

CHAPTER 35

YOUTHFUL OFFENDERS (TRAINING SCHOOLS)

Ordinances
Nos. 28 of 1939,
8 of 1943,
41 of 1944,
42 of 1944.

AN ORDINANCE TO MAKE PROVISION FOR THE ESTABLISHMENT OF TRAINING SCHOOLS,
FOR THE DETENTION, TRAINING AND REFORMATION OF YOUTHFUL OFFENDERS,
AND FOR PURPOSES CONNECTED THEREWITH.

[22nd January, 1940.]

Short title.

1. This Ordinance may be cited as the Youthful Offenders (Training Schools) Ordinance.

probation order made under the provisions of any other written law relating to the release of offenders on probation,

Establishment of training schools.

2. (1) The Minister may by Order published in the Gazette establish one or more training schools in which youthful offenders may be detained and be given such training and instruction and be subjected to such discipline and moral influences as will conduce to their reformation and to the repression of crime.

and it appears to thfc court—

- (i) that the person is a youthful person; and
- (ii) that by reason of his criminal habits or tendencies or association with persons of bad character, it is expedient that he should be subject to detention under such instruction, training and discipline as would be available in a training school,

Appointment of officers, &c.

3. (1) There may be appointed for every training school a superintendent, who shall, subject to the general direction and control of the Commissioner, be responsible for the management of the school in accordance with the provisions of this Ordinance and of any regulations made thereunder.

the court may, in lieu of making any order which it is empowered to make under the provisions of any other written law, and subject to the provisions of subsection (2), order him to be detained in a training school for a period of three years.

(2) There may be appointed such other officers and servants as may be necessary for the purposes of this Ordinance.

(2) (a) A court, before making an order under subsection (1) shall call for and consider a report from the Commissioner as to the suitability of the case for treatment in a training school and as to the accommodation available in any such school, and shall be satisfied that the character, state of health and mental and physical condition of the offender and the other circumstances of the case are such that the offender is likely to profit by detention in a training school.

Orders for detention in training schools.

4. (1) Where any male person—
- (a) is convicted by the High Court of any offence which, according to the First Schedule to the Code of Criminal Procedure Act, is triable only by the High Court; or
 - (b) is convicted by any court of any offence, and a previous conviction of any offence is proved against him; or
 - (c) is found by any court to have failed to observe any condition of any

(6) The report required under paragraph (a) may be furnished by the Commissioner or by any person authorized by him.

(3) For the purpose of enabling a report under subsection (2) to be furnished in respect of any offender, a court may make

order remanding him, for a period of not less than fourteen and not more than twenty-one days, to custody in such one of the prisons specified in the First Schedule as is nearest to the court.

of his sentence, and whilst detained in, or placed out on licence from, such a school, the provisions of this Ordinance shall apply to him as if he had been originally ordered to be detained in a training school.

Orders in respect of persons detained in approved or certified schools.

5. (1) Where a male person who is convicted of any offence is, at the time of his conviction, detained in an approved or certified school under the provisions of any written law (otherwise than as being a person in need of care or protection), and it appears to the court that he is a youthful person, the court may order him to be detained in a training school for a period of three years.

9. (1) The Minister may, at any time after the expiration of one year from the commencement of any term of detention, if satisfied that there is a reasonable probability that the person detained will abstain from crime and lead a useful and industrious life, by licence permit him to be discharged from a training school on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

Release on licence of persons detained in training schools.

(2) Any order made under subsection (1) for the detention of any person in a training school shall supersede the order for the detention of that person in an approved or certified school.

(2) A licence granted to any person under this section shall, subject to the provisions of subsections (3) and (4), be in force until the term for which that person was ordered to be detained has expired.

Warrant of commitment to training school.

6. Where a court makes an order under section 4 or section 5 for the detention of a person in a training school, a warrant of commitment, which shall be substantially in the form set out in the Second Schedule, shall be signed by the court and shall be delivered to the Fiscal of the court.

