

PENAL INSTITUTIONS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Penal Institutions Act 1975. The principal purpose of the Bill is to make proper provision for pre-release hostels. At present, if premises are intended to be used for this purpose they have to be designated as a penal institution. The Bill empowers the establishment of hostels for inmates serving sentences of imprisonment, borstal training, or corrective training. However, an inmate can be transferred to a hostel only if the Secretary or Superintendent has directed that he be released to work in accordance with section 21A of the principal Act.

Clause 1 relates to the Short Title and commencement of the Bill.

Clause 2 defines terms used in the Bill.

Pre-release Hostels

Clause 3 makes provision for the establishment of pre-release hostels by the Minister. Hostels may be of one or more of the classes specified in that subclause.

Clause 4 provides for the appointment of a Warden and other necessary staff for each hostel.

Clause 5 makes the Warden responsible for the general administration of the hostel, subject to the control of the Secretary.

Clause 6 confers on officers acting in the course of their duty all the rights and powers of a constable.

Clause 7 provides for the transfer of a prison inmate to a hostel. As stated, only an inmate who is subject to a release-to-work direction may be transferred. The transfer may be directed by the Secretary, or (subject to any instructions of the Secretary) by the Superintendent of the prison with the consent of the Warden of the hostel. The transfer to the hostel does not affect the length of the inmate's sentence, nor affect his right to parole or remission or his liability to supervision following his release. The consent of the inmate to the transfer is not required.

Clauses 8 and 9 make similar provision for the transfer to hostels of inmates of borstal institutions and corrective training institutions respectively.

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Clause 10 provides that, as a general rule, a male inmate may be transferred to an appropriate hostel only: for example, an inmate of a prison may be transferred only to a prison pre-release hostel. A female inmate may be transferred to a hostel of whatever kind.

Clause 11 specifies a number of circumstances in which a hostel resident may be transferred from the hostel to a penal institution.

Subclause (1) empowers (but does not oblige) the Secretary to transfer a resident from the hostel at the request of the resident.

Subclause (2) requires the resident to be transferred from the hostel if the direction that he be released for work is revoked.

Subclause (3) requires the Secretary to direct such a transfer where the resident has become a risk to the public.

Subclause (4) empowers the Warden, with the consent of the Secretary, to direct the transfer of any resident if he escapes from lawful custody.

Subclause (5) empowers the Warden, again with the consent of the Secretary, to direct the transfer of any resident if he has absented himself from the hostel or refused to undertake employment without reasonable excuse.

Clause 12 empowers the Warden, with the consent of the Secretary, to transfer a resident if no suitable work is available for the resident, or if he is incapacitated by illness or injury.

Clause 13 provides for the transfer of residents where a hostel has to be closed temporarily for any reason.

Clause 14 specifies the institution to which a resident is to be transferred pursuant to *clauses 11 to 13* of this Bill.

Clause 15 specifies what is to happen where a hostel resident is convicted of an offence committed before or after his transfer to the hostel.

Subclause (1) provides that in every case where the offence is committed after the resident is transferred to the hostel, he shall be transferred from the hostel.

Subclauses (2) to (4) relate to offences committed before the transfer to the hostel. In brief, residents will remain in the hostel if their new sentence will not extend beyond the expiry of their present sentence. If the new sentence will extend beyond the expiry of the present sentence, the inmates are to be transferred from the hostel.

Clause 16 provides that every resident of a hostel shall be in the legal custody of the Warden.

Clause 17 authorises the temporary release of a hostel resident in such circumstances or for such purposes as the Minister may specify.

Clause 18 prescribes offences against discipline in hostels, and *clause 19* provides for charges to be heard and determined by Visiting Justices.

Clause 20 specifies the provisions of the principal Act that are to apply to hostels, Wardens, and residents, subject to the modifications specified in the *Schedule* to the Bill.

Clause 21 empowers the making of regulations for the purposes of the Bill.

Clause 22 is a consequential amendment to section 21A of the principal Act. It provides that the Superintendent of an institution cannot revoke a direction that an inmate be released to work while that inmate is a resident of a hostel.

Clause 23 provides for the expiry of those provisions of this Bill that relate to borstal training on the date fixed for the commencement of section 10 of the Criminal Justice Amendment Act 1975, which abolishes the sentence of borstal training.

