



BILLE NA bPRÍOSÚN, 1997
PRISONS BILL, 1997

Mar a tionscnaíodh
As initiated

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[No. 7 of 1997]

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FIRST SCHEDULE

SECOND SCHEDULE

Acts Referred to

Children Act, 1908	1908, c. 67
Courts (Establishment and Constitution) Act, 1960	1960, No. 38
Criminal Justice Act, 1960	1960, No. 27
Criminal Justice (Administration) Act, 1914	1914, c. 58
Ministers and Secretaries Act, 1924	1924, No. 16
Penal Servitude Act, 1853	16 & 17 Vict., c. 99
Penal Servitude Act, 1857	20 & 21 Vict., c. 3
Penal Servitude (Ireland) Act, 1891	54 & 55 Vict., c. 69
Prevention of Crimes Act, 1908	8 Ewd. VII, c. 59
Prisons Act, 1898	1898, c. 41
Prisons Act, 1933	1933, No. 51
Prisons Act, 1956	1956, No. 9
Prisons Act, 1972	1972, No. 7
Prisons Act, 1974	1974, No. 10
Prisons Act, 1977	1977, No. 14
Prisons Act, 1980	1980, No. 6
Prisons (Ireland) Act, 1826	1826, c. 74
Prisons (Ireland) Amendment Act, 1884	1884, c. 36
Prison (Visiting Committees) Act, 1925	1925, No. 11



BILLE NA bPRÍOSÚN, 1997
PRISONS BILL, 1997

BILL

entitled

5 AN ACT TO AMEND THE LAW RELATING TO THE MAN-
AGEMENT AND REGULATION OF PRISONS AND
PLACES OF DETENTION AND PLACES OF CUSTODY
AND THE LAW RELATING TO TEMPORARY RELEASE
AND TO PROVIDE FOR RELATED MATTERS.

10 BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART I

Preliminary and General

1.—(1) This Act may be cited as the Prisons Act, 1997.

Short title and
commencement.

15 (2) This Act shall come into operation on such day or days as the
Minister shall appoint by order or orders either generally or with
reference to any particular purpose or provision, and different days
may be so appointed for different purposes and different provisions.

2.—(1) In this Act—

Interpretation.

20 “court” means a court established pursuant to the Courts
(Establishment and Constitution) Act, 1961;

“the Minister” means the Minister for Justice;

“place of custodial accommodation” means a place or building speci-
fied as a place of custodial accommodation by the Minister under
section 8;

25 “prison” means a place or building specified as a prison in regu-
lations made by the Minister under *section 8*;

“sentenced prisoner” means a person serving a sentence of imprison-
ment or detention imposed by a court.

30 (2) In this Act unless otherwise indicated, a reference to a section,
Schedule or Part is to a section, Schedule or Part of this Act and a
reference to a subsection or paragraph is to the subsection or para-
graph of the provision in which the reference occurs.

(3) A reference in this Act to any enactment shall be construed as a reference to that enactment as amended or adapted by or under any other enactment.

Regulations.

3.—Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made, and, if a resolution annulling the order or regulation is passed by either House within the next twenty-one days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Expenses.

4.—Any expenses incurred by the Minister, the Minister for Education in the administration of this Act shall to such extent as may be sanctioned by the Minister for Finance, be paid out of monies provided by the Oireachtas.

PART II

Prisons

Power of Minister to provide prisons and custodial accommodation.

5.—(1) The Minister may erect, maintain and keep open such prisons as are reasonably necessary, having regard to the assessment carried out pursuant to *section 6*, to accommodate persons sentenced to terms of imprisonment by a court for the normal/full duration of the terms imposed.

(2) The Minister may erect, maintain and keep open such places of custodial accommodation as are reasonably necessary, having regard to the assessment carried out pursuant to *section 6*, to accommodate persons remanded in custody by a court pending trial insofar as such persons are not accommodated in prisons.

Power of Minister to assess need for prisons and custodial accommodation.

6.—The Minister may, within one year of the coming into force of this section and not less than once every three years thereafter, cause an assessment to be made of the likely need for prison and custodial accommodation for the three year period commencing with the publication of the plan.

Accommodation for persons under the age of 18.

7.—(1) No person under the age of eighteen shall be detained in a prison.

(2) Insofar as no other Act of the Oireachtas makes provision in this regard, the Minister and the Minister for Education may erect, maintain and keep open such accommodation as appears reasonably necessary to accommodate persons under the age of eighteen in accordance with orders lawfully made for their detention by a court, having regard to the special needs of such persons.

