

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]
House of Representatives, 2 August 1961

Words struck out by the Statutes Revision Committee are shown in italics within bold round brackets, or with black rule at beginning and after last line of struck out matter; words inserted are shown in roman underlined with a double rule, or with double rule before first line and after last line of new matter.

Hon. Mr Hanan

PENAL INSTITUTIONS AMENDMENT BILL

ANALYSIS

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1. Short Title	4. Cumulation of penalties by Visiting Justice
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A BILL INTITULED

An Act to amend the Penal Institutions Act 1954

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,
5 as follows:

1. **Short Title**—This Act may be cited as the Penal Institutions Amendment Act 1961, and shall be read together with and deemed part of the Penal Institutions Act 1954 (hereinafter referred to as the principal Act).
- 10 2. **New sections inserted**—The principal Act is hereby amended by inserting, after section 21, the following sections:
“21A. **Part-time release to engage in employment**—(1) The Secretary for Justice may, *(with the approval)* on the recommendation of the committee established under section 21B of
15 this Act, direct that any specified inmate who is serving a sentence of imprisonment, borstal training, or corrective

training and who wishes to be released under this section shall be released from day to day to engage in such employment (including self-employment) as the Secretary may from time to time specify. Any such direction (*may be given subject to such conditions as the Secretary or the committee may impose*) shall be given subject to the conditions imposed by the committee and to such other conditions as the Secretary may impose. 5

“(2) Any direction under this section may be revoked by the Secretary at any time. 10

Struck Out

“(3) Where any direction under subsection (1) of this section is in force in respect of any inmate the Superintendent of the institution in which the inmate is detained shall, subject to any conditions imposed by the Secretary or the committee, release the inmate at such times and for such periods as are necessary to comply with the direction. 15

New

“(3) Where any direction under subsection (1) of this section is in force in respect of any inmate the Superintendent of the institution in which the inmate is detained shall release the inmate at such times and for such periods as are necessary to comply with the direction and during every such period the inmate shall comply with any conditions attached to the direction. 20 25

“(4) Where any person in respect of whom a direction under this section is in force is charged with an offence against discipline under section 32 of this Act, the Superintendent of the institution in which that person is detained shall have power to suspend the direction until such time, not being in any case later than the second day after the hearing of the charge, as the Superintendent is notified of the Secretary’s decision in respect of the direction: 30

“Provided that any such suspension shall immediately cease to have effect if the charge is dismissed. 35

“(5) The power to release a person under this section may be exercised more than once in respect of the same person.

“(6) Any person released under this section may be arrested at any time without warrant by any constable or any officer of an institution after any direction under this section has been revoked, and may be taken by that constable or officer to any place where that person may be lawfully detained. 40

“(7) Any person released under this section shall be deemed to have escaped from lawful custody, and shall be liable accordingly, if he is at large without lawful excuse (the proof of which excuse shall be on him) after the expiry of any
5 period for which he was so released.

“(8) Every person released under this section shall continue to be in the legal custody of the Superintendent of the institution from which he is released during every period for which he is so released:

10 “Provided that during every such period that person shall be deemed not to be an inmate for the purposes of sections 32 to 36 and section 44 of this Act.

“21B. **Committee to make recommendations for release—**

15 (1) For the purposes of section 21A of this Act there shall be a committee consisting of three members, of whom one shall be a Stipendiary Magistrate appointed as Chairman, and one an officer of the Department of Justice appointed from time to time by the Secretary for Justice.

20 “(2) Every member of the committee other than the member appointed by the Secretary for Justice shall be appointed by the Minister for a term of three years, but may from time to time be reappointed, or may at any time be removed from office by the Minister for disability, neglect of duty, or misconduct proved to the satisfaction of the Minister, or may at
25 any time resign his office by writing addressed to the Minister.

30 “(3) The Minister may from time to time appoint any person to act temporarily as a member of the committee while any member appointed by him is incapacitated by illness, absence from New Zealand, or other sufficient cause from performing the duties of his office, or during the absence of any such member from any place at which a meeting of the committee is to be held. No appointment of a temporary member and no acts done by him as such, and no acts done by the committee while any temporary member is acting as such,
35 shall in any proceedings be questioned on the ground that the occasion for any such appointment had not arisen or had ceased, or on the ground that any permanent member of the committee acted as such while a temporary member appointed in his place remained in office.

40 “(4) The committee is hereby declared to be a statutory board within the meaning of the Fees and Travelling Allowances Act 1951.

“(5) There shall be paid out of money appropriated by Parliament for the purpose to every member of the committee (including temporary members) appointed by the Minister, other than the Chairman, remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly. 5

“(6) Meetings of the committee shall be held at such times and places as the committee or the Chairman appoints.

“(7) At any meeting of the committee two members shall form a quorum. 10

“(8) Subject to the provisions of this Act and of any regulations made under this Act, the committee may regulate its procedure in such manner as it thinks fit.