Miscellaneous Amendments

Clause 24 amends section 31 of the principal Act, which relates to remission of sentence. It provides that where an inmate is transferred to a mental institution, or an institution under the Alcoholism and Drug Addiction Act 1966, he shall be deemed to be still serving his sentence for the purpose of calculating his entitlement to remission.

Clause 25 amends section 41A of the principal Act, which relates to compensation for damage caused by inmates escaping from custody. At present, claims for compensation are to be filed in Magistrates' Courts designated by the Minister for the purpose. The amendment allows a claim to be filed in any Magistrate's Court exercising civil jurisdiction.

Hon. Mr Thomson

PENAL INSTITUTIONS AMENDMENT

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A BILL INTITULED

An Act to make better provision for pre-release hostels, and to amend the Penal Institutions Act 1954

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

1. Short Title and commencement—(1) This Act may be cited as the Penal Institutions Amendment Act 1978, and shall be read together with and deemed part of the Penal Institutions Act 1954* (hereinafter referred to as the principal Act).

(2) Sections 3 (1) (d), 9, 10 (1) (d), 15 (2) (d), and 15 (2) (e) of this Act, and, to the extent that they relate to the sentence of corrective training, all the other provisions of this Act shall come into force on the date appointed for the commencement of section 4 of the Criminal Justice Amendment Act 1975 (which makes provision for that sentence).

(3) Sections 3 (1) (b) and 10 (1) (b) of this Act, and, to the extent that they relate to inmates of youth prisons, all the other provisions of this Act shall come into force on the date appointed for the commencement of section 2 (2) of the Penal Institutions Amendment Act 1975 (which defines the term “youth prison”).

(4) Section 24 of this Act shall come into force on the date appointed for the commencement of section 14 of the Penal Institutions Amendment Act 1975 (which substitutes a new section 31 of the principal Act relating to release of inmates after they have served a part of their sentence).

(5) Except as provided in subsections (2) to (4) of this section, this Act shall come into force on a date to be appointed by the Governor-General by Order in Council, and different dates may be so appointed in respect of different provisions of this Act. Any provision may be brought into force either generally or in respect of such type of sentence or such class of offenders as may be specified in any such order.

2. Interpretation—In this Act, unless the context otherwise requires,—

“Borstal institution” means a borstal institution established under section 4 of the principal Act:

“Corrective training institution” means a corrective training institution established under section 4 of the principal Act:

“Hostel” means a pre-release hostel established under section 3 of this Act:

“Hostel resident” or “resident”, in relation to a hostel, means an inmate transferred to the hostel pursuant to section 7 or section 8 or section 9 of this Act and for the time being in the legal custody of the Warden:

*1957 Reprint, Vol. 11, p. 667

Amendments: 1961, No. 18; 1963, No. 36; 1964, No. 104; 1965, No. 104; 1969, No. 34; 1975, No. 48; 1976, No. 113

“Inmate” and “institution” have the same meanings as they have in section 2 of the principal Act:

“Officer” means an officer appointed under section 4 of this Act; and includes a Warden:

5 “Prison” means a prison established under section 4 of the principal Act:

“Secretary” means the Secretary for Justice:

10 “Superintendent” means a person appointed as Superintendent of an institution pursuant to section 6 of the principal Act; and includes any other person lawfully exercising the powers of the Superintendent of the institution:

15 “Visiting Justice” means a Magistrate, and, in relation to a specified institution, also means a person appointed to be a Visiting Justice for that institution under section 10 (2) of the principal Act:

“Warden”, in relation to a hostel, means the Warden of that hostel appointed under section 4 of this Act:

20 “Youth prison” has the same meaning as it has in section 2 of the principal Act.

Pre-release Hostels

25 **3. Establishment of hostels**—(1) The Minister may from time to time, by notice in the *Gazette*, declare any land or building or any part of any land or building to be one or more of the following kinds of pre-release hostel, namely:

(a) A prison pre-release hostel:

(b) A youth prison pre-release hostel:

(c) A borstal pre-release hostel:

30 (d) A corrective training pre-release hostel.

(2) The Minister may from time to time declare any land or building or any part of any land or building to be added to or excluded from any hostel.

(3) Any such notice as aforesaid may be in like manner revoked at any time.

35 (4) Every notice under this section shall take effect from the date thereof or from such other date as may be specified therein.

40 **4. Warden and other officers of hostels**—(1) To every hostel there shall from time to time be appointed under the State Services Act 1962 a Warden, and such other officers and employees as may be required.

