consecutive term is of imprisonment shall be treated for all the purposes of this section as one term.”

F107

. . .

In section forty-seven, in subsection ( 5), for the words from “ serving ” to the end of the subsection there shall be substituted the words “detained in a prison, borstal institution, or detention centre, not being persons committed in custody for trial at assizes or quarter sessions or committed to be sentenced or otherwise dealt with by quarter sessions or remanded in custody by any court ”.

*Changes to legislation: Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

	In section forty-nine, in subsection (2), in paragraph (a) after the word “court” there shall be inserted the words “in the United Kingdom”.
	In section fifty-five, in subsection (4), for the words “ the Second Schedule to this Act ” there shall be substituted the, words “ the Criminal Justice Act, 1961 ”.
<b>F105</b>	<b>F105</b>
...	...
<b>F108</b>	<b>F108</b>
...	...
The Criminal Justice Act (Northern Ireland), 1953, c. 14.	In section fourteen, in subsection (2), for the words from “in pursuance” to “1953” there shall be substituted the words “under or by virtue of any enactment in that behalf in force in any part of the United Kingdom (including an enactment of the Parliament of Northern Ireland)”.
The Prison Act (Northern Ireland), 1953. c. 18.	In section thirty-eight, in subsection (3), after the word “court” there shall be inserted the words “in the United Kingdom”.
The Naval Discipline Act, 1957. 5 & 6 Eliz. 2. c. 53	In section eighty-four, in subsection (5), for the words “or the Prison Act (Northern Ireland), 1953” there shall be substituted the words “the Prison Act (Northern Ireland) 1953, or the Criminal Justice Act, 1961”.
<b>F105</b>	<b>F105</b>
...	...

### Textual Amendments

- F104** Entry in Sch. 4 relating to section 53 of "Children and Young Persons Act 1933" repealed (25.8.2000) by 2000 c. 6, ss. 165, 168, **Sch. 12 Pt. I** (with Sch. 11 paras. 1, 2)
- F105** Words and entries in Schedule 4 repealed severally by **Criminal Justice (Scotland) Act 1963** (c. 39, SIF 39:1), s. 52(2)(3), **Sch. 6**, Statute Law Repeals Act 1963, **Children And Young Persons Act 1963** (c. 37, SIF 20), s. 64(3), **Sch. 5**, Statute Law Repeals Act 1965, **Children and Young Persons Act 1969** (c. 54, SIF 20), s. 72(4), **Sch. 6**, Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22, SIF 49:3)), s. 89, Sch. 3, Magistrates' Courts Act 1980 (c. 43, SIF 82), s. 154, **Sch. 9**, Supreme Court Act 1981 (c. 54, SIF 37), s. 152(4), **Sch. 7**, Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, **Sch. 16**,
- F106** Words in Sch. 4 repealed (1.4.2003) by **Criminal Justice and Police Act 2001** (c. 16), s. 138(2), **Sch. 7 Pt. 2(1)**; S.I. 2003/708, art. 2(m)
- F107** Entry in Sch. 4 repealed (16.5.1992) by **Prison Security Act 1992** (c. 25), ss. 2(3)(4), 3(2).
- F108** Entry in Sch. 4 repealed (5.11.1993) by 1993 c. 50, s. 1(1), **Sch. 1 Pt. I** Group 1.

---

**Changes to legislation:** *Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

---

F109F109 FIFTH SCHEDULE

---

**Textual Amendments**

**F109** Sch.5 repealed by [Statute Law \(Repeals\) Act 1974 \(c. 22\), s. 1, Sch. Pt. XI](#)

.....  
F109

SIXTH SCHEDULE

.....  
F110

---

**Textual Amendments**

**F110** Schs. 1, 6 repealed by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), Sch. 16](#)

**Changes to legislation:**

Criminal Justice Act 1961 is up to date with all changes known to be in force on or before 15 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

**Changes and effects yet to be applied to :**

- s. 23(4) words substituted by [2000 c. 43 Sch. 7 para. 33](#)