Designation of places and buildings as prisons and places of custodial accommodation.

8.—(1) The Minister may, from time to time, by order designate places or buildings to be prisons or places of custodial accommodation.

(2) The Minister may, by order, direct that a place or building designated under *subsection (1)* shall cease to be so designated.

(3) The Minister may lease or purchase places or buildings with a view to designating them as prisons or places of custodial accommodation.

5 **9.—**(1) Notwithstanding the provisions of the Ministers and Secretaries Act, 1924 and the Second Part of the Second Schedule thereto, and subject to *subsection (2)*, the functions in respect of the maintenance, management and control of prisons and custodial accommodation heretofore discharged by the Minister shall, as and from the establishment day, be discharged by the prison service established pursuant to *section 10*.

Management of prisons to be transferred to Prison Service.

10 (2) The Minister may from time to time make such directions to the Prison Service as he or she thinks fit in relation to the management and control of prisons and custodial accommodation and the Prison Service shall comply with such direction.

15 (3) Notwithstanding the provisions of this Part, the Minister shall continue to be answerable to Dáil Éireann and the Committees of the Oireachtas in respect of the control and management of prisons and custodial accommodation as heretofore.

(4) In this Part “the establishment day” means the day prescribed by the Minister for the establishment of the Prison Service as an executive office.

20 **10.—**(1) There may be established as a separate executive office a body known as the Prison Service.

Provisions in relation to Prison Service.

(2) The Prison Service shall be under the day to day management, supervision and control of the Director of the Prison Service, in this Part referred to as “the Director”.

25 (3) The Director may be appointed by, and may be removed by, the Government, and shall hold office upon such terms and subject to such conditions as to remuneration and superannuation, as the Minister may, in consultation with the Minister for Finance, from time to time determine.

30 (4) The Director shall report annually to the Minister on the conduct of the Prison Service and such report shall be laid before each House of the Oireachtas not later than the 31st March in the year next following the calendar year to which it relates.

35 (5) The Director may, with the consent of the Minister, employ persons to act as the staff of the Prison Service, upon such terms and conditions as may be specified by the Minister for Finance.

(6) As and from the establishment day, every Governor, Deputy Governor, Prison Officer and other person employed in any prison or custodial institution shall be regarded as an officer, or as the case may be, of the Prison Service.

40 (7) The Director may enter into contracts for the provision of services in or for a prison or custodial accommodation including the provision of transportation, construction, catering, medical and educational services.

45 (8) The Minister may, by regulation, specify that the Director shall not enter into certain types of contract pursuant to *subsection (7)* without the consent of the Minister.

11.—(1) There may be appointed an Inspector of Prisons, in this Part referred to as “the Inspector”.

(2) The Inspector shall—

- (a) have the right of access at all reasonable times to any prison or custodial accommodation under the control and management of the Prison Service, 5
- (b) make periodic and special inspections of all such prisons and custodial accommodation,
- (c) monitor compliance by the Prison Service, its officers, employees and agents, with regulations made under this or any other Act, 10
- (d) monitor the welfare and discipline of sentenced prisoners and other persons in custody, and
- (e) report annually to the Houses of the Oireachtas, or such committee thereof as the Houses of the Oireachtas may nominate, on the discharge of his functions. 15

(3) The Inspector may be appointed by, and may be removed by, the Government, and shall hold office upon such terms and subject to such conditions as to remuneration and superannuation, as the Minister may, in consultation with the Minister for Finance, from time to time determine. 20

12.—(1) The Minister may, from time to time, make regulations providing for the effective control, management and supervision of prisons and custodial accommodation.

(2) Without prejudice to the generality of *subsection (1)*, regulations made under this section may provide for— 25

- (a) the maintenance of prisons and places of custodial accommodation at proper standards of security and repair,
- (b) the appointment, duties and conduct of Governors, Deputy Governors and officers of a prison, 30
- (c) the standards of security to be maintained in prisons and places of custodial accommodation,
- (d) the control, welfare and custody of sentenced prisoners and other persons in custody,
- (e) the provision of medical, psychiatric, counselling, educational and drug-rehabilitation services for sentenced prisoners and other persons in custody, 35
- (f) work and work training for sentenced prisoners,
- (g) special provision for female prisoners and persons in detention who are not sentenced prisoners, 40
- (h) the photographing and measuring of sentenced prisoners and other persons in custody and the taking of fingerprints and palmprints, and the furnishing of such photographs, measurements, fingerprints and palmprints to the Garda Síochána, 45

(j) the establishment and functions of Prison Visitors Committees.

