



LAWS OF KENYA

BORSTAL INSTITUTIONS ACT

CHAPTER 92

Revised Edition 2012 [1991]

Published by the National Council for Law Reporting
with the Authority of the Attorney-General

www.kenyalaw.org

CHAPTER 92

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CHAPTER 92
BORSTAL INSTITUTIONS ACT

[Date of assent: 22nd August, 1963.]

[Date of commencement: 2nd September, 1963.]

An Act of Parliament to make provision for the establishment of borstal institutions for youthful offenders and for the detention of youthful offenders therein, and for connected purposes

[Act No. 23 of 1963, Act No. 10 of 1983.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Borstal Institutions Act.

2. Interpretation

In this Act, except where the context otherwise requires—

“**After-Care Committee**” means a committee appointed under section 21 of this Act;

“**authorized officer**” means a police officer, a prison officer or a probation officer;

“**Board of Visitors**” means a board of visitors appointed under section 20 of this Act;

“**borstal institution**” means a borstal institution established under section 3;

“**borstal order**” means an order under section 6 or section 7 of this Act directing that a youthful offender be sent to a borstal institution;

“**Commissioner**” means the Commissioner of Prisons;

“**conviction**” includes a finding of guilt by a juvenile court;

“**juvenile court**” means a juvenile court within the meaning of the Children and Young Persons Act (Cap. 141);

“**licence**” means a licence granted under section 26(1) of this Act;

“**principal borstal officer**” means a person appointed by the Commissioner to be a principal borstal officer of an institution and includes a principal borstal officer (women);

“**prison officer**” has the meaning assigned to it in the Prisons Act (Cap. 90);

“**probation officer**” has the meaning assigned to it in the Probation of Offenders Act (Cap. 64);

“**removal order**” means an order made under section 13;

“**sentence**” includes an order by a juvenile court on a finding of guilt;

“**superintendent**”, in relation to a borstal institution, means the prison officer appointed by the Commissioner to be superintendent of that institution;

“**youthful offender**” means a person who has been convicted of an offence punishable with imprisonment and has been found by the court, at the time of such conviction, to have attained the age of fifteen years but to be under the age of eighteen years.

PART II – ESTABLISHMENT OF BORSTAL INSTITUTIONS

3. Power to establish borstal institutions

(1) The Minister may by order—

- (a) establish borstal institutions at such places as he thinks fit; or
- (b) direct that a borstal institution shall cease to exist as a borstal institution.

(2) Every borstal institution shall include the grounds and buildings within the institution enclosure and also any other grounds or buildings belonging or attached hereto and used by inmates or the staff of the institution.

4. Requisites of borstal institution

Every borstal institution shall provide—

- (a) proper sanitary arrangements, water supply, food, clothing and bedding for the inmates thereof;
- (b) the means of giving such inmates educational, industrial or agricultural training; and
- (c) an infirmary or proper place for the reception of inmates who are ill.

PART III – COMMITTAL TO BORSTAL INSTITUTIONS

5. Court before sentencing youthful offender to consider his history

Before sentencing a youthful offender, a court shall consider the evidence available as to his character and previous conduct and the circumstances of the offence, and whether it is expedient for his reformation that he should undergo a period of training in a borstal institution.

6. Committal of youthful offender to borstal institution

(1) Where the High Court or a subordinate court of the first class or a juvenile court is satisfied, after considering the matters specified in section 5 of this Act, that it is expedient for his reformation that a youthful offender should undergo training in a borstal institution, it may, instead of dealing with the offender in any other way, direct that the offender be sent to a borstal institution for a period of three years.

(2)

- (a) Where it appears to any court other than the High Court or a subordinate court of the first class after considering the matters specified as aforesaid, that a youthful offender should, for his reformation, undergo training in a borstal institution, it may, instead of dealing with the offender in any other way, after recording the same, commit the offender in custody to a juvenile court having jurisdiction in the area, for sentence.

- (b) The juvenile court to which the youthful offender is committed shall itself consider the matters specified as aforesaid, and, if it is satisfied that it is expedient for his reformation that the offender should undergo training in a borstal institution, it may direct that the offender be sent to a borstal institution for a period of three years, or may deal with the offender in any way which would have been open to the court which committed the offender.

