

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]
House of Representatives, 27 November 1980.

Word struck out is shown in italics within bold round brackets; words inserted are shown with double rule before first line and after last line.

Hon. Mr McLay

PENAL INSTITUTIONS AMENDMENT

ANALYSIS

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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 and commencement**—(1) This Act may be cited as the Penal Institutions Amendment Act 1980, and shall be read together with and deemed part of the Penal Institutions Act 1954* (hereinafter referred to as the principal Act).
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(2) This Act shall come into force on the 1st day of April 1981.

*1957 Reprint, Vol. 11, p. 667

Amendments: 1961, No. 18; 1963, No. 36; 1965, No. 104; 1969, No. 34; 1975, No. 48; 1976, No. 113; 1978, No. 34; 1978, No. 67; 1979, No. 131

2. Interpretation—(1) Section 2 of the principal Act is hereby amended by adding the following definition:

“‘Youth prison’ means any land or building or any part of any land or building declared to be a youth prison by the Minister under section 4 of this Act.” 5

(2) Section 2 of the principal Act is hereby further amended by adding, as subsection (2), the following subsection:

“(2) Unless the context otherwise requires, every reference in this Act to a prison includes a reference to a youth prison, and every reference to an inmate of a prison includes a reference to an inmate of a youth prison.” 10

(3) Section 2 (2) of the Penal Institutions Amendment Act 1975 is hereby repealed.

3. Establishment of penal institutions—(1) The principal Act is hereby amended by repealing section 4, and substituting the following section: 15

“4. (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 any one or more of the following kinds of penal institution: 20

“(a) Prisons:

“(b) Youth prisons:

“(c) Corrective training institutions:

“(d) Police jails. 25

“(2) The Minister may from time to time, in like manner, declare any land or building or any part of any land or building to be added to or excluded from any such penal institution.

“(3) The Minister may, in like manner, revoke any notice under this section. 30

“(4) Every notice under this section shall take effect from the date specified in the notice.”

(2) Section 11 of the principal Act is hereby repealed.

(3) Notwithstanding anything in the Penal Institutions Amendment Act 1975, for as long as any penal institution existing at the commencement of that Act is and remains declared to be a prison or a borstal institution or both, it shall continue to be a prison or a borstal institution or both in every way as if for the purposes of that institution and its inmates that Act were not in force. 40

(4) Section 3 of the Penal Institutions Amendment Act 1975 is hereby repealed.

4. Classification of offenders—The principal Act is hereby amended by inserting, after section 8, the following section:

“8A. (1) The Secretary for Justice may from time to time, in writing under his hand, direct that—

5 “(a) Any offender who is of or over the age of 20 years and is serving a sentence of imprisonment or is transferred to a prison under section 23 of this Act shall be detained in a youth prison; or

10 “(b) Any offender who is under the age of 20 years and is serving a sentence of imprisonment or is transferred to a prison under section 23 of this Act shall be detained in a prison that is not a youth prison,—

15 if, having regard to the age of the offender, the nature of the offence of which he was convicted, the length of his sentence, his previous convictions (if any), the needs of prison security, and any other relevant matters, the Secretary is satisfied that the offender should be so detained during his sentence.

20 “(2) The Secretary may give a direction under subsection (1) of this section in respect of any particular offender, or any class or classes of offenders.

“(3) The Secretary may, in like manner, revoke any direction under this section.

“(4) Every direction under this section shall take effect from the date specified by the Secretary.”

25 **5. Detention of inmates**—(1) The principal Act is hereby amended by repealing section 12, and substituting the following section:

30 “12. (1) Except as otherwise provided by this Act or by any direction given under section 8A of this Act, and subject to section 43 (2c) of the *Criminal Justice (Amendment) Act 1954*,—

35 “(a) A person who has attained the age of 20 years and is sentenced to imprisonment or preventive detention or is transferred to a prison under section 23 of this Act shall serve his sentence in a prison that is not a youth prison:

“(b) A person who is under the age of 20 years and is sentenced to imprisonment or is transferred to a prison under section 23 of this Act shall serve his sentence in a youth prison:

40 “(c) A person sentenced to corrective training shall serve his sentence in a corrective training institution:

“(d) Notwithstanding anything in paragraph (a) or paragraph (b) of this subsection, any person sentenced to imprisonment for 1 month or less may be detained in a police jail for that period or any part of that period: 5

“(e) Notwithstanding anything in paragraph (a) or paragraph (b) of this subsection, any person sentenced to imprisonment for 8 days or less may be detained in a police station for that period or any part of that period. 10

“(2) A person held in custody on remand may be detained in any penal institution.

“(3) In this section references to persons sentenced to imprisonment include references to persons committed to prison or otherwise liable to be detained in custody except for the purposes of any remand pending or during trial or sentence.” 15

(2) Section 5 of the Penal Institutions Amendment Act 1975 is hereby repealed.

6. Part-time release to engage in employment—(1) Section 20
21A of the principal Act (as inserted by section 2 of the Penal
Institutions Amendment Act 1961) is hereby amended by
repealing subsection (2) (as substituted by section 3 (2) of
the Penal Institutions Amendment Act 1963), and substituting
the following subsection: 25

“(2) Without limiting subsection (1) of this section, the Secretary for Justice may direct that any specified inmate who is serving in a youth prison a sentence of imprisonment for a term not exceeding 2 years 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 may impose.” 30

(2) Section 21A of the principal Act (as so inserted and amended by section 3 (2) of the Penal Institutions Amendment Act 1963) is hereby further amended— 35

(a) By omitting from subsection (2A) the words “borstal institution”, and substituting the words “youth prison”: 40

(b) By omitting from subsection (2c) (b) the words “borstal institution”, and substituting the words “youth prison”.