(2) There may be appointed under the State Services Act 1962 such number of temporary Wardens and other temporary officers as may from time to time be required. Every temporary Warden or other temporary officer shall be appointed in respect of a particular hostel and shall be deemed for the purposes of this Act to have been appointed as a Warden or other officer under subsection (1) of this section until his appointment expires or is terminated. 5

5. Warden charged with general administration of hostel—

(1) Subject to the control of the Secretary, every Warden shall be charged with the general administration of the hostel, and may make rules, not inconsistent with this Act or with any regulations made thereunder, for the management of the hostel and for the conduct and safe custody of the residents. 10

(2) No such rules shall have effect unless and until they are approved by the Secretary in writing. 15

(3) In the event of the incapacity, illness, sudden absence, or death of a Warden, the Secretary may, by notice in writing, direct any officer or employee engaged in the hostel or any other officer in the Public Service to exercise the powers of the Warden under this Act until— 20

(a) The Warden returns to work; or

(b) A new or temporary Warden is appointed; or

(c) The expiration of a period of 2 weeks from the date of the direction,— 25
whichever sooner occurs.

6. Protection of officers in discharge of duties—Every officer of a hostel, while acting as such, shall have all the powers, authority, protection, and privileges of a constable.

7. Transfer of prison inmate to hostel—(1) In this section the term “eligible inmate” means an inmate of a prison in respect of whom there is for the time being in force a direction by the Secretary pursuant to section 21A (1) of the principal Act that the inmate be released from day to day to engage in employment. 30 35

(2) Subject to section 10 of this Act and to any regulations made under this Act, and subject to any instructions of the Secretary, the Superintendent of a prison may, with the consent of the Warden of a hostel, direct in writing that any eligible inmate be transferred to the hostel. 40

(3) Without limiting anything in subsection (2) of this section, but subject to section 10 of this Act and to any regulations made under this Act, the Secretary may direct in writing that any eligible inmate be transferred to a specified hostel.

5 (4) Any such direction by a Superintendent or the Secretary shall be sufficient authority for the reception and detention of that inmate in the hostel.

10 (5) Except as otherwise provided in this Act, any inmate so transferred shall, while detained in the hostel, be treated as a resident of the hostel, but shall continue to be subject to the same provisions relating to length of sentence, release, and subsequent supervision as he would have been had he not been transferred to the hostel.

8. Transfer of borstal inmate to hostel—(1) In this section
15 the term “eligible inmate” means an inmate of a borstal institution in respect of whom there is for the time being in force a direction by the Secretary pursuant to section 21A (2) of the principal Act, or by the Superintendent of the institution under delegation by the Secretary pursuant to section 21A
20 (2A) of that Act, that the inmate be released from day to day to engage in employment.

(2) Subject to section 10 of this Act and to any regulations made under this Act, and subject to any instructions of the Secretary, the Superintendent of a borstal institution may,
25 with the consent of the Warden of a hostel, direct in writing that any eligible inmate be transferred to the hostel.

(3) Without limiting anything in subsection (2) of this section, but subject to section 10 of this Act and to any regulations made under this Act, the Secretary may direct in
30 writing that any eligible inmate be transferred to a specified hostel.

(4) Any such direction by a Superintendent or the Secretary shall be sufficient authority for the reception and detention of that inmate in the hostel.

35 (5) Except as otherwise provided in this Act, any inmate so transferred shall, while detained in the hostel, be treated as a resident of the hostel, but shall continue to be subject to the same provisions relating to length of sentence, release, and subsequent supervision as he would have been had he not
40 been transferred to the hostel.

9. Transfer of corrective trainee to hostel—(1) In this section the term “eligible inmate” means an inmate of a corrective training institution in respect of whom there is for the

time being in force a direction by the Secretary pursuant to section 21A (2) of the principal Act, or by the Superintendent of the institution under delegation by the Secretary pursuant to section 21A (2A) of that Act, that the inmate be released from day to day to engage in employment. 5

(2) Subject to section 10 of this Act and to any regulations made under this Act, and subject to any instructions of the Secretary, the Superintendent of a corrective training institution may, with the consent of the Warden of a hostel, direct in writing that any eligible inmate be transferred to the hos- 10 tel.

(3) Without limiting anything in subsection (2) of this section, but subject to section 10 of this Act and to any regulations made under this Act, the Secretary may direct in writing that any eligible inmate be transferred to a speci- 15 fied hostel.

