



Application of Enactments Ordinance 1954 (FLK No.13 of 1954)

Application of Colony Laws Ordinance 1955 (DS No.1 of 1955)

Criminal Justice Act 1948

UK Legis LINK as originally enacted	Criminal Justice Act 1948 c.58
English commencement	30 July 1948 (Royal Assent)
English status	In force (amended)
AEO Schedule No.	56
Date applied in SGSSI:	1 November 1954
Extent of application:	Sections 1, 3-8, 11 [except the words following "good behaviour of the offender" in subsection (1)], 12, 13, 14(1) 14(2)(b), 14(3), 14(4). 14(5), 15(4) 15(5), 15(6), 16, 17(2), 19, 37 (1) (c), 37(6), 39(1), 39(3), 39(5), 41(1), 41(3), 41(4), 41(5), 43, 44 (1), 44(4), 44(7), 69, 79. 80.

References to "Great Britain" shall be construed as references to "the Colony";

references to "Court of Assize" "Court of Quarter Sessions" and "Central Criminal Court as references to the "Supreme Court":

references to the "clerk of assize" as references to "the

Registrar of the Supreme Court”, and

references to the Lunacy and Mental Treatment Act, as
references to the Mental Treatment Ordinance.

References to “the Secretary of State” shall be construed
as reference to “the Governor”.

In subsection (2) of Section 3 there shall be substituted for
the words from “A probation order” to the words “and the
offender shall” the words “A probationer shall”, and the
words following the words “a probation officer” shall be
omitted.

Criminal Justice Act 1948

1948 CHAPTER 58

An Act to abolish penal servitude, hard labour, prison divisions and sentence of whipping; to amend the law relating to the probation of offenders, and otherwise to reform existing methods and provide new methods of dealing with offenders and persons liable to imprisonment; to amend the law relating to the proceedings of criminal courts, including the law relating to evidence before such courts; to abolish privilege of peerage in criminal proceedings; to regulate the management of prisons and other institutions and the treatment of offenders and other persons committed to custody; to re-enact certain enactments relating to the matters aforesaid; and for purposes connected therewith.

[30th July 1948]

Be it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Abolition of penal servitude, hard labour and prison divisions.

(1) No person shall be sentenced by a court to penal servitude; and every

enactment conferring power on a court to pass a sentence of penal servitude in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term of penal servitude for which a sentence could have been passed in that case immediately before the commencement of this Act.

- (2) No person shall be sentenced by a court to imprisonment with hard labour; and every enactment conferring power on a court to pass a sentence of imprisonment with hard labour in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before the commencement of this Act; and so far as any enactment requires or permits prisoners to be kept to hard labour it shall cease to have effect.
- (3) So far as any enactment provides that a person sentenced to imprisonment or committed to prison is or may be directed to be treated as an offender of a particular division, or to be placed in a separate division, it shall cease to have effect

3 Probation

- (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion that having regard to the circumstances, including the nature of the offence and the character of the offender, it is expedient to do so, the court may, instead of sentencing him, make a probation order, that is to say, an order requiring him to be under the supervision of a probation officer for a period to be specified in the order of not less than one year nor more than three years.
- (2) A probation order shall name the petty sessional division in which the offender resides or will reside; and the offender shall (subject to the provisions of the First Schedule to this Act relating to probationers who change their residence) be required to be under the supervision of a probation officer appointed for or assigned to that division.
- (3) Subject to the provisions of the next following section, a probation order may in addition require the offender to comply during the whole or any part of the probation period with such requirements as the court, having regard to the circumstances of the case, considers necessary for securing the good

conduct of the offender or for preventing a repetition by him of the same offence or the commission of other offences:

Provided that (without prejudice to the power of the court to make an order under subsection (2) of section eleven of this Act) the payment of sums by way of damages for injury or compensation for loss shall not be included among the requirements of a probation order.

- (1) Without prejudice to the generality of the last foregoing subsection, a probation order may include requirements relating to the residence of the offender:

Provided that—

- (a) before making an order containing any such requirements, the court shall consider the home surroundings of the offender; and
 - (b) where the order requires the offender to reside in an approved probation hostel, an approved probation home or any other institution, the name of the institution and the period for which he is so required to reside shall be specified in the order, and that period shall not extend beyond twelve months from the date of the order.
- (5) Before making a probation order, the court shall explain to the offender in ordinary language the effect of the order (including any additional requirements proposed to be inserted therein under subsection (3) or subsection (4) of this section or under the next following section) and that if he fails to comply therewith or commits another offence he will be liable to be sentenced for the original offence; and if the offender is not less than fourteen years of age the court shall not make the order unless he expresses his willingness to comply with the requirements thereof.
- (6) The court by which a probation order is made shall forthwith give copies of the order to a probation officer assigned to the court, and he shall give a copy to the offender, to the probation officer responsible for the supervision of the offender and to the person in charge of any institution in which the probationer is required by the order to reside; and the court shall, except where it is itself the supervising court, send to the clerk to the justices for the petty sessional division named in the order a copy of the order, together with such documents and information relating to the case as it considers likely to be of assistance to the supervising court.
- (7) Where a probation order requires the offender to reside in any institution, not being—

- (a) an approved probation hostel or approved probation home; or
 - (b) an institution in which he is required to reside for the purposes of any such treatment as is mentioned in paragraph (a) or paragraph (b) of subsection (2) of the next following section,
- the court shall forthwith give notice of the terms of the order to the [Governor].

