

517.

This PUBLIC BILL originated in the HOUSE OF REPRESENTATIVES, and, having this day passed as now printed, is transmitted to the LEGISLATIVE COUNCIL for its concurrence.

House of Representatives.

17th September, 1924.

[AS AMENDED BY THE LEGISLATIVE COUNCIL.]

Legislative Council, 2nd October, 1924.

Hon. Mr. Parr.

PREVENTION OF CRIME (BORSTAL INSTITUTIONS ESTABLISHMENT).

ANALYSIS.

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| <p>Title.</p> <ol style="list-style-type: none"> 1. Short Title. 2. Interpretation. 3. Administration of Act. 4. Governor-General may establish Borstal institutions. 5. Acquisition of land for purposes of Borstal institution. 6. Officers of Borstal institution. 7. Power of Supreme Court to pass sentence of detention in Borstal institution. 8. Power of Magistrate to pass sentence of detention in Borstal institution. 9. Power to sentence offenders over twenty-one years of age to detention in Borstal institutions in certain cases. 10. Supreme Court or Magistrate to consider report of Probation Officer before sentencing offender to detention in Borstal institution. | <ol style="list-style-type: none"> 11. Transfer of incorrigible inmates from Borstal institution to prison. 12. Power to transfer prisoners to Borstal institution. 13. Power to transfer to Borstal institution certain inmates of industrial schools. 14. Transfer to Borstal institution of young women or girls detained in reformatory homes. 15. Power to release on license. 16. Supervision after expiration of term of sentence. 17. Wages for special industry may be credited and applied. 18. Power to recognize and subsidize societies for care of youthful offenders. 19. Contributions towards expenses of recognized societies. 20. Regulations. |
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A BILL INTITULED

AN ACT to make Better Provision for the Prevention of Crime and the Reformation of Young Offenders, and for those Purposes to provide for the Establishment of Borstal Institutions. Title.

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

1. This Act may be cited as the Prevention of Crime (Borstal Institutions Establishment) Act, 1924. Short Title.

10 2. In this Act, if not inconsistent with the context,—
“Borstal institution” means a place in which young offenders whilst detained may be given such occupational training and other instruction, and be subject to such disciplinary and moral influences, as will conduce to their reformation and the prevention of crime : Interpretation.
Cf. 8 Edw. 7, c. 59,
sec. 4 (1)

15 “Controller-General” means the Controller-General of Prisons :

“Minister” means the Minister of Justice :

“Probation Officer” means a Probation Officer appointed under the Offenders Probation Act, 1920.

20 3. The Controller-General shall, subject to the control of the Minister, be charged with the administration of this Act. Administrator of Act.

Governor-General may establish Borstal institutions. Cf. *Ibid.* Cf. 1918, No. 8, sec. 2

4. (1.) The Governor-General may by Proclamation declare any building or place to be a Borstal institution, and thereupon such building or place shall be deemed to be a Borstal institution under this Act.

(2.) In exercise of the power conferred on him by the *last preceding* subsection the Governor-General may declare any prison within the meaning of the Prisons Act, 1908, or any defined part of a prison to be or to be part of a Borstal institution under this Act, and thereupon such prison or defined part shall cease to be a prison or part of a prison as the case may be.

Acquisition of land for purposes of Borstal institution.

5. (1.) The Governor-General may from time to time by Proclamation set apart any area of available Crown land for the purposes of a Borstal institution established under this Act, or the Minister may, on behalf of His Majesty, acquire any private land for the purposes aforesaid, by way either of purchase or of lease.

(2.) All lands used for the purposes of a Borstal institution shall be deemed to form part of that institution.

(3.) Any Proclamation under this section, setting apart Crown lands for the purposes of a Borstal institution, may be at any time in like manner revoked.

Officers of Borstal institution.

6. There may from time to time be appointed as members of the Public Service such Superintendents and other officers as may be necessary for the management and control of Borstal institutions.

Power of Supreme Court to pass sentence of detention in Borstal institution. Cf. 8 Edw. 7, c. 59, sec. 1 (1)

7. Where a person is convicted on indictment of an offence for which he is liable to be sentenced to imprisonment, or is committed to the Supreme Court for sentence on a plea of guilty in pursuance of section one hundred and seventy-six of the Justices of the Peace Act, 1908, and it appears to the Court—

(a.) That the offender is not less than *fifteen* nor more than *twenty-one* years of age; and

(b.) That it is expedient that the offender should be subject to detention for such term and under such instruction and discipline as appear most conducive to his reformation and the repression of crime,

the Court may, in lieu of passing a sentence of imprisonment, pass a sentence *make an order* of detention in a Borstal institution for a term of not less than *two* years nor more than *five* years.