“(9) The functions of the committee shall be— 15

“(a) To make recommendations to the Secretary for Justice on the exercise of the power conferred on him by section 21A of this Act in respect of any person whose case the Secretary refers to the committee: 20

“(b) To determine the nature of the employment in which any such person may be permitted to work:

“(c) In any case where it thinks fit, to determine any conditions to be attached to any direction to be given under section 21A of this Act. 25

“21c. **Earnings of employed inmate**—(1) The net amount of wages or salary payable to any inmate for work done by him during any period or periods for which he is released under section 21A of this Act shall be paid to the Secretary for Justice by that inmate’s employer, in such manner as shall be agreed between the Secretary and the employer, to the credit of the inmate. 30

“(2) Notwithstanding anything in the Workers’ Compensation Act 1956, all weekly payments under that Act, which become payable to any inmate in respect of any total or partial incapacity for work resulting from an injury suffered by that inmate during any period for which he is released under section 21A of this Act, shall be paid by the employer of that inmate to the Secretary for Justice to the credit of that inmate. 35

“(3) Every inmate who is released under this section to engage in self-employment shall pay to the Secretary for Justice to the credit of the inmate, at such times as the Secretary shall direct, such sums on account of his earnings in that employment as the Secretary shall determine. 40

“(4) Any money paid to the Secretary under subsection (1), subsection (2), or subsection (3) of this section to the credit of an inmate shall be applied by the Secretary, in such proportions as he thinks fit, in payment of all or any of the following:

5 “(a) Any expenses incidental to the inmate’s employment outside the institution:

10 “(b) The cost of the inmate’s detention for each week during which he is allowed at any time to engage in employment outside the institution in accordance with a direction under section 21A of this Act, but not exceeding such weekly rate as shall be fixed from time to time by the Minister:

“ (c) The maintenance of any of the inmate’s dependants:

15 “(d) The inmate’s requirements on his release from the sentence under which he is detained:

“ (e) Any fine or other sum of money which the inmate was ordered to pay on his conviction for any offence:

20 “(f) The satisfaction in whole or in part of any judgment debt owing by the inmate:

“ (g) The purchase by the inmate of any article of a type approved for the time being by the Secretary:

25 “Provided that any money paid to the Secretary under subsection (2) of this section shall not be applied by the Secretary under paragraph (e) or paragraph (f) of this subsection.

30 “(5) Where the Secretary is satisfied that any condition imposed by him or by the committee on the release of any inmate under section 21A of this Act has not been observed or that the inmate has not been working satisfactorily during any period for which he is released under section 21A of this Act he may as a disciplinary measure pay into the Public Account a sum not exceeding ten pounds from any money 35 which he holds to the credit of the inmate and which has been paid to him under subsection (1), subsection (2), or subsection (3) of this section, and that sum shall be forfeited to the Crown and shall not be applied or paid under subsection (4) or subsection (6) of this section:

40 “Provided that the Secretary shall not pay any such sum into the Public Account under this subsection until the inmate has been informed of the reason for the proposed payment and has been given an opportunity to make an explanation to the Superintendent of the institution in which he is detained 45 or to the Secretary or to an Inspector of Penal Institutions.

“(6) Any sum held to the credit of any inmate and not applied or forfeited in accordance with subsection (4) or subsection (5) of this section shall be paid by the Secretary to the inmate on his release at the end of his term unless he is released on probation. Where he is released on probation that sum shall be paid to him by such instalments and at such times as the probation officer shall determine.”

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3. Calculation of term of substituted sentence—Section 29 of the principal Act is hereby amended by inserting, after subsection (1), the following subsection:

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“(1A) If any sentence is quashed on appeal and another sentence is substituted therefor the term of that substituted sentence shall commence when the quashed sentence would have commenced.”

4. Cumulation of penalties by Visiting Justice—Section 33 of the principal Act is hereby amended by adding to subsection (3) the following proviso:

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“Provided that where the Visiting Justice imposes more than one of the above-mentioned penalties he may not direct that any of them are to be cumulative.”

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5. Cumulation of penalties by Superintendent—Section 34 of the principal Act is hereby amended by adding to subsection (3) the following proviso:

“Provided that where the Superintendent imposes more than one of the above-mentioned penalties he may not direct that any of them are to be cumulative.”

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6. Failure to submit to medical examination or procedure—The principal Act is hereby further amended by inserting, after section 36, the following section:

“36A. Every inmate commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months who refuses to submit himself—

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“(a) To any medical, dental, or X-ray examination required by regulations made under this Act; or

“(b) To any medical, surgical, or dental procedure (including an examination) when he has been ordered to undergo that procedure by a medical practitioner or dentist, as the case may be, or by an officer acting on the instructions of a medical practitioner or dentist, and the procedure is one which, in the opinion of the medical practitioner or dentist giving the order or instructions, is essential for the purpose of determining whether the inmate has any infectious disease or for the prevention of the spread of infection in the institution.”

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