7. Power of court to direct youthful offender undergoing imprisonment to be sent to borstal institution

The officer in charge of a prison in which a youthful offender is imprisoned in execution of a sentence of imprisonment may bring him, if he has not then attained the age of eighteen years, before the High Court or a subordinate court having jurisdiction to try the offence of which he was originally convicted, and such court may, after considering the matters specified in section 5 of this Act, direct that instead of undergoing the residue of his sentence in prison he be sent to a borstal institution for the unexpired residue of a period of three years commencing on the date upon which the sentence of imprisonment began to run.

8. Court to ascertain that accommodation available

Before directing that a youthful offender be sent to a borstal institution, the court shall ascertain whether accommodation is available in a borstal institution for the youthful offender, and shall not so direct unless it has found that accommodation is so available.

9. Commissioner to determine borstal institution to which youthful offender to be sent

Every youthful offender directed to be sent to a borstal institution under this Act shall be sent to such borstal institution as the Commissioner directs.

PART IV – ADMINISTRATION

10. Duties of superintendent

The superintendent of a borstal institution shall supervise and control all matters concerning the institution, and shall keep or cause to be kept such records as the Commissioner may from time to time direct, and shall be responsible to the Commissioner for the conduct and treatment of staff and of the inmates under his control and for the due observance by staff and inmates of the provisions of this Act and of all rules, directions and orders made thereunder.

11. Duties of medical officer

(1) There shall be a medical officer stationed in or otherwise responsible for each borstal institution.

(2) The medical officer shall be responsible for the health of all inmates of the borstal institution, and shall cause all inmates of the borstal institution to be medically examined on such occasions as may be prescribed.

(3) A medical officer may, whether or not an inmate consents thereto, take or cause or direct to be taken such action (including the forcible feeding, inoculation, vaccination or other treatment of the inmate, whether of a like nature

or not) as he may consider necessary to safeguard or restore the health of the inmate or to prevent the spread of disease.

(4) All actions of a medical officer, borstal officer, medical orderly or other person acting under subsection (3) or in pursuance of directions given thereunder shall be lawful.

12. Powers and duties of prison officers

A prison officer on the staff of a borstal institution shall, in relation to the borstal institution and the inmates thereof, have the like powers, protections and duties as are conferred and imposed on him by the Prisons Act (Cap. 90) in relation to a prison and prisoners therein, and shall be subject to the like prohibitions and restrictions (and liable to the like punishment for breach thereof), and be subject to the like provisions as to discipline, as are applicable in the case of prisons and prisoners therein under that Act.

13. Removal orders

The Commissioner may at any time, by order in writing called a removal order, order the removal of a person who is detained in a borstal institution to another specified borstal institution.

14. Removal to hospital

(1) Where an inmate of a borstal institution is so ill that he cannot be adequately cared for in the institution's infirmary, the superintendent, on the advice of a medical practitioner, may order his removal to a hospital or other institution:

Provided that in cases of emergency such removal may be ordered by the senior officer present without the advice of a medical practitioner.

(2) Whenever the medical officer in charge of a hospital to which an inmate has been removed under subsection (1) of this section considers that the health of that inmate no longer requires him to be kept in the hospital, he shall notify the superintendent of the borstal institution in which the inmate was previously detained, and that officer shall thereupon cause the inmate to be removed to the borstal institution if he is still liable to be detained there.

(3) The medical officer in charge of a hospital shall take all reasonable precautions to prevent the escape of any inmate who is kept in the hospital under this section.

(4) Nothing in subsection (3) of this section shall authorize any act which in the opinion of the medical officer in charge of the hospital is likely to be prejudicial to the health of the inmate concerned.

15. Removal to mental hospital

(1) Whenever a medical officer is of the opinion that any inmate in respect of whom a borstal order is in force is of unsound mind, he may by order under his hand in the prescribed form direct that such inmate be removed to a mental hospital within the meaning of the Mental Treatment Act (Cap. 248) and be there detained, and such order shall be authority for the reception of that inmate and for his detention in that mental hospital until removed or discharged as hereinafter provided.

(2) Where an inmate removed to a mental hospital under subsection (1) of this section is, in the opinion of the person in charge of the mental hospital, no longer of unsound mind, the person in charge as aforesaid shall notify the superintendent of the borstal institution from which the inmate was removed, and the inmate shall then be delivered into the custody of the superintendent of that borstal institution if his borstal order is still in force, and if not so liable shall be released.

(3) Upon the expiration of the period of detention to which he has been sentenced, section 30 of the Mental Treatment Act (Cap. 248) shall apply to an inmate detained in a mental hospital under this section as if he were detained in accordance with a reception order made under Part VI of that Act.

