

[AS REPORTED FROM THE STATUTES REVISION COMMITTEE]
House of Representatives, 30 August 1966

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

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.

New

15 (2A) Section 4A of this Act shall come into force on the date of the commencement of the Alcoholism and Drug Addiction Act 1966.

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

(3) Section 6 of this Act shall come into force on the first day of October, nineteen hundred and sixty-six.

(4) Except as provided in (subsections (2) and (3)) subsections (2), (2A), and (3) of this section, this Act shall come into force on the date of its passing.

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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:

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“(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.

5 “(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.

10 “(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.”

New

15 **4A. Power of Court to order detention and treatment of alcoholic or drug addict on conviction**—The principal Act is hereby further amended by inserting, after section 48, the following section:

20 “48A. (1) If, on the conviction before any Court of any person for any offence of which drunkenness or the taking of drugs forms a necessary element, or for any offence which is shown to have been committed under the influence of alcohol or drugs or of which drunkenness or the taking of drugs is shown to be a contributing cause, it appears to the Court or Judge that the offender is an alcoholic within the meaning of the Alcoholism and Drug Addiction Act 1966 or is a person to whom section 35 of that Act applies, the Court or Judge may, if it or he thinks fit, make an order requiring the offender to be detained for treatment for alcoholism or, as the case may be, for drug addiction in an institution within the meaning of that Act.

25 “(1A) The Court or Judge may make an order under subsection (1) of this section instead of imposing any sentence for the offence or in addition to imposing any fine or making any other order that the Court or Judge has jurisdiction to make.

30 “(2) No order shall be made under subsection (1) of this section, unless—

35 “(a) Two medical practitioners either give evidence to the effect, or give certificates in the form prescribed pursuant to the Alcoholism and Drug Addiction Act 1966 to the effect, that they believe the offender to be an alcoholic within the meaning of that Act,

New

- or, as the case may be, a person to whom section 35 of that Act applies, and that the making of such an order is expedient in his own interest or in that of his relatives; and 5
- “(b) The Court or Judge is satisfied that the managers or the superintendent of an institution, as the case may require, are willing to receive the offender in the institution.
- “(3) Nothing in this section shall derogate from— 10
- “(a) The provisions of any enactment providing that on the conviction of the offender any specified sentence or any specified minimum sentence shall be imposed or any specified order shall be made:
- “(b) The provisions of any enactment conferring any right of appeal against any sentence imposed or order made on conviction. 15
- “(4) The Alcoholism and Drug Addiction Act 1966 shall apply to every offender in respect of whom an order is made under this section as if it were an order made under section 8 of that Act.” 20

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

- (a) By omitting from subsection (1) of section 9 the words “and is under twenty-one”: 25
- (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 twenty-one years of age”: 30
- (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: 35

“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
5 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 him before the Supreme Court.

“(2) On the appearance of that person before the Court,
10 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 the said section 19D of the Crimes Act 1961, and after taking
15 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.

20 “(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) Where any person is sentenced to periodic detention
25 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.

30 “(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:

35 “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.

40 “(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”.

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

(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”:

(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”.

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

“(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 16 of the Criminal Justice Amendment Act 1962 is hereby amended by inserting, after subsection (2), the following subsection:

“(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 to subsection (2A) of section 16 of this Act”.