(4) Any such direction by a Superintendent or the Secretary shall be sufficient authority for the reception and detention of that inmate in the hostel.

(5) Except as otherwise provided in this Act, any inmate 20 so transferred shall, while detained in the hostel, be treated as a resident of the hostel, but shall continue to be subject to the same provisions relating to length of sentence, release, and subsequent supervision as he would have been had he not been transferred to the hostel. 25

10. Inmate to be transferred to appropriate hostel only—

(1) Where a male inmate is to be transferred to a hostel pursuant to any of sections 7 to 9 of this Act, he shall be so transferred in accordance with the following provisions:

(a) A male inmate of a prison (other than a youth prison) 30 shall be transferred to a prison pre-release hostel:

(b) A male inmate of a youth prison shall be transferred to a youth prison pre-release hostel:

(c) A male inmate of a borstal institution shall be transferred to a borstal pre-release hostel: 35

(d) A male inmate of a corrective training institution shall be transferred to a corrective training pre-release hostel.

(2) A female inmate may be transferred pursuant to any of sections 7 to 9 of this Act to a hostel of any kind. 40

(3) Without limiting anything in subsection (2) of this section, but subject to subsection (1) of this section and to any regulations made under this Act, the Secretary may, with the consent of the resident, direct in writing that any resident be transferred to any other specified hostel.

11. Transfer of resident from hostel—(1) Any hostel resident may at any time request the Secretary to transfer him from the hostel, and the Secretary may direct that the resident be transferred accordingly.

10 (2) Where, pursuant to section 21A (2c) of the principal Act, the Secretary revokes the direction referred to in section 7 (1) or section 8 (1) or section 9 (1) of this Act in respect of any hostel resident, that resident shall be transferred from the hostel.

15 (3) Where the Secretary is satisfied that a hostel resident has become, by reason of his behaviour or attitude, a risk to the community at large, or to the safety of any members of the staff of the hostel or of any of the other residents, to the extent that his continued detention in a hostel is no longer
20 warranted, he shall direct that the resident be transferred from the hostel.

(4) Where a hostel resident is returned to the hostel following his escape from lawful custody, the Warden may, with the consent of the Secretary, direct that the resident be transferred from the hostel.

25 (5) Where the Warden of a hostel is satisfied that a resident of the hostel has, without reasonable excuse, absented himself from the hostel or refused to undertake employment, he may, with the consent of the Secretary, direct that the resident be transferred from the hostel.

12. Temporary transfer where resident unable to work—
(1) Where the Warden of a hostel is satisfied in respect of any resident that there is not, in the locality, any employment available to him that he is willing to undertake, the Warden
35 may, with the consent of the Secretary, direct that the resident be transferred from the hostel.

(2) Where the Warden of a hostel is satisfied that any resident has become incapacitated through injury or illness and will be unable to resume employment for at least 14 days,
40 he may, with the consent of the Secretary, direct that the resident be transferred from the hostel.

(3) In any case to which subsection (1) or subsection (2) of this section applies, the resident (if he remains an eligible inmate within the meaning of section 7 or section 8 or section 9 of this Act) shall be entitled, on request, to be transferred back to the hostel if and when employment of a kind that he is willing to undertake is available to him or, as the case may require, he has recovered his capacity to work. 5

13. Transfer of residents during temporary closure of hostel—(1) Where for any reason it is necessary or expedient to close any hostel temporarily, the Secretary shall direct that each resident be transferred from the hostel. 10

(2) In any case to which subsection (1) of this section applies, every resident (if he remains an eligible inmate within the meaning of section 7 or section 8 or section 9 of this Act) shall be entitled, on request, to be transferred back to the hostel when it is reopened. 15

14. Detention of inmate transferred from hostel—(1) Where the resident of any hostel is directed to be transferred from the hostel in accordance with any of the provisions of sections 11 to 13 of this Act, the following provisions shall apply, whichever is appropriate: 20

- (a) Where the direction is given by the Secretary pursuant to subsection (1) or subsection (2) of section 11 of this Act, the resident shall be transferred back to the institution from which he was transferred to the hostel, or to such other institution of the same kind as the Secretary may decide: 25
- (b) Where the direction is given by the Secretary pursuant to subsection (3) of section 11 of this Act, the resident shall be transferred to the nearest institution (of whatever kind): 30
- (c) Where the direction is given by a Warden pursuant to subsection (4) or subsection (5) of section 11 of this Act, the resident shall be transferred back to the institution from which he was transferred to the hostel, or to such other institution of the same kind as the Secretary may decide: 35
- (d) Where the direction is given by a Warden pursuant to subsection (1) or subsection (2) of section 12 of this Act, the resident shall be transferred to the nearest institution (of whatever kind): 40

(e) Where the direction is given by the Secretary pursuant to section 13 of this Act, the resident shall be transferred to the nearest institution (of whatever kind) or to another hostel (of whatever kind), as the Secretary may decide.