Struck out.

Power of Magistrate to pass sentence of detention in Borstal institution. Cf. 4 & 5 Geo. 5, c. 58, sec. 10

8. (1.) Where a person is summarily convicted before a Stipendiary Magistrate of an offence punishable by imprisonment for more than one month and—

(a.) It appears to the Magistrate that the offender is not less than *fifteen* nor more than *twenty-one* years of age; and

(b.) It is proved that the offender has previously been convicted of any offence punishable by imprisonment; and

(c.) It appears to the Magistrate that it is expedient that the offender should be subject to detention for such term and under such instruction and discipline as appear most conducive to his reformation and the repression of crime—

the Magistrate may, in lieu of passing a sentence of imprisonment, pass a sentence of detention in a Borstal institution for a term of not less than *one* year nor more than *three* years.

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New.

“(1A.) Where a person is charged before a Stipendiary Magistrate with an offence punishable by imprisonment for more than *one month*, and it appears to the Magistrate—

- 5 (a.) That the person charged is not less than *fifteen* nor more than *twenty-one* years of age; and
 (b.) That but for the provisions of this Act he should be convicted of the offence charged; and
 10 (c.) That it is expedient that he should be subject to detention for such term and under such instruction and discipline as appear most conducive to his reformation and the repression of crime—

the Magistrate may make an order of detention in a Borstal institution for a term of not less than *one year* nor more than 15 *three years*.”

(2.) The jurisdiction conferred by this section upon a Magistrate shall not be exercised by any Justice of the Peace other than a Stipendiary Magistrate.

New.

20 “(3.) Any person in respect of whom an order of detention is made under this section shall have the same right of appeal against such order as if in lieu of making the order the Magistrate had convicted him and sentenced him to a term of imprisonment for more than *one month*.”

25 9. Notwithstanding anything to the contrary in the foregoing provisions of this Act, any Court or Stipendiary Magistrate may, ~~sentence~~ *in respect of* any offender who is more than twenty-one years but not more than twenty-three years of age, ~~to make an order of~~ detention in a Borstal institution if, in the opinion of the Court or the Magistrate, 30 as the case may be, such detention would, under all the circumstances of the case, be more conducive to the offender's reformation and the repression of crime than a sentence of imprisonment.

Power to sentence offenders over twenty-one years of age to detention in Borstal institutions in certain cases.

10. Before ~~passing any sentence~~ *making any order* of detention in a Borstal institution under this Act, the Court or Magistrate, as the case 35 may be, shall consider any report or representations which may be made to it or him by a Probation Officer as to the suitability of the case for treatment in a Borstal institution, and shall be satisfied that the character, state of health, and mental condition of the offender and the other circumstances of the case are such that the offender is likely 40 to profit by detention in a Borstal institution.

Supreme Court or Magistrate to consider report of Probation Officer before sentencing offender to detention in Borstal institution.

Cf. 8 Edw. 7, c. 59, sec. 1

11. Where a person undergoing a ~~sentence of~~ detention in a Borstal institution is reported by the Controller-General, or by a visiting committee appointed under this Act, to be incorrigible, or to be exercising a bad influence on the other inmates of the institution, 45 the Minister may commute the unexpired residue of the term of detention to such term of imprisonment, with or without hard labour, as the Minister may determine, but in no case exceeding such unexpired residue.

Transfer of incorrigible inmates from Borstal institution to prison.

Cf. *Ibid.*, sec. 7

12. (1.) The Minister may, if satisfied that any person not more 50 than twenty-five years of age who is undergoing a sentence of imprisonment might with advantage be detained in a Borstal institution, direct the transfer of such person from such prison to a Borstal institution

Power to transfer prisoners to Borstal institution.