4 Probation orders requiring treatment for mental condition

- (1) Where the court is satisfied, on the evidence of a duly qualified medical practitioner appearing to the court to be experienced in the diagnosis of mental disorders, that the mental condition of an offender is such as requires and as may be susceptible to treatment but is not such as to justify his being certified as a person of unsound mind under the [53 & 54 Vict. c. 5.] Lunacy Act, 1890, or as a defective under the [3 & 4 Geo. 5. c. 28.] Mental Deficiency Act, 1913, the court may, if it makes a probation order, include therein a requirement that the offender shall submit, for such period not extending beyond twelve months from the date of the order as may be specified therein, to treatment by or under the direction of a duly qualified medical practitioner with a view to the improvement of the offender's mental condition.
- (2) The treatment required by any such order shall be such one of the following kinds of treatment as may be specified in the order, that is to say—
 - (a) treatment as a voluntary patient under section one of the [20 & 21 Geo. 5. c. 23.] Mental Treatment Act, 1930, in such institution within the meaning of that Act, or in such hospital, nursing home or place approved by the Minister of Health for the purposes of the said section one, or in the charge of such person so approved, as may be specified in the order;
 - (b) treatment as a resident patient in such institution or place approved for the purposes of this section by the said Minister as may be specified in the order;
 - (c) treatment as a non-resident patient at such institution or place as may be specified in the order; or

(d) treatment by or under the direction of such duly qualified medical practitioner as may be specified in the order;

but except as aforesaid the nature of the treatment shall not be specified in the order.

(3) A court shall not make a probation order containing such a requirement as aforesaid unless it is satisfied that arrangements have been or can be made for the treatment intended to be specified in the order, and, if the offender is to be treated as a voluntary patient or as a resident patient as aforesaid, for his reception.

(4) While the probationer is under treatment as a voluntary patient or as a resident patient in pursuance of a requirement of the probation order, the probation officer responsible for his supervision shall carry out the supervision to such extent only as may be necessary for the purpose of the discharge or amendment of the order.

(5) Where the medical practitioner by whom or under whose direction a probationer is being treated for his mental condition in pursuance of a probation order is of opinion that part of the treatment can be better or more conveniently given in or at an institution or place not specified in the order, being an institution or place in or at which the treatment of the probationer will be given by or under the direction of a duly qualified medical practitioner, he may, with the consent of the probationer, make arrangements for him to be treated accordingly; and the arrangements may provide for the probationer to receive part of his treatment as a resident patient in an institution or place notwithstanding that the institution or place is not one which could have been specified in that behalf in the probation order.

(6) Where any such arrangements as are mentioned in the last foregoing subsection are made for the treatment of a probationer—

(a) the medical practitioner by whom the arrangements are made shall give notice in writing to the probation officer responsible for the supervision of the probationer, specifying the institution or place in or at which the treatment is to be carried out; and

(b) the treatment provided for by the arrangements shall be deemed to be

treatment to which he is required to submit in pursuance of the probation order.

- (7) Subject as hereinafter provided, a report in writing as to the mental condition of any person purporting to be signed by a duly qualified medical practitioner experienced in the diagnosis of mental disorders may be received in evidence for the purposes of subsection (1) of this section without proof of the signature, qualifications or experience of the practitioner :

Provided that such a report shall not be so received unless the person to whom it relates consents or, where that person is under seventeen years of age, unless his parent or guardian consents or no parent or guardian can be found.

- (8) Where a person of whose mental condition evidence is received for the purposes of subsection (1) of this section (or, where that person is under seventeen years of age, his parent or guardian) desires to call rebutting evidence, the court shall not make a probation order in his case containing any such requirement as is authorised by this section unless he, or his parent or guardian, as the case may be, has been afforded an opportunity of calling such evidence.
- (9) Except as provided by this section, a court shall not make a probation order requiring a probationer to submit to treatment for his mental condition.

5 Discharge, amendment and review of probation orders.

- (1) The provisions of the First Schedule to this Act shall have effect in relation the discharge and amendment of probation orders.
- (2) Where a probation order, whether as originally made or as amended under the said Schedule, requires the probationer to reside in an approved probation hostel or home or other institution (otherwise than for the purpose of submitting to treatment for his mental condition as a voluntary or resident patient) for a period extending beyond six months from the date of the order as originally made or of the amending order, as the case may be, the probation officer shall, as soon as may be after the expiration of six months after that date, report to the supervising court on the case.
- (3) On receipt of any such report, the supervising court shall review the probation order for the purpose of considering whether to cancel the

requirement as to residence or reduce the period thereof, and may, if it thinks fit, amend the order accordingly without the necessity for any application in that behalf.

- (4) Where, under the following provisions of this Part of this Act, a probationer is sentenced for the offence for which he was placed on probation, the probation order shall cease to have effect.