(3) The Minister may at any time revoke a licence granted to any person under this section, and upon such revocation it shall be the duty of that person to return to the training school and if he fails so to return, he may be arrested without warrant by any peace officer or prison officer and taken to the school.

Application of Chapter XXVIII of the Code of Criminal Procedure Act to orders for detention.

7. Every order made under section 4 or section 5, by the High Court or a Magistrate's Court, for the detention of a person in a Training School, shall be deemed to be a conviction, sentence or order or a judgment or final order pronounced by that court within the meaning of section 320 or section 331, as the case may be, of the Code of Criminal Procedure Act; and the provisions of Chapter XXVIII of that Act shall apply accordingly.

(4) Where any person to whom a licence has been granted under this section escapes from or evades the supervision of the society or person in whose charge he is placed, or commits any breach of the conditions contained in the licence, that licence shall be forfeited.

Transfer of person from prison to training school.

8. Where the Minister is satisfied that a youthful person, who is undergoing imprisonment in consequence of a sentence passed before or after the date of the commencement of this Ordinance and who has still to undergo imprisonment for a further period of not less than two years, might with advantage be detained in a training school, the Minister may by order authorize the Commissioner to transfer him from prison to a training school and to detain him in such school there to serve the whole or any part of the unexpired residue

(5) The Magistrate's Court of the division in which the training school from which a person has been placed out on licence is situated or in which such a person is found may, on information on oath that the licence has been forfeited under subsection (4) issue a warrant for his arrest, and he shall on arrest be brought before that court, and that court may, if satisfied that the licence has been forfeited, order him to be remitted to a training school and remand him to the custody of the Fiscal of the court to be detained in the nearest prison until he can conveniently be removed to such school.

(6) The time during which a person is absent from a training school under a licence granted under this section shall be treated as part of the term of his detention in the school:

Provided, however, that where that person has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time of his detention in the school.

(7) A licence granted under this section shall be in such form and shall contain such conditions as may be prescribed by regulations.

Supervision after term of detention in training schools.

10. (1) Every person ordered to be detained in a training school shall, on the expiration of the period for which he was ordered to be detained, remain for a further period of one year under the supervision of the Minister.

(2) The Minister may by licence discharge from his supervision any person who is under such supervision in accordance with subsection (1), on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

(3) The Minister may revoke a licence granted to any person under subsection (2) and by order in the prescribed form recall him to a training school, if he is of opinion that such recall is necessary for the protection and further training of such person, and may detain him in a training school for a further period not exceeding six months:

Provided, however, that—

- (o) every person so recalled shall again be discharged by licence under subsection (2), so soon as the Minister considers such discharge to be expedient; and
- (b) no person so recalled shall be detained in a training school after

the expiration of the period of one year specified in subsection (1).

(4) A licence granted to any person under section 9 before the expiration of his term of detention in a training school shall, on his becoming liable to be under the supervision of the Minister in accordance with subsection (1), continue in force after the date of the expiration of that term, and every such licence shall after that date be deemed to be a licence granted under subsection (2), and the provisions of subsection (3) shall apply accordingly.

(5) The Minister may at any time order that a person under supervision under this section shall cease to be under such supervision.

(6) It shall be the duty of a person who has been recalled to a training school by an order under subsection (3) to return to the school, and, if he fails so to return, he may be arrested without warrant by any peace officer or prison officer and taken to the school.

11. Where a person detained in a training school is reported to the Minister by the Commissioner to be incorrigible, or to be exercising a bad influence on other inmates of the school, the Minister in charge of the subject of Justice may, in consultation with the Minister, commute the unexpired residue of the term of detention to such term of imprisonment of either description as the Minister in charge of the subject of Justice may determine, but in no case exceeding such unexpired residue.

Substitution of imprisonment for detention in training school.

12. Where any society or person has undertaken the duty of assisting or supervising persons discharged from a training school either absolutely or on licence, there may be paid to the society or person", as the case may be, out of funds voted by Parliament for the purpose, such sums on such conditions as the Minister may determine towards the expenses of the society or person incurred in connexion with the persons so discharged.

