

CRIMINAL JUSTICE AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Criminal Justice Act 1954.

Clause 1 relates to the Short Title and commencement.

Clause 2: By section 33 (2) of the principal Act, every Borstal Parole Board has jurisdiction in respect of persons undergoing borstal training in the institution in respect of which the Board is appointed.

This clause provides that where a person undergoing training in any institution is transferred to another institution for the purpose of being released part-time in order to engage in employment pending his release, he will be deemed to continue to be an inmate of the institution from which he was transferred, and will therefore remain under the jurisdiction of the Parole Board for that institution.

Clause 3: Section 33B (4) of the principal Act provides that every offender undergoing borstal training is to be given an opportunity of appearing before a Borstal Parole Board and stating his case at least once in every period of six months. For this purpose, the Board must visit each institution in respect of which it has jurisdiction or must have the offender brought before it.

This clause provides that an offender need not be given an opportunity of appearing before the Board during the six months preceding his release.

Clause 4 inserts a new section 40A in the principal Act, providing that except with the prior consent of the Attorney-General no proceedings may be commenced in respect of any offence to which the section applies, or, if proceedings have been commenced, no further steps in the proceedings (other than steps subsequent to the trial or hearing) shall be taken, after the expiration of 10 years after the commission of the offence.

The new section will apply to offences which are punishable only by a fine where the maximum fine that may be imposed is less than £100 and to offences punishable by imprisonment where the maximum term of imprisonment that may be imposed is less than one year.

These provisions will apply to offences committed before or after the commencement of the new section, and, in the case of past offences, whether or not proceedings have been commenced or are in progress.

These provisions will not apply where a period of limitation of less than 10 years is prescribed by any Act.

Clause 5 amends the provisions of the Criminal Justice Amendment Act 1962 relating to the sentencing of young offenders to periodic detention. At present, the provisions apply only to offenders who are not less than 15 years of age and are under 21 years of age, but do not apply if at any time previously the offender has been sentenced to detention in a detention centre or to borstal training or to imprisonment for one month or more.

The effect of the amendments made by this clause is to remove the upper age limit, so that offenders 21 years of age or over may also be sentenced to periodic detention, and this provision will apply whether or not they have previously been sentenced to detention in a detention centre or to borstal training or to imprisonment for one month or more.

Clause 6 confers on the Supreme Court power to impose sentences of periodic detention in default of payment of fines imposed by that Court. The clause follows substantially the provisions of section 10 of the Criminal Justice Amendment Act 1962, which empowers a Magistrate's Court to impose sentences of periodic detention for non-payment of fines imposed by that Court.

Clause 7: By section 11 of the Criminal Justice Amendment Act 1962, where a Court sentences an offender to periodic detention, it may also order that on the termination of his term of periodic detention he shall be on probation for a period not exceeding one year.

The effect of this clause is that the Court may order that the offender be on probation for a term commencing either on the date of sentence or on the termination of his term of periodic detention and ending not later than one year after the termination of that term.

Clause 8 will enable the Secretary for Justice to direct that an offender sentenced to periodic detention shall report at a work centre other than that specified in the order of periodic detention.

Hon. Mr Hanan

CRIMINAL JUSTICE AMENDMENT

ANALYSIS

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A BILL INTITULED

An Act to amend the Criminal Justice 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 Criminal Justice Amendment Act 1966, and shall be read together with and deemed part of the Criminal Justice Act 1954* (hereinafter referred to as the principal
10 Act.
- (2) Section 4 of this Act shall come into force on the first day of January, nineteen hundred and sixty-seven.
- (3) Section 6 of this Act shall come into force on the first day of October, nineteen hundred and sixty-six.
- 15 (4) Except as provided in subsections (2) and (3) of this section, this Act shall come into force on the date of its passing.

*1957 Reprint, Vol. 3, p. 455
Amendments: 1960, No. 116; 1961, No. 45; 1962, No. 29; 1963, No. 35;
1965, No. 77

2. Jurisdiction of Parole Boards—Section 32 of the principal Act (as substituted by section 4 of the Criminal Justice Amendment Act 1961) is hereby amended by adding to subsection (2) the following proviso:

“Provided that where any such person is transferred from one institution to another in consequence of a direction given, or in anticipation of the giving of a direction, pursuant to section 21A of the Penal Institutions Act 1954 (as inserted by section 2 of the Penal Institutions Amendment Act 1961 and amended by section 3 of the Penal Institutions Amendment Act 1963), he shall, while that direction is in force, be deemed for the purposes of this subsection to be an inmate of the institution from which he has been transferred.”

3. Right of offender undergoing borstal training to appear before Parole Board—Section 33B of the principal Act (as inserted by section 4 of the Criminal Justice Amendment Act 1961) is hereby amended by adding to subsection (4) the following proviso:

“Provided that an offender need not be given an opportunity to appear as aforesaid during the period of six months in which a direction for release given by a Board becomes operative.”