6 Breach of requirement of probation order

- (1) If at any time during the probation period it appears on information to a justice of the peace on whom jurisdiction is hereinafter conferred that the probationer has failed to comply with any of the requirements of the order, the justice may issue a summons requiring the probationer to appear at the place and time specified therein, or may, if the information is in writing and on oath, issue a warrant for his arrest.
- (2) The following justices shall have jurisdiction for the purposes of the foregoing subsection, that is to say:—
- (a) if the probation order was made by a court of summary jurisdiction, any justice acting for the petty sessional division or place for which that court or the supervising court acts;
 - (b) in any other case, any justice acting for the petty sessional division or place for which the supervising court acts;
- and any summons or warrant issued under this section shall direct the probationer to appear or be brought before a court of summary jurisdiction for the petty sessional division or place for which the justice issuing the summons or warrant acts.
- (3) If it is proved to the satisfaction of the court before which a probationer appears or is brought under this section that the probationer has failed to comply with any of the requirements of the probation order, that court may without prejudice to the continuance of the probation order, impose on him a fine not exceeding ten pounds or, in a case to which section nineteen of this Act applies, make an order under that section requiring him to attend at an attendance centre, or may—
- (a) if the probation order was made by a court of summary jurisdiction, deal with the probationer, for the offence in respect of which the probation order was made, in any manner in which the court could deal with him if it had just convicted him of that offence;
 - (b) if the probation order was made by a court of assize or quarter sessions, commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the court of assize or quarter sessions.

- (4) Where the court of summary jurisdiction deals with the case as provided in paragraph (b) of the last foregoing subsection then—
- (a) the court shall send to the court of assize or quarter sessions a certificate signed by a justice of the peace, certifying that the probationer has failed to comply with such of the requirements of the probation order as may be specified in the certificate, together with such other particulars of the case as may be desirable; and a certificate purporting to be so signed shall be admissible as evidence of the failure before the court of assize or quarter sessions; and
 - (b) where the probationer is brought or appears before the court of assize or quarter sessions, and it is proved to the satisfaction of that court that he has failed to comply with any of the requirements of the probation order, that court may deal with him, for the offence in respect of which the probation order was made, in any manner in which the court could deal with him if he had just been convicted before that court of that offence.
- (5) A fine imposed under this section in respect of a failure to comply with the requirements of a probation order shall be deemed for the purposes of any enactment to be a sum adjudged to be paid by a conviction.
- (6) A probationer who is required by the probation order to submit to treatment for his mental condition, shall not be treated for the purposes of this section as having failed to comply with that requirement on the ground only that he has refused to undergo any surgical, electrical or other treatment if, in the opinion of the court, his refusal was reasonable having regard to all the circumstances; and without prejudice to the provisions of section eight of this Act, a probationer who is convicted of an offence committed during the probation period shall not on that account be liable to be dealt with under this section for failing to comply with any requirement of the probation order

7 Absolute and conditional discharge

- (1) Where a court by or before which a person is convicted of an offence (not being an offence the sentence for which is fixed by law) is of opinion, having regard to the circumstances including the nature of the offence and the character of the offender, that it is inexpedient to inflict punishment and that a probation order is not appropriate, the court may make an order discharging him absolutely, or, if the court thinks fit, discharging him subject to the condition that he commits no offence during such period, not exceeding twelve months from the date of the order, as may be specified therein.
- (2) An order discharging a person subject to such a condition as aforesaid is in this Act referred to as "an order for conditional discharge", and the period

specified in any such order as " the period of conditional discharge".

- (3) Before making an order for conditional discharge the court shall explain to the offender in ordinary language that if he commits another offence during the period of conditional discharge he will be liable to be sentenced for the original offence.
- (4) Where, under the following provisions of this Part of this Act, a person conditionally discharged under this section is sentenced for the offence in respect of which the order for conditional discharge was made, that order shall cease to have effect.

8 Commission of further offence

- (1) If it appears to a judge or justice of the peace on whom jurisdiction is hereinafter conferred that a person in whose case a probation order or an order for conditional discharge has been made has been convicted by a court in any part of Great Britain of an offence committed during the probation period or during the period of conditional discharge, and has been dealt with in respect of that offence, the judge or justice may issue a summons requiring that person to appear at the place and time specified therein, or may issue a warrant for his arrest:
Provided that a justice of the peace shall not issue such a summons except on information and shall not issue such a warrant except on information in writing and on oath.
- (2) The following persons shall have jurisdiction for the purposes of the foregoing subsection, that is to say:—
 - (a) if the probation order or the order for conditional discharge was made by the Central Criminal Court, a judge of that court;
 - (b) if the order was made by a court of assize (other than the Central Criminal Court), a judge of the High Court or a committing justice;
 - (c) if the order was made by a court of quarter sessions, a justice for the county or place for which that court was held, or a committing justice;
 - (d) if the order was made by a court of summary jurisdiction, a justice acting for the petty sessional division or place for which that court acts;
 - (e) in the case of a probation order, by whatever court it was made, a justice acting for the petty sessional division or place for which the supervising

court acts,

- (3) A summons or warrant issued under this section shall direct the person so convicted to appear or to be brought before the court by which the probation order or the order for conditional discharge was made:

Provided that—

- (a) if that court is a court of summary jurisdiction and the summons or warrant is issued by a justice acting for the petty sessional division for which the supervising court acts, the summons or warrant may direct him to appear or to be brought before the supervising court; and
 - (b) if a warrant is issued requiring him to be brought before a court of assize or quarter sessions, and he cannot forthwith be brought before that court because that court is not being held, the warrant shall have effect as if it directed him to be brought before a court of summary jurisdiction for the place in Great Britain where he is arrested; and the court of summary jurisdiction shall commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the court of assize or quarter sessions.
- (4) If a person in whose case a probation order or an order for conditional discharge has been made by a court of assize or quarter sessions is convicted and dealt with by a court of summary jurisdiction in respect of an offence committed during the probation period or during the period of conditional discharge, the court of summary jurisdiction may commit him to custody or release him on bail (with or without sureties) until he can be brought or appear before the court by which the order was made; and if it does so the court of summary jurisdiction shall send to the court of assize or quarter sessions a copy of the minute or memorandum of the conviction entered in the register required to be kept under section twenty-two of the [42 & 43 Vict. c. 49.] Summary Jurisdiction Act, 1879, signed by the clerk of the court by whom the register is kept.
- (5) Where it is proved to the satisfaction of the court by which a probation order or an order for conditional discharge was made, or, if the order (being a probation order) was made by a court of summary jurisdiction, to the satisfaction of that court or the supervising court, that the person in whose case that order was made has been convicted and dealt with in respect of an offence committed during the probation period, or during the period of conditional discharge, as the case may be, the court may deal with him, for

the offence for which the order was made, in any manner in which the court could deal with him if he had just been convicted by or before that court of that offence.

- (6) If a person in whose case a probation order or an order for conditional discharge has been made by a court of summary jurisdiction is convicted before a court of assize or quarter sessions of an offence committed during the probation period or during the period of conditional discharge, or is dealt with by a court of assize or quarter sessions for an offence so committed in respect of which he was committed for sentence to that court, the court of assize or quarter sessions may deal with him, for the offence for which the order was made, in any manner in which the court of summary jurisdiction could deal with him if it had just convicted him of that offence.
- (7) If a person in whose case a probation order or an order for conditional discharge has been made by a court of summary jurisdiction is convicted by another court of summary jurisdiction of any offence committed during the probation period, or during the period of conditional discharge, that court may, with the consent of the court which made the order or, in the case of a probation order, with the consent of that court or of the supervising court, deal with him, for the offence for which the order was made, in any manner in which the court could deal with him if it had just convicted him of that offence.
- (8) In this section the expression " committing justice ", in relation to a person in whose case a probation order or an order for conditional discharge has been made by a court of assize or quarter sessions, includes any justice acting for the petty sessional division or place for which the justices acted by whom he was committed for trial or for sentence.

11 Supplementary provisions as to probation and discharge

- (1) Without prejudice to the provisions of subsection (2) of section fifty-five of the [23 & 24 Geo. 5. c. 12.] Children and Young Persons Act, 1933 (which enables a court to order the parent or guardian of a child or young person charged with an offence to give security for his good behaviour), any court may, on making a probation order or an order for conditional discharge under this Part of this Act, if it thinks it expedient for the purpose of the reformation of the offender, allow any person who consents to do so to give

security for the good behaviour of the offender; and section twenty-three of the Summary Jurisdiction Act, 1879, shall apply to any security so given before a court of summary jurisdiction as if it were given under that Act by a surety.

- (2) A court, on making a probation order or an order for conditional discharge or on discharging an offender absolutely under this Part of this Act, may, without prejudice to its power of awarding costs against him, order the offender to pay such damages for injury or compensation for loss as the court thinks reasonable; but, in the case of an order made by a court of summary jurisdiction, the damages and compensation together shall not exceed one hundred pounds or such greater sum as may be allowed by any enactment other than this section.
- (3) An order for the payment of damages or compensation as aforesaid may be enforced in like manner as an order for the payment of costs by the offender; and where the court, in addition to making such an order for the payment of damages or compensation to any person, orders the offender to pay to that person any costs, the orders for the payment of damages or compensation and for the payment of costs may be enforced as if they constituted a single order for the payment of costs.
- (4) In proceedings before a court of assize or quarter sessions under the foregoing provisions of this Act, any question whether a probationer has failed to comply with the requirements of the probation order or has been convicted of an offence committed during the probation period, and any question whether any person in whose case an order for conditional discharge has been made has been convicted of an offence committed during the period of conditional discharge, shall be determined by the court and not by the verdict of a jury.
- (5) Section four of the [44 & 45 Vict. c. 24.] Summary Jurisdiction (Process) Act, 1881, shall apply to any process issued by any judge or justice under the foregoing provisions of this Act, or under section six of the Probation of Offenders Act, 1907, as it applies to Scotland, as it applies to process issued under the Summary Jurisdiction Acts by a court of summary jurisdiction.