Payments to societies and persons assisting or supervising persons discharged from training schools.

(6) The time during which a person is absent from a training school under a licence granted under this section shall be treated as part of the term of his detention in the school:

Provided, however, that where that person has failed to return to the school on the licence being forfeited or revoked, the time which elapses after his failure so to return shall be excluded in computing the time of his detention in the school.

(7) A licence granted under this section shall be in such form and shall contain such conditions as may be prescribed by regulations.

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(2) The Minister may by licence discharge from his supervision any person who is under such supervision in accordance with subsection (1), on condition that he be placed under the supervision of any society or person named in the licence who may be willing to take charge of the case.

(3) The Minister may revoke a licence granted to any person under subsection (2) and by order in the prescribed form recall him to a training school, if he is of opinion that such recall is necessary for the protection and further training of such person, and may detain him in a training school for a further period not exceeding six months:

Provided, however, that—

- (o) every person so recalled shall again be discharged by licence under subsection (2), so soon as the Minister considers such discharge to be expedient; and
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the expiration of the period of one year specified in subsection (1).

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(5) The Minister may at any time order that a person under supervision under this section shall cease to be under such supervision.

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Substitution of imprisonment for detention in training school.

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Payments to societies and persons assisting or supervising persons discharged from training schools.

Removal from one training school to another.

13. Where a person has been ordered to be detained in any training school, the Commissioner may direct that person to be removed to and detained in any other training school.

Regulations.

14. (1) The Minister may make regulations for the purpose of carrying out the principles and provisions of this Ordinance.

(2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations for or in respect of all or any of the following matters:—

- (a) the rule and management of training schools;
- (b) the medical examination and the taking of measurements, photographs, fingerprints, footprints or other records, of persons ordered to be detained in training schools, including particulars of the previous history of such persons ;
- (c) the persons, if any, to whom such measurements, photographs, fingerprints, footprints or other records may be sent or supplied ;
- (d) the disposal of the clothing and property of persons ordered to be detained in training schools ;
- (e) the classification, treatment, clothing, training, instruction, employment, discipline and control of persons detained in training schools, and the classes of diet to be provided for such persons;
- (f) the religious instruction of persons detained in training schools ;
- (g) the kind of labour to be exacted from persons detained in training schools, and the manner in which and the times at which such labour may be exacted;
- (h) rewards for good conduct, including the circumstances in which payments may be made to persons detained in training schools ;
- (i) the circumstances in which and the conditions subject to which persons detained in training schools may be permitted to be absent therefrom for short periods, and the removal of such persons to hospitals or mental or leprosy hospitals in cases of sickness, insanity or suspected insanity;
- (j) visits to persons detained in training schools and correspondence or other communication with such persons;
- (k) the specifications and requirements of the several types of cells or wards in training schools ;
- (l) the sanitation of training schools; the health and medical treatment of the persons detained or employed therein, and the functions and duties of medical officers;
- (m) inspections, inquiries and other proceedings by Visitors;
- (n) means of restraint, the patterns or types that may be used and the circumstances and the manner in which they may be used;
- (o) the compulsory or artificial feeding of persons detained in training schools;
- (p) the manner in which any person who is detained in a training school may, if he appeals to the Court of Appeal, be brought to any place at which he is entitled to be present for the purposes of his appeal or to which the Court of Appeal or the Supreme Court or any Judge thereof may order him to be taken for the purpose of the appeal, and the manner in which he is to be kept in custody while absent from the training school for the purpose;

- (q) the custody, pending inquiry or trial, of youthful persons accused of any offence, and the custody of persons remanded under section 4 (3);
- (r) the temporary custody of persons ordered to be detained in training schools, until arrangements can be made for their removal thereto ;
- (s) the supply of money, food, clothing or means of travelling to persons discharged from training schools on licence or otherwise;
- (t) the adaptation, modification or alteration, in such manner as may be necessary for the purpose of its application to training schools, the officers and servants employed therein and the persons detained therein, of any provision of the Prisons Ordinance which is mentioned in the Third Schedule ;
- (u) all matters stated or required by this Ordinance to be prescribed or in respect of which regulations are authorized to be made under this Ordinance.