(4) The period during which an inmate has been detained in a mental hospital under this section shall be reckoned as part of his period of detention.

16. Removal to leper settlement

(1) Where a medical officer reports to the Commissioner that an inmate in respect of whom a borstal order is in force is a leper, the Commissioner may, subject to subsection (2) of this section, by order in writing direct the removal of that inmate to a leper settlement, there to be kept and treated until cured of his leprosy or until such time as he ceases to be liable to confinement in a borstal institution, whichever is the earlier.

(2) No order shall be made by the Commissioner under subsection (1) of this section unless he has received notification in writing that the person in charge of the leper settlement to which he wishes to remove the leper is able and willing to receive the leper.

(3) So long as the borstal order of an inmate who is in a leper settlement under this section remains in force, the person in charge of the leper settlement shall from time to time transmit to the superintendent of the borstal institution from which the inmate was removed a certificate signed by him that it is in his opinion necessary that he should remain in the leper settlement.

(4) As soon as it ceases to be necessary, in the opinion of the person in charge of a leper settlement, that any inmate who is kept thereunder this section should remain therein, he shall transmit to the superintendent of the borstal institution whence that inmate was removed, if that inmate's borstal order is still in force, a certificate of such opinion, and thereupon the superintendent shall forthwith cause the inmate to be returned to the borstal institution; and if not so liable the inmate shall be released.

(5) Every reasonable precaution shall be taken by the person in charge of a leper settlement and the other persons employed therein to prevent the escape of inmates kept therein under this section, and it shall be lawful for them to take such measures as are necessary for the preventing of such escapes:

Provided that nothing shall be done under the authority of this section which, in the opinion of the person in charge of the settlement, is likely to be prejudicial to the health of the inmate.

(6) For the purposes of this section, "**leper**" means a person suffering from active leprosy.

17. Inmates to be subject to borstal institution discipline

Every inmate of a borstal institution shall be subject to the discipline of a borstal institution and to this Act and to all rules, orders and directions made thereunder during the whole period of his detention, whether he is or is not within the precincts of a borstal institution.

18. Female inmates to be kept apart

Males and females shall not be detained in the same borstal institution.

19. Work

Every inmate of a borstal institution shall be liable to perform such work as may be directed by the superintendent:

Provided that an inmate shall not be required to perform any work, or any work other than light work, if the medical officer so orders.

PART V – VISITATION**20. Appointment of Board of Visitors**

(1) The Minister shall, by notice in the *Gazette*, appoint a Board of Visitors for every borstal institution, and may, by notice in the *Gazette*, revoke any appointment so made.

(2) A Board of Visitors shall consist of not less than ten persons.

(3) Every Board of Visitors shall meet at least four times in every year.

21. Appointment and duties of After-Care committee

(1) Every Board of Visitors shall appoint from among its members a committee, to be known as the After-Care Committee, and shall arrange for one or more members of the committee at least once a month to visit the borstal institution in respect of which the Board is appointed, for the purpose of—

- (a) hearing complaints by the inmates of the borstal institution;
- (b) ensuring that the requirements of section 4 of this Act have been complied with and that the management of the borstal institution is proper in all respects;
- (c) examining the punishment book;
- (d) ensuring that no person is illegally detained in the borstal institution; and
- (e) bringing any special case and any matter affecting the welfare of inmates or staff of the notice of the superintendent (who shall inform the Commissioner), and reporting thereon to the Board of Visitors.

(2) For the purposes of this section, “**punishment book**” means a book in which the adjudication of disciplinary offences committed by inmates of a borstal institution is recorded.

22. Board of Visitors may initiate inquiry as to age

(1) If at any time after a youthful offender has been sent to a borstal institution it appears to the Board of Visitors or the superintendent that the age of

the youthful offender is other than that determined by the court and that he was under the age of fifteen years or had attained the age of eighteen years at the time of his conviction, the Board of Visitors or the superintendent shall cause the youthful offender to be taken before a court having jurisdiction to try the offence of which he was originally convicted so that the question of his age may be inquired into anew.

(2) Where a court before which a youthful offender is taken under subsection (1) of this section finds that such youthful offender was at the time of his conviction under the age of fifteen years or had attained the age of eighteen years, it shall revoke the order for detention in the borstal institution and may pass such sentence as the court which tried the youthful offender might have passed on him, but without prejudice to anything lawfully done under the borstal order:

Provided that the court in passing sentence under this subsection shall take into consideration the period during which the youthful offender was detained in a borstal institution.