12 Effects of probation and discharge.

- (1) Subject as hereinafter provided, a conviction of an offence for which an order

is made under this Part of this Act placing the offender on probation or discharging him absolutely or conditionally shall be deemed not to be a conviction for any purpose other than the purposes of the proceedings in which the order is made and of any subsequent proceedings which may be taken against the offender under the foregoing provisions of this Act:

Provided that where an offender, being not less than seventeen years of age at the time of his conviction of an offence for which he is placed on probation or conditionally discharged as aforesaid, is subsequently sentenced under this Part of this Act for that offence, the provisions of this subsection shall cease to apply to the conviction.

- (2) Without prejudice to the foregoing provisions of this section, the conviction of an offender who is placed on probation or discharged absolutely or conditionally as aforesaid shall in any event be disregarded for the purposes of any enactment which imposes any disqualification or disability upon convicted persons, or authorises or requires the imposition of any such disqualification or disability.
- (3) The foregoing provisions of this section shall not affect—
 - (a) any right of any such offender as aforesaid to appeal against his conviction, or to rely thereon in bar of any subsequent proceedings for the same offence;
 - (b) the reversion or restoration of any property in consequence of the conviction of any such offender; or
 - (c) the operation, in relation to any such offender, of any enactment in force at the commencement of this Act which is expressed to extend to persons dealt with under subsection (1) of section one of the Probation of Offenders Act, 1907, as well as to convicted persons.

13 Power to fine on conviction of felony on indictment.

Any court before which an offender is convicted on indictment of felony (not being a felony the sentence for which is fixed by law) shall have power to fine the offender in lieu of or in addition to dealing with him in any other manner in which the court has power to deal with him

14 Powers of courts [...]in relation to fines and forfeited recognizances.

(1) Subject to the provisions of this section, where a fine is imposed by, or a recognizance is forfeited before, [the Supreme Court], an order may be made in accordance with the provisions of this section—

- (a) allowing time for the payment of the amount of the fine or the amount due under the recognizance;
- (b) directing payment of the said amount by instalments of such amounts and on such dates respectively as may be specified in the order;
- (c) fixing a term of imprisonment which the person liable to make the payment is to undergo if any sum which he is liable to pay is not duly paid or recovered;
- (d) in the case of a recognizance, discharging the recognizance or reducing the amount due thereunder:

Provided that any term of imprisonment fixed under this subsection in default of payment of a fine shall not exceed twelve months.

(2) Any order under this section may be made by the court by which the fine is imposed or before which the recognizance is forfeited; and (subject as hereinafter provided) an order under this section providing for any such matters as are mentioned in paragraph (a) or paragraph (b) of the foregoing subsection may be made—

- (a) [not applied]
- (b) where the fine was imposed or the recognizance forfeited by or before any other court of assize, by a judge of the High Court upon application made in writing to the clerk of assize;
- (c) [not applied]

and may amend any previous order made under this section so far as it provides for those matters:

Provided that no application shall be made under paragraphs (a) to (c) of this subsection after the refusal of a previous application made thereunder.

(3) Where any person liable for the payment of a fine or a sum due under a recognizance to which this section applies is sentenced by the court to, or is serving or otherwise liable to serve, a term of imprisonment, the court may order that any term of imprisonment fixed under paragraph (c) of subsection

- (1) of this section shall not begin to run until after the end of the first-mentioned term of imprisonment.
- (4) The power conferred by this section to discharge a recognizance or reduce the amount due thereunder shall be in addition to the powers conferred by any other Act relating to the discharge, cancellation, mitigation or reduction of recognizances or sums forfeited thereunder.
- (5) This section shall not apply to a fine imposed by a court of quarter sessions on appeal against a decision of a court of summary jurisdiction.

15 Incidental provisions as to fines and forfeited recognizances

- (1)-(3) [Not applied]
- (4) Where any such order as aforesaid is made directing payment by instalments of a fine or the amount due under a recognizance, and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.
- (5) Where any such order as aforesaid is made fixing a term of imprisonment in default of payment of a fine or the amount due under a recognizance, then—
 - (a) on payment of the fine or the said amount to the officer responsible for the recovery thereof, or (if the person in respect of whom the order was made is in prison) to the governor of the prison, the order shall cease to have effect; and, if the said person is in prison and is not liable to be detained for any other cause, he shall forthwith be discharged;
 - (b) on payment to the said officer or to the governor of the prison of a part of the fine or of the amount due under the recognizance, the total number of days in the term of imprisonment shall be reduced proportionately, that is to say, by such number of days as bears to the said total number of days less one day the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the amount of the fine or the amount due under the recognizance.
- (6) Any sums received by the governor of a prison under the last foregoing subsection shall be paid by him to the officer responsible for the recovery of sums due in respect of the fine or the recognizance

16 Restriction on sentence of death

The following subsection shall be substituted for subsection (1) of section fifty-three of the Children and Young Persons Act, 1933:—

“(1) Sentence of death shall not be pronounced on or recorded against a person convicted of an offence if it appears to the court that at the time when the offence was committed he was under the age of eighteen years; but in lieu thereof the court shall sentence him to be detained during His Majesty's pleasure; and if so sentenced he shall be liable to be detained in such place and under such conditions as the Secretary of State may direct.”