(2) For the purposes of subsection (1) of this section, in any case to which section 11 (2) of this Act applies the Secretary shall be deemed to have directed that the resident be transferred from the hostel.

(3) The provisions of subsection (1) of this section shall apply notwithstanding anything in section 10 of this Act or in section 12 of the principal Act.

(4) The provisions of this section shall be sufficient authority to the Superintendent of the institution to which any resident is transferred in accordance with those provisions for the reception and detention of that inmate in the institution.

(5) Every resident who is transferred to an institution pursuant to this section shall continue to be subject to the same provisions relating to length of sentence, release, and subsequent supervision as he would have been had he not been transferred to a hostel.

15. Effect of further sentences—(1) Where any resident of a hostel is convicted of an offence committed after he was transferred to the hostel and is sentenced to imprisonment or to borstal training or to corrective training, he shall be transferred back to the institution from which he was transferred, or, if he is not to serve his new sentence in that institution, he shall be transferred to the institution in which he is to serve his new sentence.

(2) Where any resident of a hostel is convicted of an offence committed before he was transferred to the hostel and is sentenced to imprisonment or to borstal training or to corrective training, the following provisions shall apply, whichever is appropriate:

(a) In the case of a resident of a prison pre-release hostel or a youth prison pre-release hostel who is sentenced to a term or terms of imprisonment,—

(i) If the term or terms of imprisonment will expire on or before the date of expiry of his present sentence, he shall continue to be detained in the hostel:

(ii) If the term or terms of imprisonment will expire after the date of expiry of his present sentence, he shall be transferred from the hostel:

- (b) In the case of a resident of a borstal pre-release hostel who is sentenced to a term or terms of imprisonment,—
- (i) If the term or terms of imprisonment will expire on or before the date of expiry of the maximum term for which he could then be detained under the sentence of borstal training, he shall continue to be detained in the hostel unless the Court imposing the sentence directs that instead of continuing to serve the sentence of borstal training he shall serve the sentence or sentences of imprisonment, in which case subparagraph (ii) of this paragraph shall apply: 5
- (ii) If the term or terms of imprisonment will expire after the date of expiry of the maximum term for which he could then be detained under the sentence of borstal training, he shall be transferred to the institution in which he is to serve his sentence: 15
- (c) In the case of a resident of a borstal pre-release hostel whose maximum term of borstal training is extended, or who is again sentenced to borstal training, he shall be transferred from the hostel: 20
- (d) In the case of a resident of a corrective training institution who is sentenced to a term or terms of imprisonment,— 25
- (i) If the term or terms of imprisonment will expire on or before the date of expiry of the sentence of corrective training, he shall continue to be detained in the hostel unless the Court imposing the sentence directs that instead of continuing to serve the sentence of corrective training he shall serve the sentence or sentences of imprisonment, in which case subparagraph (ii) of this paragraph shall apply: 30
- (ii) If the term or terms of imprisonment will expire after the date of expiry of the sentence of corrective training, he shall be transferred to the institution in which he is to serve his sentence: 35
- (e) In the case of a resident of a corrective training institution who is sentenced to a further term of corrective training, he shall be transferred from the hostel. 40
- (3) Where any resident of a hostel is convicted of an offence, whether committed before or after he was transferred to the hostel, and is sentenced otherwise than to imprisonment or to borstal training or to corrective training, he shall continue to be detained in the hostel. 45

(4) Where any resident of a hostel is to be transferred from the hostel in accordance with any of the provisions of subsection (2) of this section, except paragraphs (b) and (d) of that subsection, he shall be transferred to the institution
 5 from which he was transferred to the hostel, or to another institution of the same kind.

16. Legal custody of residents—(1) The Warden of a hostel shall have the legal custody of every person lawfully detained in the hostel.

10 (2) Such legal custody as aforesaid shall commence as soon as the hostel resident is received within the hostel or into the custody of any officer of the hostel, and shall continue while the hostel resident is confined in the hostel, or is employed beyond the precincts of the hostel, or is for any reason outside
 15 it in the custody or under the control or supervision of any such officer or of any probation officer or other person pursuant to this Act.

