

Jersey Law 2/1957

CRIMINAL JUSTICE (JERSEY) LAW, 1957.

A LAW to abolish penal servitude and hard labour and otherwise to reform existing methods and provide new methods of dealing with offenders and persons liable to imprisonment, and for purposes connected therewith, sanctioned by Order of Her Majesty in Council of the

24th day of JANUARY, 1957.

(Registered on the 23rd day of February, 1957).

STATES OF JERSEY.

The 21st day of September, 1956.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law: -

ARTICLE 1

ABOLITION OF PENAL SERVITUDE AND HARD LABOUR

(1) No person shall be sentenced by a court to penal servitude; and every enactment conferring power on a court to pass a sentence of penal servitude in any case shall be construed as conferring power to pass a sentence of imprisonment for a term not exceeding the maximum term of penal servitude for which a sentence could have been passed in that case immediately before the commencement of this Law.

(2) No person shall be sentenced by a court to imprisonment with hard labour; and every enactment conferring power on a court to pass a sentence of imprisonment with hard labour in any case shall be construed as conferring power to pass a sentence of

imprisonment for a term not exceeding the term for which a sentence of imprisonment with hard labour could have been passed in that case immediately before the commencement of this Law; and so far as any enactment requires or permits prisoners to be kept to hard labour it shall cease to have effect.

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ARTICLE 3

CORRECTIVE TRAINING AND PREVENTIVE DETENTION

(1) Subject to the provisions of paragraph (3) of this Article, where a person who is not less than twenty-one years of age –

- (a) is convicted of an offence punishable with imprisonment for a term of two years or more; and
- (b) has been convicted on at least two previous occasions since he attained the age of seventeen of offences punishable with such a sentence;

then, if it is deemed expedient with a view to his reformation and the prevention of crime that he should receive training of a corrective character for a substantial time, followed by a period of supervision if released before the expiration of his sentence, there may be passed, in lieu of any other sentence, a sentence of corrective training for such term of not less than two, or more than four, years as the court may determine.

(2) Subject to the provisions of paragraph (3) of this Article, where a person who is not less than thirty years of age –

- (a) is convicted of an offence punishable with imprisonment for a term of two years or more; and
- (b) has been convicted on at least three previous occasions since he attained the age of seventeen of offences

¹ Article repealed by Children (Jersey) Law, 1969 (Volume 1968–1969, page 341).

punishable with such a sentence, and was on at least two of those occasions sentenced to Borstal training, imprisonment or corrective training;

then, if it is deemed expedient for the protection of the public that he should be detained in custody for a substantial time, followed by a period of supervision if released before the expiration of his sentence, there may be passed, in lieu of any other sentence, a sentence of preventive detention for such a term not less than five, nor more than fourteen, years as the court may determine.

(3) Notwithstanding the foregoing provisions of this Article, a sentence of corrective training or preventive detention may be passed only by the Superior Number of the Royal Court, sitting with or without a jury.

(4) Before sentencing any offender to corrective training or preventive detention, the court shall cause enquiry to be made as to the physical and mental condition of the offender and his suitability for such a sentence.

ARTICLE 4

POWERS OF COURTS IN RELATION TO FINES AND FORFEITED RECOGNIZANCES

(1) Subject to the provisions of this Article, where a fine is imposed by, or a recognizance (“caution”) is forfeited before, any court, an order may be made in accordance with the provisions of this Article –

- (a) allowing time for the payment of the amount of the fine or the amount due under the recognizance;
- (b) directing payment of the said amount by instalments of such amounts and on such dates respectively as may be specified in the order;

- (c) fixing a term of imprisonment which the person liable to make the payment is to undergo if any sum which he is liable to pay is not duly paid or recovered;
- (d) in the case of a recognizance, discharging the recognizance or reducing the amount due thereunder:

Provided that any term of imprisonment fixed under this paragraph in default of payment of a fine shall not exceed –

- (i) in the case of a fine imposed by the Police Court, or of a fine imposed by the Inferior Number of the Royal Court on appeal against a decision of the Police Court, three months; and
- (ii) in any other case, twelve months.

(2) Any order under this Article may be made by the court by which the fine is imposed or before which the recognizance is forfeited, and may amend any previous order made under this Article so far as it provides for the matters mentioned in sub-paragraphs (a) and (b) of paragraph (1) of this Article:

Provided that no application may be made for an order under those sub-paragraphs after the refusal of a previous application for such an order.

(3) Where any person liable for the payment of a fine or a sum due under a recognizance to which this Article applies is sentenced by a court to, or is serving or otherwise liable to serve, a term of imprisonment, the court may order that any term of imprisonment fixed under sub-paragraph (c) of paragraph (1) of this Article shall not begin to run until after the end of the first-mentioned term of imprisonment.