17 Restriction on imprisonment

- (1) [not applied]
- (2) No court shall impose imprisonment on a person under twenty-one years of age unless the court is of opinion that no other method of dealing with him, is appropriate; and for the purpose of determining whether any other method of dealing with any such person is appropriate the court shall obtain and consider information about the circumstances, and shall take into account any information before the court which is relevant to his character and his physical and mental condition.
- (3) – (6) [not applied]

19 Attendance at an attendance centre

- (1) Where a court of summary jurisdiction has power, or would but for section seventeen of this Act have power, to impose imprisonment on a person who is not less than twelve but under twenty-one years of age, or to deal with any such person under section six of this Act for failure to comply with any of the requirements of a probation order, the court may, if it has been notified by the Secretary of State that an attendance centre is available for the reception from that court of persons of his class or description, order him to attend at such a centre, to be specified in the order, for such number of hours, not exceeding twelve in the aggregate, as may be so specified:

Provided that no such order shall be made in the case of a person who has been previously sentenced to imprisonment, Borstal training or detention in a

detention centre, or has been ordered to be sent to an approved school.

- (2) The times at which an offender is required to attend at an attendance centre by virtue of an order made under this section shall be such as to avoid interference, so far as practicable, with his school hours or working hours, and the first such time shall be specified in the order (being a time at which the centre is available for the attendance of the offender in accordance with the notification of the Secretary of State) and the subsequent times shall be fixed by the officer in charge of the centre, having regard to the offender's circumstances:

Provided that an offender shall not be required under this section to attend at an attendance centre on more than one occasion on any day, or for more than three hours on any occasion.

- (3) The court by which an order has been made under subsection (1) of this section, or any justice acting for the petty sessional division or place for which that court acts, may, on the application of the offender or of the officer in charge of the attendance centre specified in the order—
- (a) by order discharge the order; or
 - (b) by order vary the day or hour specified therein for the offender's first attendance at the centre;

and where the application is made by the said officer, the court or justice may deal with it without summoning the offender.

- (4) Where an order is made under subsection (1) or subsection (3) of this section, the clerk to the justices shall deliver or send a copy of the order to the officer in charge of the attendance centre specified therein, and shall also deliver a copy to the offender or send a copy by registered post addressed to the offender's last or usual place of abode.
- (5) Where a person has been ordered to attend at an attendance centre in default of the payment of any sum of money then—
- (a) on payment of the whole sum to any person authorised to receive it, the order shall cease to have effect;
 - (b) on the payment of a part of the said sum as aforesaid, the total number of hours for which the offender is required to attend at the centre shall be reduced proportionately, that is to say by such number of complete hours as bears to the said total number the proportion most nearly approximating to, without exceeding, the proportion which the part paid bears to the said sum.

- (6) Provision may be made by rules under section twenty-nine of the Summary Jurisdiction Act, 1879, as to the application of sums paid under the last foregoing subsection and for determining the persons authorised to receive such payments and the conditions under which such payments may be made.
- (7) Where an order under subsection (1) of this section has been made and it appears on information to a justice acting for the petty sessional division or place for which the court which made the order acts that the person in whose case the order was made—
- (a) has failed without reasonable excuse to attend at the centre in accordance with the order; or
 - (b) while attending at the centre has committed a breach of the rules made under section fifty-two of this Act which cannot be adequately dealt with under those rules;
- the justice may issue a summons requiring the offender to appear at the place and time specified therein before a court of summary jurisdiction for the petty sessional division or place for which the justice acts, or may, if the information is in writing and on oath, issue a warrant for his arrest requiring him to be brought before such a court.
- (8) If it is proved to the satisfaction of the court before which an offender appears or is brought under the last foregoing subsection that he has failed to attend as aforesaid, or has committed such a breach of rules as aforesaid, that court may revoke the order requiring his attendance at the attendance centre and deal with him in any manner in which he could have been dealt with by the court which made the order if the order had not been made.

37 Bail on appeal, case stated or application for certiorari

- (1) Without prejudice to the powers vested before the commencement of this Act in any court to admit or direct the admission of a person to bail —
- (a) [not applied]
 - (b) [not applied] re-hearing, as the case may be;
 - (c) the High Court may release from custody a person who, having been convicted or sentenced by a court of summary jurisdiction, has applied to the ' court of summary jurisdiction for the statement

of a case for the opinion of the High Court on a point of law, on his entering into a recognizance conditioned for his appearance, within ten days after the judgment of the High Court shall have been given, before a court of summary jurisdiction acting for the same petty sessional division or place as the court which convicted or sentenced that person, unless the determination in respect of which the case is stated is reversed by that judgment;

(d) [not applied]

(2)-(5) [not applied]

(6) The time during which a person is admitted to bail under paragraph (b), (c) or (d) of subsection (1) of this section shall not count as part of any term of imprisonment under his sentence; and any sentence of imprisonment imposed by a court of summary jurisdiction, or, on appeal, by a court of quarter sessions, after the imposition of which a person is so admitted to bail, shall be deemed to begin to run or to be resumed as from the day on which he is received in prison under the sentence; and for the purposes of this subsection the expression " prison " shall be deemed to include a detention centre and remand home and the expression " imprisonment " shall be construed accordingly.