(3) Where any hostel resident is for any reason outside the hostel in the custody or under the control or supervision
 20 of any probation officer or any other person pursuant to this Act, that probation officer or other person shall have the powers of an officer to give any lawful order to the hostel resident and shall be deemed to be an officer for the purposes of the following provisions, namely:

25 (a) Section 7 of this Act (which relates to the protection of officers in the discharge of their duties):

(b) Section 18 of this Act (which relates to offences against discipline by inmates):

30 (c) Section 41 of the principal Act (which relates to the arrest of inmates unlawfully at large).

(4) Where, owing to the illness or incapacity of the officer or person having the custody or control or supervision of any hostel resident outside the hostel, or for any other reason, that custody or control or supervision ceases, the hostel resident
 35 shall return to the hostel forthwith. If he fails so to return, he shall be deemed to have escaped from lawful custody and to be unlawfully at large, and shall be liable accordingly.

(5) Where, with the permission of the Warden, any hostel resident is for any reason outside the hostel for any period
 40 (which period shall not exceed 30 minutes), otherwise than in the custody or under the control or supervision of any officer or probation officer or other person acting pursuant to this Act, he shall be deemed to be in the custody of the Warden

throughout that period. If the resident fails to return to the hostel before the expiration of that period, he shall be deemed to have escaped from lawful custody and to be unlawfully at large, and shall be liable accordingly.

17. Temporary release from custody—(1) The Minister may from time to time, subject to such conditions and restrictions as he thinks fit, give authority for the temporary release from custody of a hostel resident in such circumstances or for such purpose as the Minister specifies. Any authority given by the Minister under this section may be given either generally or in respect of cases of any specified class or in respect of any particular case.

(2) Any release under this section shall be for a period fixed by the Secretary, or by the Warden of the hostel within the limits of any authority given to him by the Secretary, and may be subject to conditions imposed by the Secretary or by the Warden within the limits of that authority.

(3) The Secretary or the Warden of the hostel may at any time direct the return to the hostel of any hostel resident released from custody under this section.

(4) Every hostel resident released from custody under this section shall be deemed to be unlawfully at large if he is at large after the expiry of the period for which he was so released or after the giving of a direction for his return to a hostel as aforesaid.

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

(6) Where, after inquiry, the Warden finds that any hostel resident released under this section has, without reasonable excuse,—

- (a) Returned to the hostel after the expiry of the period for which he was released; or
 - (b) Spent any part of the period during which he was released otherwise than at a place approved by the Warden before the resident was released; or
 - (c) Returned to the hostel in a state of intoxication,—
- the resident shall not be entitled to be released again from the hostel under this section during the period of 7 days commencing with the day after the date on which he returns to the hostel.

(7) In any case to which subsection (6) of this section applies, the resident shall have the right to appeal to a Visiting Justice against the Warden's finding; and the provisions of section 35 of the principal Act, so far as they are applicable and with the necessary modifications, shall apply with respect to every such appeal.

18. Offences—Every hostel resident commits an offence against discipline who—

- 10 (a) Fails without reasonable excuse to obey any lawful order of the Warden or any other officer, or fails to comply with any regulation made under this Act or with any rule of the hostel made under section 5 of this Act; or
- 15 (b) Behaves in an offensive, threatening, insolent, insulting, disorderly, or indecent manner; or
- 20 (c) Without lawful excuse, has in the hostel or in his possession any article that is capable of being used as an offensive weapon, or any article that he is prohibited by regulations made under this Act from having in the hostel or in his possession.

19. Powers of Visiting Justice in relation to offences by inmates—(1) Every Visiting Justice shall have power to hear any complaint relating to any offence against discipline under section 18 of this Act alleged to have been committed by any hostel resident, and may examine any person concerning the alleged offence, on oath or otherwise at his discretion.

(2) Every such hearing and examination shall be in the presence and hearing of the hostel resident charged with the offence, who shall be entitled to be heard and to cross-examine any witness.