(4) The power conferred by this Article to discharge a recognizance or reduce the amount due thereunder shall be in addition to any other powers relating to the discharge, cancellation, mitigation or reduction of recognizances or sums forfeited thereunder.

ARTICLE 5

**INCIDENTAL PROVISIONS AS TO FINES AND FORFEITED
RECOGNIZANCES**

(1) Where an order is made under Article 4 of this Law allowing time for the payment of the amount of the fine or the amount due under the recognizance, or directing payment of the said amount by instalments, the officer responsible for the recovery of the fine or the amount due under the recognizance shall not exercise his powers until there is a default in complying with the order.

(2) Where any such order as aforesaid is made directing payment by instalments of a fine or the amount due under a recognizance, and default is made in the payment of any one instalment, the same proceedings may be taken as if default had been made in payment of all the instalments then remaining unpaid.

(3) Where any such order as aforesaid is made fixing a term of imprisonment in default of payment of a fine or the amount due under a recognizance, then –

- (a) on payment of the fine or the said amount to the officer responsible for the recovery thereof, or (if the person in respect of whom the order was made is in prison) to the governor of the prison, the order shall cease to have effect; and, if the said person is in prison and is not liable to be detained for any other cause, he shall forthwith be discharged;
- (b) on payment to the said officer or to the governor of the prison of a part of the fine or of the amount due under the recognizance, the term of imprisonment shall be reduced by a number of days bearing as nearly as possible the same proportion to the total number of days in the said term as the sum paid bears to the amount of the fine or the amount due under the recognizance:

Provided that, in reckoning the number of days by which any term of imprisonment is to be reduced under this sub-paragraph –

- (i) the first day of imprisonment; and
- (ii) any fraction of a day included in the result of the reckoning;

shall not be taken into account.

(4) Any sums received by the governor of a prison under paragraph (3) of this Article shall be paid by him to the officer responsible for the recovery of sums due in respect of the fine or the recognizance.

ARTICLE 6

COMMUTATION OF DEATH SENTENCE TO SENTENCE OF IMPRISONMENT

Where Her Majesty pardons any person who has been sentenced to death on condition that he serves a term of imprisonment, that person shall be deemed to have been sentenced by the court before which he was convicted to imprisonment for the said term.

ARTICLE 7

INTERPRETATION

(1) In this Law, “Borstal institution” has the meaning assigned thereto by section forty-three of the Prison Act, 1952 (15 & 16 Geo. 6 and 1 Eliz. 2, c. 52).

(2) Any reference in this Law to a previous sentence of imprisonment shall be construed as including a reference to a previous sentence of penal servitude; any such reference to a previous sentence of Borstal training shall be construed as including a reference to a previous sentence of detention in a Borstal institution; and any such reference to a

previous conviction or sentence shall be construed as a reference to a previous conviction by a court in any part of the British Islands and to a previous sentence passed by any such court.

(3) Where the age of any person at any time is material for the purpose of any provision of this Law, his age at the material time shall be deemed to be or to have been that which appears to the court, after considering any available evidence, to be or to have been his age at that time.

(4) References in this Law to an offence punishable with imprisonment shall be construed, in relation to any offender, without regard to any prohibition or restriction imposed by or under any enactment upon imprisonment of offenders of his age, but shall not be construed as including an offence for which the court is required to impose a sentence of imprisonment for life.

ARTICLE 8

REPEALS AND CONSEQUENTIAL AMENDMENTS

(1) The following enactments are hereby repealed, namely

(a) Article 5 of the “Loi étendant la compétence de la Cour des Moindres Délits et définissant sa juridiction”, confirmed by Order of Her Majesty in Council of the 9th day of March, 1865;²

(b) the “Loi substituant la peine de la servitude pénale à la déportation”, confirmed by Order of Her Majesty in Council of the 19th day of July, 1870;³

(c) Article 2 of the “Loi (1922) sur la rémission des sentences”;^{3,4}

² Tome II (1879 edition), page 248.

³ Tome II (1879 edition), page 481.

⁴ Tome VI (1939 edition), page 268.

- (d) the “Loi sur la détention de jeunes délinquants dans des Institutions dites ‘Borstal Institutions’ dans le Royaume-Uni”, confirmed by Order of His Majesty in Council of the 29th day of March, 1928,⁵ and the Laws amending the said Law confirmed by Orders of His Majesty in Council of the 21st day of March, 1935,⁶ and the 6th day of May, 1938,⁷ respectively.

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ARTICLE 9

SHORT TITLE AND COMMENCEMENT

(1) This Law may be cited as the Criminal Justice (Jersey) Law, 1957.

(2) This Law shall come into force on the first day of the second month next following that in which it is promulgated.

⁵ Tome VI (1939 edition), page 469.

⁶ Volume 1933–1936, page 239.

⁷ Volume 1937–1938, page 435.

⁸ Paragraph repealed by Children (Jersey) Law, 1969 (Volume 1968–1969, page 341).