Cf. *Ibid.*, sec. 3

Cf. 1918, No. 8, sec. 9 (2)

there to serve the whole or any part of the unexpired residue of his sentence, as the case may be, and whilst detained in or placed out on license from such Borstal institution this Act shall apply to him as if he had been originally sentenced to detention *ordered to be detained* in a Borstal institution. 5

(2.) The Minister may, if satisfied that any person transferred as aforesaid from a prison to a Borstal institution is not profiting from the discipline and instruction therein, or that, by reason of his behaviour in such institution, he is not a suitable person for detention therein, order his transfer back to a prison, there to serve the unexpired portion of his original sentence, and thereupon such person shall cease to be subject to the provisions of this Act. 10

(3.) For the purposes of this section the period of detention in a Borstal institution shall be deemed to be detention under a sentence of imprisonment. 15

13. (1.) If the Minister of Education is satisfied that any inmate of an industrial school is unsuitable for detention in that school, and might with advantage be detained in a Borstal institution, he may, with the approval of the Minister of Justice and subject to the provisions of this section, direct the transfer of that person to a Borstal institution, and whilst any such person is so detained in or is placed out on license from such Borstal institution all the provisions of this Act shall apply to him as if he had been originally sentenced to detention *ordered to be detained* in a Borstal institution: 20

Provided that no person transferred to a Borstal institution pursuant to this section shall be detained therein for more than three years in the case of a person over the age of eighteen years at the time of such transfer, or after he has attained the age of twenty-one years in any other case. 25

(2.) For the purposes of this section the term "inmate," as used with reference to an industrial school, has the same meaning as in the Industrial Schools Act, 1908. 30

(3.) Nothing in the foregoing provisions of this section shall apply with respect to any person under the age of sixteen years, or to any person committed to an industrial school on the ground that he has no means of subsistence, or on the ground of the indigent circumstances of his parent or parents. 35

14. (1.) The ~~Controller-General~~ *Minister* may at any time, with the approval of the Minister of Justice, direct the transfer of any woman or girl detained in a reformatory home established under the Reformatory Institutions Act, 1909, or in a State reformatory institution established under the Reformatory Institutions Amendment Act, 1918, to a Borstal institution established under this Act for the reception of women or girls. 40

(2.) Any period during which a woman or girl transferred pursuant to this section is detained in a Borstal institution or is absent from a Borstal institution under license shall be computed as part of the period of her detention in a reformatory home or State reformatory institution, as the case may be, and she shall not be detained after the expiration of such last-mentioned period. 45 50

Power to transfer to Borstal institution certain inmates of industrial schools.

Cf. 8 Edw. 7, c. 59, sec. 3
Cf. 1918, No. 8, sec. 9 (2)

Transfer to Borstal institution of young women or girls detained in reformatory homes.

15. (1.) The ~~Controller-General~~ *Minister* may, at any time after the commencement of the term of detention, if satisfied that there is a reasonable probability that the offender will abstain from crime and lead a useful and industrious life, by license permit him to be released
5 from the Borstal institution on condition that he be placed under the supervision or authority of a Probation Officer or of any society or person named in the license who may be willing to take charge of the case.

Power to release on license.
Cf. 8 Edw. 7, c. 59, sec. 5
Cf. 1910, No. 15, sec. 14

(2.) Unless sooner revoked or forfeited as hereinafter provided, a
10 license under this section shall be in force until the expiration of the term for which the offender was ~~sentenced to detention~~ *ordered to be detained*, but no longer.

(3.) Any license granted under this section may be at any time and for any reason revoked by the ~~Controller-General~~ *Minister*, whether the
15 conditions thereof have been fulfilled or not, and thereupon the person so released may be arrested without warrant by a constable or any other person and returned to the Borstal institution from which he was released or to any other such institution, and in the meantime may be detained for safe custody in any prison, police gaol, or police lock-
20 up.

(4.) If a person absent from a Borstal institution under a license as aforesaid escapes from the supervision of the Probation Officer, society, or person in whose charge he is placed, or commits any breach of the conditions contained in the license, he shall be considered
25 thereby to have forfeited the license, and may be arrested without warrant and returned to a Borstal institution.

(5.) The time during which a person is absent from a Borstal institution under such a license shall be treated as part of the time of his detention in the institution :

30 Provided that where that person has failed to return to the institution on the license being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time during which he is to be detained in the institution.

16. (1.) Save as otherwise provided in subsection *four* hereof, every
35 person ~~sentenced to detention~~ *ordered to be detained* in a Borstal institution shall, on the expiration of the term of ~~his sentence~~ *detention*, remain for a further period of twelve months under the supervision of a Probation Officer or of a society or person to be nominated in that behalf by the Controller-General.