4. Period of limitation—The principal Act is hereby further amended by inserting, after section 40, the following section:

“40A. (1) Except with the prior consent of the Attorney-General, no proceedings in respect of any offence to which this section applies, or, where such proceedings have been commenced, no further steps in the proceedings (other than steps subsequent to the trial or hearing) shall be taken, after the expiration of ten years from the date of the commission of the offence.

“(2) This section shall apply to the following offences:

“(a) Any offence punishable by a fine only, where the maximum fine that may be imposed in respect of that offence is less than one hundred pounds:

“(b) Any offence punishable by imprisonment, where the maximum term of imprisonment that may be imposed in respect of that offence is less than one year.

“ (3) This section shall apply with respect to offences committed before or after the commencement of this section, and, in the case of an offence committed before the commencement of this section, whether or not proceedings in respect of the offence have been commenced before the commencement of this section or are in progress at the commencement of this section.

“(4) Nothing in this section shall derogate from the provisions of any other Act fixing a period of limitation of less than ten years for the commencement of proceedings in respect of any offence.”

5. Periodic detention—The Criminal Justice Amendment Act 1962 is hereby amended—

- 15 (a) By omitting from subsection (1) of section 9 the words “and is under twenty-one”:
- (b) By omitting from subsection (1) of section 10 the words “and is under twenty-one”:
- (c) By inserting in subsection (1) of section 14, after the words “any person”, the words “who is under 20 twenty-one years of age”:
- (d) By inserting in subsection (1) of section 22, after the word “imprisonment”, the words “preventive detention”.

6. Periodic detention where offender liable to imprisonment for non-payment of fine imposed by Supreme Court—(1) The Criminal Justice Amendment Act 1962 is hereby further amended by inserting, after section 10, the following section:

“10A. (1) In any case where, pursuant to section 19D of the Crimes Act 1961 (as enacted by section 2 of the Crimes Amendment Act 1966), an order may be made for the imprisonment, by reason of the non-payment of a fine imposed on him, of any person, the Judge may issue a summons to that person, or, whether or not a summons has been issued or served, may issue a warrant to arrest that person and bring 35 him before the Supreme Court.

“(2) On the appearance of that person before the Court, the Court may, if it thinks fit, subject to the provisions of sections 14 and 15 of this Act, after considering the report which the Judge would be required to consider if acting under 40 the said section 19D of the Crimes Act 1961, and after taking into account any other fines owing by that person, sentence that person to periodic detention for such term as the Court thinks fit, not exceeding in any case twelve months.

“(3) If the Court does not sentence that person to periodic detention under this section, the matter may be dealt with under the said section 19D.

“(4) A sentence of periodic detention may be imposed under this section, notwithstanding that none of the offences in respect of which the fines were imposed was punishable by imprisonment. 5

“(5) Where any person is sentenced to periodic detention under this section, those parts of the original sentences which dealt with the imposition of fines that have been taken into account under subsection (2) of this section shall be deemed to be cancelled in respect of any part of the fines unpaid when the sentence of periodic detention was imposed. 10

“(6) Where the Court sentences any person to periodic detention under this section, that person shall have the same right of appeal to the Court of Appeal against the sentence as he would have had if the sentence had been imposed by the Supreme Court after his conviction in the Supreme Court: 15

“Provided that where the Court of Appeal quashes the sentence of periodic detention on any such appeal, it shall at the same time direct that the case shall be remitted to the Supreme Court to be dealt with under the said section 19D. 20

“(7) This section shall apply only in respect of fines imposed after the commencement of this section.”

(2) Section 11 of the Criminal Justice Amendment Act 1962 is hereby amended by inserting in subsection (1), after the words “section 10” wherever they occur, the words “or section 10A”. 25

7. Probation where offender sentenced to periodic detention—(1) The Criminal Justice Amendment Act 1962 is hereby further amended— 30

(a) By omitting from subsection (1) of section 11 the words “on the termination of his term of periodic detention he shall be on probation for a term not exceeding one year”, and substituting the words “he shall be on probation for a period ending not later than one year after the expiry of his term of periodic detention”: 35

(b) By omitting from section 13 the words “on which the term began”, and substituting the words “of expiry of the term of periodic detention”. 40

(2) Section 11 of the Criminal Justice Amendment Act 1962 is hereby further amended by inserting, after subsection (1), the following subsection:

5 “(1A) Where a Court has ordered, under subsection (1) of this section, that any person shall be on probation, the Court shall direct whether the period of probation shall commence on the date of the sentence or on the expiry of the term of periodic detention.”

8. Work centre at which offender is to report—(1) Section 10 16 of the Criminal Justice Amendment Act 1962 is hereby amended by inserting, after subsection (2), the following subsection:

15 “(2A) The Secretary for Justice may from time to time direct that the offender shall thereafter report at a work centre other than that specified by the Court.”

(2) Section 21 of the Criminal Justice Amendment Act 1962 is hereby amended by inserting in paragraph (a) of subsection (1), after the words “imposing the sentence”, the words “or as directed by the Secretary for Justice pursuant 20 to subsection (2A) of section 16 of this Act”.