13.—(1) The Minister may make regulations in relation to prison discipline in respect of— Disciplinary regulations.

- 5 (a) Governors, Deputy Governors and other Prison Officers,
- (b) persons, or the agents and employees of persons, supplying services in prisons and custodial accommodation,
- (c) sentenced persons and other persons in custody.

10 (2) Regulations for the discipline of sentenced prisoners may provide for—

- (a) remission of sentence in respect of good behaviour,
- (b) forfeiture of remission for breach of discipline,
- (c) an appeal from such forfeiture to the Inspector or to a Prison Visiting Committee.

15 **14.—**(1) Each prison visiting committee established by regulations made under *section 12 (2) (i)* shall report annually to the Minister and such report shall be laid before each House of the Oireachtas not later than the 31st March in the year next following the calendar year to which it relates. Prison visiting committees.

20 (2) Section 3 of the Prison (Visiting Committees) Act, 1925, is hereby amended by the substitution of the following subsection for subsection (3):

25 “(3) An appeal from a decision of the governor of a prison or an officer of that prison acting on his or her behalf to impose a penalty on a person, in accordance with regulations made under *section 13* of the *Prisons Act, 1997*, may be heard by a visiting committee subject to and in accordance with rules made under this Act.”.

30 **15.—**(1) Where any prisoner is given temporary release for any period pursuant to the provisions of the Criminal Justice Act, 1960, the provisions of this section shall apply to such release. Register of temporary release orders.

35 (2) The Minister shall maintain a register to be known as the Prisoners Temporary Release Register (in this section referred to as “the Register”) which shall be open to inspection by the public during normal business hours at a place in the City of Dublin to be designated by the Minister.

(3) Every temporary release order shall be entered in the Register.

40 (4) The following matters shall be entered within seven days of the making of the temporary release order—

- (a) the name of the person released,
- (b) the offence or offences for which the person was convicted,

- (c) the date on which sentence was imposed,
- (d) the length of such sentence,
- (e) the date on which the temporary release commenced,
- (f) the date (if any) on which the period of temporary release is due to end. 5

(5) Within seven days of the date entered pursuant to *subsection (4) (f)*, an entry shall be made on the Register recording whether the prisoner returned to prison on that date.

(6) The Minister shall lay before each House of the Oireachtas, not later than the 31st March in the year next following the calendar year to which it relates, a report on the number and extent of temporary releases made in that year. 10

Repeals and regulations.

16.—(1) The Acts specified in the *First Schedule* are hereby repealed, subject to the making of a regulation by the Minister specifying the date on which the repeal of any such Act, or any provision thereof, shall take effect. 15

(2) Where it appears necessary to do so, the Minister may make regulations providing for any matters contained or referred to in any Act, or any provision thereof, the subject of a regulation under *subsection (1)*. 20

(3) A regulation made under *subsection (2)* shall cease to be of effect after a period of two years from the date on which the repeal of the relevant Act, or provision, took effect.

(4) The Acts specified in the *Second Schedule* are hereby repealed. 25

FIRST SCHEDULE

	Children Act, 1908	1908, c. 67
	Criminal Justice (Administration) Act, 1914	1914, c. 58
	Misuse of Drugs Act, 1977 (Section 28 only)	1977, No. 12
5	Prisons Act, 1898	1898, c. 41
	Prisons Act, 1933	1933, No. 51
	Prisons Act, 1956	1956, No. 9
	Prisons Act, 1972	1972, No. 7
	Prisons Act, 1974	1974, No. 10
10	Prisons Act, 1977	1977, No. 14
	Prisons Act, 1980	1980, No. 6
	Prisons (Ireland) Act, 1826	1826, c. 74
	Prisons (Ireland) Amendment Act, 1884	1884, c. 36

SECOND SCHEDULE

15	Penal Servitude Act, 1853	16 & 17 Vict., c. 99
	Penal Servitude Act, 1857	20 & 21 Vict., c. 3
	Penal Servitude (Ireland) Act, 1891	54 & 55 Vict., c. 69
	Prevention of Crimes Act, 1908	8 Ewd. VII, c. 59