(3) Every regulation made by the Minister shall be brought before Parliament by a motion that such regulation shall be approved. No regulation made by the Minister shall have effect until it has been approved by Parliament. Notification of such approval shall be published in the Gazette.

(4) A regulation made by the Minister when approved by Parliament shall upon the notification of such approval in the Gazette be as valid and effectual as if it were herein enacted.

15. (1) (d) The provisions of the Prisons Ordinance which are mentioned in the Third Schedule shall apply to training schools, the officers and servants employed therein and the persons detained therein in like manner as if such schools were prisons established under that Ordinance and as if the persons detained therein were criminal prisoners within the meaning of that Ordinance;

Provided, however, that any such provision may be adapted, modified or altered by regulation in such manner as may be necessary for the purposes of such application, and shall accordingly have effect for such purposes as adapted, modified or altered, and as set out in such regulation.

(b) The provisions of the Third Schedule may be added to or otherwise amended by regulation.

(2) Save as provided in subsection (1), the Prisons Ordinance and the rules made thereunder shall have no application to training schools, the officers and servants employed therein and the persons detained therein; but the provisions of any other written law relating to prisons and prisoners, in so far as such provisions are not inconsistent with any provision of this Ordinance or of any regulation, shall apply in the case of such schools, officers, servants and persons in like manner as if such schools were prisons established under the Prisons Ordinance and as if the persons detained therein were criminal prisoners within the meaning of that Ordinance.

16. In this Ordinance, unless the context otherwise requires—

" Commissioner" means the Commissioner of Prisons;

" court" includes the court of a Municipal Magistrate;

" peace officer " has the same meaning as in the Code of Criminal Procedure Act;

" prescribed" means prescribed by regulation;

" prison" means a prison established under the Prisons Ordinance ;

" prison officer " means any officer of the staff of any prison or of any training school;

" regulation " means a regulation made by the Minister under this Ordinance;

" training school" means a training school for youthful offenders established by the Minister under section 2 •

Application of Prisons Ordinance and other written law.

" youthful person " means a person who has attained the age of sixteen years and who has not attained the age of

22 years ; and " youthful offender " has a corresponding meaning.

FIRST SCHEDULE

[Section 4 (3)]

PRISONS TO WHICH PERSONS MAY BE REMANDED UNDER SECTION 4 (3)

1. Welikada Prison, Colombo.
2. Bogambara Prison, Kandy.
3. Jaffna Prison.

[Section 6.]

SECOND SCHEDULE

FORM OF WARRANT OF COMMITMENT TO A TRAINING SCHOOL

In the High Court of the Republic of Sri Lanka.

(or In the Magistrate's Court of

Case No.....

To the Fiscal of the and to the Superintendent of the Training School at.....

WHEREAS' was on the day of ,19 convicted before the above-named court for that he did on the day of ,19 at with in the jurisdiction of this court² and thereby committed an offence punishable under³ and was ordered to be detained in the Training School at for a period of three years :

These are therefore to command you, the said Fiscal, to take the said' and him safely to convey to the Training School at / aforesaid and there to deliver him to the Superintendent thereof together with a copy of this warrant certified, under your hand.

And I do hereby command you the Superintendent of the said Training School to receive the said' into your custody in the said Training School and there carry out the aforesaid order of detention into execution.

Given under my hand this , day of 19at

(Signed)
Judge of the High Court
(or Magistrate).

1. Name in full of" accused.
2. State particulars of offence.
3. Specify provision of Penal Code or of other law.

[Section 15.]

THIRD SCHEDULE

PROVISIONS OF THE PRISONS ORDINANCE WHICH ARE MADE APPLICABLE TO TRAINING SCHOOLS

Sections 3, 5,6, (3), 13,20, 23. 35. 36,37,38,39,40,41,44,69,73, 74, 75, 76, 78, 79,81,84,85,86,87,88,89,90,91,92,93,95,96,103, and 104.