(3) Section 7 of the Penal Institutions Amendment Act 1975 is hereby repealed.

5 **7. Compensation of employed inmate**—Section 21c of the principal Act (as inserted by section 2 of the Penal Institutions Amendment Act 1961) is hereby amended by repealing subsection (2), and substituting the following subsection:

10 “(2) Notwithstanding anything in the Accident Compensation Act 1972, all sums that become payable under that Act 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 to the Secretary for Justice to the credit of the inmate.”

15 **8. Transfer of corrective training inmate to prison**—Section 23 of the principal Act (as substituted by section 8 of the Penal Institutions Amendment Act 1975) is hereby amended by omitting the word “youth” wherever it occurs.

9. Transfer of prison inmates—(1) Sections 24 and 25 of the principal Act are hereby repealed.

20 (2) Sections 9 and 10 of the Penal Institutions Amendment Act 1975 are hereby repealed.

(3) Section 25 (2) of the Criminal Justice Amendment Act 1962 is hereby repealed.

25 **10. Calculation of term of sentence**—(1) Section 29 of the principal Act is hereby amended by repealing subsection (5), and substituting the following subsection:

30 “(5) Except in the case of a sentence for a term of 7 days or less, whenever an inmate is due to be discharged or released on a Thursday, a Friday, a Saturday, or a Sunday, or on New Year’s Day, Waitangi Day, Easter Monday, Anzac Day, the Sovereign’s Birthday, Labour Day, Christmas Day, or Boxing Day, he shall be discharged or released on the nearest preceding day that is not one of those days.”

35 (2) Section 13 of the Penal Institutions Amendment Act 1975 is hereby consequentially repealed.

New

10A. Release after serving part sentence—Section 31 (6) of the principal Act (as substituted by section 14 of the Penal Institutions Amendment Act 1975 and amended by section 24 of the Penal Institutions Amendment Act 1978) is hereby amended by adding the following paragraph: 5

“(d) An inmate who is recalled under section 36 (3) of the Criminal Justice Act 1954 to serve the unexpired part of his sentence shall be treated as if that part of his sentence were a sentence of imprisonment imposed on the date of his readmission to an institution or into the custody of an officer of an institution.” 10

11. Maximum penalties increased—Section 44 of the principal Act (as amended by section 7 of the Decimal Currency Act 1964) is hereby amended— 15

- (a) By omitting from subsection (1) the expression “\$100”, and substituting the expression “\$500”;
- (b) By omitting from subsection (2) the expression “\$200”, and substituting the expression “\$1,000”;
- (c) By omitting from subsection (2A) (as inserted by section 2 of the Penal Institutions Amendment Act 1965) the expression “\$100”, and substituting the expression “\$500”. 20

12. Commencement of Penal Institutions Amendment Act 1975—Section 1 of the Penal Institutions Amendment Act 1975 is hereby amended by repealing subsection (3), and substituting the following subsection: 25

“(3) Sections 2 (1), 8, and 14 to 17 of this Act shall come into force on the 1st day of April 1981.” 30

13. Corrective training inmates not eligible for release to work—(1) Section 1 of the Penal Institutions Amendment Act 1978 is hereby amended by repealing subsections (2) to (5), and substituting the following subsection: 35

“(2) This Act shall come into force on the 1st day of April 1981.”

(2) Section 2 of the Penal Institutions Amendment Act 1978 is hereby amended by omitting the definition of the term “corrective training institution”.

(3) Section 2 of the Penal Institutions Amendment Act 1978 is hereby further amended by omitting from the definition of the terms “hostel resident” or “resident” the words “or section 9”.

5 (4) Section 3 (1) (d) of the Penal Institutions Amendment Act 1978 is hereby repealed.

(5) Section 9 of the Penal Institutions Amendment Act 1978 is hereby repealed.

10 (6) Section 10 of the Penal Institutions Amendment Act 1978 is hereby amended—

(a) By omitting from subsection (1) the words “any of sections 7 to 9”, and substituting the words “section 7 or section 8”:

(b) By repealing subsection (1) (d):

15 (c) By omitting from subsection (2) the expression “any of sections 7 to 9”, and substituting the words “section 7 or section 8”.

(7) Section 11 (2) of the Penal Institutions Amendment Act 1978 is hereby amended by omitting the words “or section 9 (1)”.

20 (8) Section 12 (3) of the Penal Institutions Amendment Act 1978 is hereby amended by omitting the words “or section 9”.

25 (9) Section 13 (2) of the Penal Institutions Amendment Act 1978 is hereby amended by omitting the words “or section 9”.

(10) Section 15 of the Penal Institutions Amendment Act 1978 is hereby amended—

30 (a) By repealing subsection (2) (d) and subsection (2) (e):

(b) By omitting from subsection (3) the words “or to corrective training”:

35 (c) By omitting from subsection (4) the expression “paragraphs (b) and (d)”, and substituting the expression “paragraph (b)”.