39 Proof of previous conviction by fingerprints

(1) A previous conviction may be proved against any person in any criminal proceedings by the production of such evidence of the conviction as is mentioned in this section, and by showing that his finger-prints and those of the person convicted are the finger-prints of the same person.

(2) [not applied]

(3) A certificate purporting to be signed by or on behalf of the governor of a prison or remand centre in which any person has been detained in connection with any criminal proceedings, certifying that the finger-prints exhibited thereto were taken from him while he was so detained, shall be evidence in those proceedings that the finger-prints exhibited to the certificate are the finger-prints of that person.

(4) [not applied]

(5) The method of proving a previous conviction authorised by this section shall

be in addition to any other method of proving the conviction.

41 Evidence by certificate

- (1) In any criminal proceedings, a certificate purporting to be signed by a constable, or by a person having the prescribed qualifications, and certifying that a plan or drawing exhibited thereto is a plan or drawing made by him of the place or object specified in the certificate, and that the plan or drawing is correctly drawn to a scale so specified, shall be evidence of the relative position of the things shown on the plan or drawing.
- (2) [not applied]
- (3) In any proceedings for an offence consisting of the stealing of goods in the possession of the British Transport Commission or any Executive (other than the Hotels Executive) constituted under section five of the [10 & 11 Geo. 6. c. 49.] Transport Act, 1947, or of receiving goods so stolen knowing them to have been stolen, or for an offence under section twelve or eighteen or subsection (2) of section thirty-three of the [6 & 7 Geo. 5. c. 50.] Larceny Act, 1916, or sections fifty to fifty-six of the [8 Edw. 7. c. 48.] Post Office Act, 1908, a statutory declaration made by any person—
 - (a) that he dispatched or received or failed to receive any goods or postal packet or that any goods or postal packet when dispatched or received by him were in a particular state or condition; or
 - (b) that a vessel, vehicle or aircraft was at any time employed by or under the Post Office for the transmission of postal packets under contract,shall be admissible as evidence of the facts stated in the declaration.
- (4) Nothing in this section shall be deemed to make a certificate or statutory declaration admissible as evidence in proceedings for an offence except in a case where and to the extent to which oral evidence to the like effect would have been admissible in those proceedings.
- (5) Nothing in this section shall be deemed to make a certificate or statutory declaration admissible as evidence in proceedings for any offence—
 - (a) unless a copy thereof has, not less than seven days before the hearing or

trial, been served in the prescribed manner on the person charged with the offence: or

- (b) if that person, not later than three days before the hearing or trial or within such further time as the court may in special circumstances allow, serves notice in the prescribed form and manner on the prosecutor requiring the attendance at the trial of the person who signed the certificate or the person by whom the declaration was made, as the case may be.

(6) [not applied]

43 Reports of probation officers

Where a report by a probation officer is made to any court (other than a juvenile court) with a view to assisting the court in determining the most suitable method of dealing with any person in respect of an offence, a copy of the report shall be given by the court to the offender or his counsel or solicitor:

Provided that if the offender is under seventeen years of age and is not represented by counsel or a solicitor, a copy of the report need not be given to him but shall be given to his parent or guardian if present in court.

44 Payment of costs of defence on acquittal, etc.

- (1) If in any such proceedings as are mentioned in section one of the Costs in Criminal Cases Act, 1908, the accused is acquitted or discharged under section twenty-five of the Indictable Offences Act, 1848, or the information is dismissed, the court may, if it thinks fit, direct the payment out of local funds in accordance with the provisions of that Act of such sums as appear to the court reasonably sufficient to compensate the accused for the expenses properly incurred by him in carrying on his defence.

(2) [not applied]

- (3) Where an appeal to the House of Lords brought under subsection (6) of section one of the Criminal Appeal Act, 1907, is determined in favour of the defendant, the House of Lords may, if they think fit, direct the payment out of local funds in accordance with the provisions of the Costs in Criminal Cases Act, 1908, of such sums as appear to them reasonably sufficient to compensate the defendant for any expenses properly incurred by him in the appeal to the House of Lords or in the prosecution of his appeal to the Court

of Criminal Appeal or in carrying on his defence.

(4) In relation to a person tried before a court of assize or quarter sessions, references in this section to the carrying on of his defence shall be construed as references to the carrying on of his defence before that court, before the examining justices by whom he was committed for trial, and before any other court of assize or quarter sessions before which proceedings for the offence in respect of which he was committed were begun but not concluded.

(5) The amount of any costs directed to be paid to any person under subsection (1) or subsection (2) of this section shall be ascertained as soon as practicable by the proper "officer of the court by which the direction is given; and where the direction is given by the Court of Criminal Appeal, the proper officer shall make out and deliver to the said person, or to any person who appears to the proper officer to be acting on behalf of that person, an order on the treasurer of the county or borough out of the funds of which the costs are payable under the Costs in Criminal Cases Act, 1908, for the payment of that amount.

(6) – (7) [not applied]

69 Commutation of death sentence to sentence of imprisonment

Where His Majesty pardons any person who has been sentenced to death on condition that he serves a term of imprisonment, that person shall be deemed to have been sentenced by the court before which he was convicted to imprisonment for the said term.