(3) Where on any hearing under this section the Visiting Justice finds the offence proved, he may either reprimand the resident without penalty, or impose on the resident one or more of the following penalties, namely:

- 35 (a) The revocation, for any period not exceeding 14 days, of any approval for the hostel resident's temporary release from custody granted under section 17 of this Act;
- 40 (b) The postponement for a specified period of any eligibility of the resident for release in accordance with section 31 of the principal Act from any sentence that he is then serving, but no period of postponement shall exceed the shorter of the following periods:

- (i) Fourteen days; or
- (ii) A period that, by itself or when added to such other period or periods of postponement as there may be affecting the same sentence, is equal to one-third of the term already served under the sentence: 5
- (c) The ordering of the transfer of the resident from the hostel.
- (4) Where an order is made pursuant to subsection (3) (c) of this section, the resident shall be transferred to the nearest institution (of whatever kind). 10
- (5) An order made pursuant to subsection (3) (c) of this section shall be sufficient authority to the Superintendent of the institution to which the person concerned is transferred in accordance with the order for the reception and detention of that person in the institution. 15
- (6) Every person who is transferred to an institution pursuant to an order made under subsection (3) (c) of this section shall continue to be subject to the same provisions relating to length of sentence, release, and subsequent supervision as he would have been had he not been transferred to a hostel. 20
- (7) Where the offence proved is an offence against section 18 (c) of this Act, any Magistrate may, whether a penalty is or has been imposed under this section or not, order that any article in respect of which the offence was committed shall be forfeited to the Crown. 25
- (8) Where the Visiting Justice is of opinion that in the circumstances of the case the resident should be charged before a Court with any offence under any enactment other than this Act, instead of being dealt with under this section, he may in his discretion, at any time before imposing a penalty under this section, decline to proceed with the hearing and direct that an information be laid accordingly. 30
- (9) The postponement for a specified period of any eligibility of an inmate for release in accordance with section 31 of the principal Act may be imposed under paragraph (b) of subsection (3) of this section notwithstanding that a date for release has been fixed in accordance with the said section 31 or, if that date has already been postponed, substituted in accordance with section 33 (3) (a) of the principal Act or with this subsection. The postponement shall operate to substitute for the date so fixed or already substituted a new date, which shall be the day on which the specified period of that postponement expires. 35
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(10) For the purposes of paragraph (b) of subsection (3) of this section, cumulative sentences shall be treated as one sentence.

20. Application of principal Act to hostels, etc.—(1) Except
5 as otherwise provided by this Act, the provisions of the principal Act and any regulations made under that Act shall not apply to hostels or officers or residents.

(2) Subject to the modifications set out in the Schedule to this Act, and to all other necessary modifications, sections
10 3, 10, 13, 14, 19, 21A, 21C, 26, 27, 28, 29, 30, 31, 36, 36A, 37, 38, 40, 41, 41A, 41B, 42, and 44 of the principal Act shall apply to hostels, officers, and hostel residents under this Act as if (except in the case of section 14) references in those
15 provisions to an institution (or a penal institution) or an inmate were references to a hostel or a hostel resident accordingly.

(3) The Governor-General may at any time and from time to time, by Order in Council, amend subsection (2) of this
20 section so as to add or remove any provision of the principal Act to or from the list of those that are to apply to hostels, officers, and residents, and may in like manner amend the Schedule to this Act relating to the extent or manner to or in which any such provision is to so apply.

21. Regulations—(1) The Governor-General may from
25 time to time, by Order in Council, make regulations for all or any of the following purposes:

- (a) Applying regulations made under section 45 of the principal Act to hostels, officers, and residents, with or without any modifications:
- 30 (b) Prescribing the powers and duties of officers:
- (c) Ensuring the good management and government of hostels:
- (d) Ensuring the discipline of hostel residents:
- (e) Prescribing the procedure to be followed where any
35 inmate is to be transferred to or from any hostel:
- (f) Providing for such other matters as are contemplated by or necessary for giving full effect to this Act and for its due administration.

(2) Any regulations under this section may be made to
40 apply generally to all hostels or to any specified hostel, or to hostels of any specified class.

22. Consequential amendment—Section 21A of the principal Act (as inserted by section 2 of the Penal Institutions Amendment Act 1961) is hereby amended by adding to sub-clause (2c) (as substituted by section 3 (2) of the Penal Institutions Amendment Act 1963) the following proviso: 5

“Provided that the Superintendent shall not have power to revoke such a direction in respect of any inmate who is for the time being held in a pre-release hostel in accordance with the Penal Institutions Amendment Act 1978.”