Supervision after expiration of term of sentence.
Cf. 8 Edw. 7, c. 59, sec. 6

40 (2.) The ~~Controller-General~~ *Minister* may at any time within the said period of twelve months recall to a Borstal institution any person under supervision as aforesaid, and any person so recalled may be detained in a Borstal institution for a further period not exceeding six months :

45 Provided that a person shall not be so recalled unless the ~~Controller-General~~ *Minister* is of opinion that the recall is necessary for his protection.

(3.) Every person recalled to a Borstal institution as aforesaid shall be released on license under the *last preceding* section so soon as
50 possible, and at latest within *six* months after his recall ; and a person so recalled shall not in any case be detained or be kept under supervision after the expiration of the period of twelve months referred to in subsection *one* hereof.

(4.) The ~~Controller-General~~ *Minister* may at any time order that a person under supervision under this or the *last preceding* section shall cease to be under such supervision.

Wages for special industry may be credited and applied.
Cf. 1910, No. 15, sec. 26
1920, No. 15, sec. 12

17. (1.) There may from time to time be credited to any inmate of a Borstal institution by way of reward for special industry wages according to scales to be fixed by regulations under this Act. 5

(2.) Such wages shall be credited to the inmate in an account to be kept by the Superintendent of the Borstal institution. Any moneys standing to the credit of the inmate in such account may from time to time be applied by the Superintendent for the benefit of the inmate during the period of his detention, and the balance (if any) standing to his credit on his release from detention (whether on license or by reason of the expiration of his sentence) shall be paid to him either in a lump sum or by such instalments as the Controller-General directs. 10

(3.) Any moneys standing to the credit of any inmate in the account kept pursuant to the *last preceding* subsection may be paid into the Post Office Savings-bank to the credit of an account in the name of the officer in charge of the Borstal institution or other person authorized by the Controller-General, and shall, subject to the foregoing provisions of this section, be held in trust for such inmate. 15 20

(4.) All moneys payable as aforesaid to the credit of an inmate of a Borstal institution shall be paid out of moneys to be appropriated by Parliament for the purpose.

Power to recognize and subsidize societies for care of youthful offenders.
4 & 5 Geo. 5, c. 58, sec. 7

18. If any society formed, either before or after the passing of this Act, has as its object or amongst its objects the care and control of persons whilst on probation under the Offenders Probation Act, 1920, or of persons whilst placed out on license from a Borstal institution or under supervision in pursuance of this Act, the society may apply to the Minister for recognition, and the Minister, if he approves of the constitution of the society and is satisfied as to the means adopted by the society for securing such objects as aforesaid, may, by writing under his hand, grant his recognition to the society. 25 30

Contributions towards expenses of recognized societies.
8 Edw. 7, c. 59, sec. 8

19. (1.) There may be paid to any recognized society, out of moneys appropriated for the purpose by Parliament, such sums as the Minister may from time to time approve as contributions towards the expenses incurred by such society. 35

(2.) In approving any such contribution as aforesaid the Minister may impose such conditions as he thinks fit with respect to the expenditure thereof and the accounting for the same.

Regulations.

20. The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:— 40

- (a.) For the rule and management of Borstal institutions, the appointment of visiting committees, the classification, and the treatment, employment, control, and correction of persons sent to Borstal institutions in pursuance of this Act: 45
- (b.) Prescribing the conditions under which wages may be credited to inmates of Borstal institutions pursuant to this Act, and fixing scales of such wages:
- (c.) For the temporary detention of persons until arrangements can be made for sending them to Borstal institutions: 50
- (d.) Applying to Borstal institutions all or any of the provisions of Parts I and II of the Prisons Act, 1908, and any amendments thereof:

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- 5 (e.) Regulating the release of persons on license from Borstal institutions, providing for the supervision and control of persons so released, and the furnishing of guarantees by persons under whose supervision or control the persons so released are placed :
- (f.) Regulating the removal of persons from prisons or industrial schools to Borstal institutions and from Borstal institutions to prisons or industrial schools :
- 10 (g.) Prescribing fines and penalties for the breach of any such regulations :
- (h.) Generally prescribing such matters and things as may be deemed necessary for the purpose of giving effect to the provisions of this Act.