79 Consequential and minor amendments

The enactments mentioned in the first column of the Ninth Schedule to this Act shall have effect subject to the amendments specified in the second column of that Schedule (being amendments consequential upon the foregoing provisions of this Act or relating to matters of minor detail)

80 Interpretation

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

" Approved probation hostel " and " Approved probation home " have the meaning assigned to them by section forty-six of this Act;

" Approved school " means a school approved under section seventy-nine of the Children and Young Persons Act, 1933;

" Court " does not include a court-martial;

" Court of summary jurisdiction " includes examining justices within the meaning of the Criminal Justice Act, 1925;

" Detention centre " has the meaning assigned to it by section forty-eight of this Act;

" Enactment " includes an enactment contained in a local Act and any order, regulation or other instrument having effect by virtue of an Act;

" England " includes Wales;

" Impose imprisonment " means pass a sentence of imprisonment or commit to prison in default of payment of any sum of money or for failing to do or abstain from doing anything required to be done or left undone;

"Local authority " means, in relation to any probation area, any authority out of whose funds the salary of the clerk to the justices for a petty sessional division or place contained in the probation area is paid ;

" Mental hospital " includes a Broadmoor institution;

" Metropolitan police court area " means the area consisting of the police court divisions for the time being constituted under the Metropolitan Police Courts Acts, 1839 and 1840;

" Offence the sentence for which is fixed by law " means an offence for which the court is required to sentence the offender to death or imprisonment for life or to detention during His Majesty's pleasure;

" Order for conditional discharge " has the meaning assigned to it by section seven of this Act;

" Period of conditional discharge " has the meaning assigned to it by section seven of this Act;

" Probationer " means a person for the time being under supervision by virtue of a probation order;

" Probation order " has the meaning assigned to it by section three of this Act;

" Probation period " means the period for which a probationer is placed under supervision by a probation order;

" Remand centre " has the meaning assigned to it by section forty-eight of this Act;

" Remand home " means premises established or used by the council of a county or county borough under the provisions of section seventy-seven of the Children and Young Persons Act, 1933;

" Sentence " includes an order for detention in a detention centre, an order for custody in a remand home under section fifty-four of the Children and Young Persons Act, 1933, and an order sending an offender to an approved school, but does not include a committal in default of payment of any sum of money or failing to do or abstain from doing anything required to be done or left undone;

" Sum adjudged to be paid by a conviction " includes any costs, damages or compensation adjudged to be paid by the conviction of which the amount is ascertained by the conviction;

" Supervising court " means, in relation to a probation order, a court of summary jurisdiction acting for the petty sessional division or place for the time being named in the order; and where the probationer was a child or young person within the meaning of the Children and Young Persons Act, 1933, when the probation order was made, means a juvenile court for that division or place;

" Supervision order " has the meaning ascribed to it by section seventy-four of this Act.

- (2) Any reference in this Act to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; any such reference to a previous sentence of Borstal training shall be construed as including a reference to a previous sentence of detention in a Borstal institution; and any such reference to a previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of Great Britain and to a previous sentence passed by any such

court.

- (3) Where the age of any person at any time is material for the purposes of any provision of this Act, or of any Order in Council made thereunder, regulating the powers of a court, his age at the material time shall be deemed to be or to have been that which appears to the court after considering any available evidence to be or to have been his age at that time.
- (4) References in this Act to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under this Act upon the imprisonment of offenders of his age, but shall not be construed as including an offence for which the court is required to impose a sentence of imprisonment for life.
- (5) For the purposes of this Act, except subsection (6) of section three thereof, where a probation order or an order for conditional discharge has been made on appeal, the order shall be deemed to have been made by the court from which the appeal was brought.
- (6) Where any provision of this Act empowers a court on conviction of an offender to pass a sentence or make an order in lieu of dealing with him in any other manner, the said provision shall not be construed as taking away any power of the court to order the offender to pay costs, damages or compensation.
- (7) References in this Act to any enactment shall, unless the context otherwise requires, be construed as references to that enactment as amended by any subsequent enactment including this Act.

Notes:

- 1. Please see www.legislation.gov.uk website for the original Act and subsequent amendments and then consider it in the light of extent of application noted above and the Principal Adaptive Provisions.
- 2. Please note that not all of the adaptations required to be made to this legislation by the schedule to the Application of Enactments Ordinance 1954 etc. have been applied in this reproduction given that they largely relate to the names or positions of officers associated with courts.
- 3. The relevant schedules have not been reproduced.

4. Whilst this Act is very likely to be considered current law in South Georgia and the South Sandwich Islands it is unlikely to have any significant effect given the powers given to the Falkland Islands Courts in the [Falkland Islands Courts \(Overseas Jurisdiction\) Order 1989 \(as amended\)](#)

Disclaimers:

1. Nothing on this website should be taken as being a representation of what the Commissioner or Government of South Georgia and the South Sandwich Islands considers to be the laws of South Georgia and the South Sandwich Islands.
2. The Government cannot guarantee that links to any other website, including www.legislation.gov.uk will remain current, active or accurate.
3. The only official publication of the laws of South Georgia and the South Sandwich Islands is made in the *Gazette*.

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