23. Certain provisions of this Act (relating to borstal training) to expire—(1) On the date appointed for the commencement of section 10 of the Criminal Justice Amendment Act 1975 (which abolishes the sentence of borstal training), this Act shall be amended— 10

(a) By omitting from section 2 the definition of the term “borstal institution”: 15

(b) By omitting from subsection (1), and from subsection (2), and from subsection (3), of section 15 the words “or to borstal training”:

(c) By repealing sections 3 (1) (c), 8, 10 (1) (c), 15 (2) (b), and 15 (2) (c). 20

(2) Notwithstanding subsection (1) of this section, the provisions of this Act shall continue to apply to borstal training after the date referred to in that subsection for the period and to the extent necessary to give effect to section 12 of the Criminal Justice Amendment Act 1975 (which makes transitional provisions consequential upon the abolition of borstal training). 25

Miscellaneous Amendments

24. Release after serving part sentence—Section 31 of the principal Act (as substituted by section 14 of the Penal Institutions Amendment Act 1975) is hereby amended by adding to subsection (6) the following paragraph: 30

“(c) An inmate who is for the time being detained in any hospital pursuant to section 42 or section 43 of the Mental Health Act 1969, or in any institution for the treatment of alcoholism pursuant to section 21 of the Alcoholism and Drug Addiction Act 1966, shall be deemed to be serving his sentence while he is so detained.” 35 40

25. **Compensation for property damage by escapers**—
 Section 41A of the principal Act (as inserted by section 18 of
 the Penal Institutions Amendment Act 1975) is hereby
 5 amended by omitting from subsection (2) the words “desig-
 nated by the Minister by notice in the *Gazette* to be a Court
 that may hear applications under this Act”, and substituting
 the words “in which civil jurisdiction is exercised”.

SCHEDULE

Section 20

MODIFICATIONS OF PROVISIONS OF PRINCIPAL ACT APPLICABLE TO
 HOSTELS, OFFICERS, AND RESIDENTS

1. In the application of section 13 of the principal Act, each refer-
 ence to any institution shall be deemed to include a reference to any
 hostel.
2. In the application of section 21A of the principal Act, the follow-
 ing provisions shall apply, namely:
 - (a) Subsections (1), (2), (2A), and (2B) shall be deemed to have
 been omitted:
 - (b) Every reference in subsections (3), (4), and (8) to the Super-
 intendent shall be deemed to be a reference to the Warden:
 - (c) The reference in subsection (4) to section 32 of the principal
 Act shall be deemed to be a reference to section 18 of this
 Act:
 - (d) The reference in subsection (6) to an institution shall be deemed
 to include a reference to a hostel:
 - (e) The reference in the proviso to subsection (8) to sections 32 to
 36 of the principal Act shall be deemed to be a reference to
sections 18 and 19 of this Act.
3. In the application of section 21c of the principal Act, the follow-
 ing provisions shall apply, namely:
 - (a) The reference in the proviso to subsection (5) to the Superinten-
 dent shall be deemed to be a reference to the Warden:
 - (b) The reference to an Inspector of Penal Institutions shall be
 deemed to have been omitted.
4. In the application of section 26 of the principal Act, the follow-
 ing provisions shall apply, namely:
 - (a) Every reference in subsections (1) and (2) to the Superintendent
 shall be deemed to be a reference to the Warden:
 - (b) The reference in subsection (2A) to any institution shall be
 deemed to include a reference to any hostel.
5. In the application of section 28 of the principal Act, every
 reference to the Superintendent shall be deemed to be a reference to
 the Warden.
6. In the application of section 30 of the principal Act, the reference
 to an institution shall be deemed to include a reference to a hostel.
7. In the application of section 36 of the principal Act, the following
 provisions shall apply, namely:

SCHEDULE—*continued*

- (a) The reference in subsection (1) and in subsection (2) to sections 33 to 35 of the principal Act shall be deemed to be a reference to section 19 of this Act:
- (b) The reference in subsection (2) to any Superintendent shall be deemed to have been omitted:
- (c) Subsection (3) shall be deemed to have been omitted:
- (d) The reference in subsection (4) to the Superintendent shall be deemed to be a reference to the Warden.

8. In the application of sections 37, 38, and 40 of the principal Act every reference to the Superintendent shall be deemed to be a reference to a Warden.

9. In the application of section 42 (2) of the principal Act the reference to the Superintendent of the institution shall be deemed to have been omitted.

10. In the application of section 44 (1) of the principal Act the reference to the Superintendent of the institution shall be deemed to be a reference to the Warden of the hostel.