(3) Notwithstanding anything in this Act, no person shall be detained in a borstal institution after he has attained the age of twenty-one years.

23. Appointment of ministers

The Minister may, from time to time, by notice in the *Gazette*, appoint ministers of any religious faith to be ministers of a borstal institution.

24. Power of Minister, judges and magistrates

(1) The Minister, a judge or a magistrate may at any time visit any borstal institution and exercise all or any of the powers of the Board of Visitors, and may enter any observations he thinks fit to make in reference to the condition of the borstal institution and its inmates in a visitors' book to be kept for that purpose by the superintendent; and the superintendent shall inform the Commissioner of any observations so entered in the visitors' book.

(2) *Deleted by Act No. 10 of 1983, Sch.*

[Act No. 10 of 1983, Sch.]

PART VI – ABSENCE FROM BORSTAL INSTITUTIONS

25. Leave of absence

The Commissioner may grant leave of absence to any inmate of a borstal institution for such period and on such conditions as he may think fit, and may at any time revoke such leave of absence for breach of its conditions and direct the inmate to whom the leave was granted to return to the borstal institution.

26. Superintendent may grant licence

(1) The superintendent, on the recommendation of the After-Care Committee, may by licence under his hand permit any inmate who has been detained in a borstal institution for a period of not less than twelve months to live under the charge of a named trustworthy and respectable person who is willing to receive and take charge of him and to supervise, guide and advise him.

(2) A licence shall remain in force until the expiration of the period for which the inmate has been directed to be detained, or until cancelled under section 27.

(3) The time during which an inmate is absent from a borstal institution in pursuance of a licence shall, except where the licence is cancelled by reason of his breach of licence be deemed to be part of the time of his detention in the borstal institution.

27. Revocation of licence

A licence may be revoked by order in writing of the Commissioner—

- (a) if the person to whom it was granted has broken any condition of the licence; or
- (b) if the Commissioner and the After-Care Committee consider revocation of the licence to be in the best interests of the person to whom it was granted.

PART VII – DISCHARGE AND SUPERVISION

28. Discharge by order of Minister

(1) The Minister may at any time in writing order any inmate to be discharged from a borstal institution and upon discharge the borstal order made in respect of that inmate shall cease to have effect.

(2) The superintendent shall be responsible for the due discharge of all inmates immediately upon their becoming entitled to release.

(3) No inmate under treatment by the medical officer in a borstal institution shall, except at his own request, be discharged from any borstal institution until, in the opinion of the medical officer, such discharge can be effected without danger to the health of such inmate.

29. Supervision after expiration of detention

(1) Every person in respect of whom a borstal order has been made, other than a person discharged under section 28 or section 48 of this Act, shall, on the expiration of his period of detention therein, remain for a period of one year, or such lesser period as the After-Care Committee may recommend, under the supervision of the superintendent of the borstal institution in which he was last detained, or a person appointed in writing by the superintendent.

(2) A person while under supervision in pursuance of subsection (1) of this section shall comply with the written instructions of the superintendent regarding his place of residence, occupation, activities, conduct and otherwise, and if he fails to comply with any of those instructions he may be recalled by the Commissioner to the borstal institution in which he was detained immediately before the expiration of his period of detention:

Provided that no person shall be recalled unless in the opinion of the Commissioner such recall is necessary for his well-being.

(3) Any person recalled under subsection (2) of this section may be detained in the borstal institution for a period not exceeding three months or until the period of supervision specified in subsection (1) of this section ends, whichever period is the shorter.

(4) Where under subsection (3) of this section a person is detained in a borstal institution for a period expiring before the period of his supervision ends, he shall, on completion of his period of detention, remain under supervision in accordance with this section, until his period of supervision expires.

(5) Notwithstanding anything in this section, the Commissioner may at any time in writing direct that a person who is under supervision in pursuance of this section shall cease to be under supervision.

PART VIII – OFFENCES BY INMATES OF BORSTAL INSTITUTIONS

30. Borstal institution offences

The Minister may prescribe what acts or omissions by inmates shall be borstal institution offences.

31. Punishment of inmate by principal borstal officer

The principal borstal officer of a borstal institution may punish any inmate found after due inquiry by him to be guilty of a borstal institution offence by awarding him deprivation of one or more of the following privileges for a period not exceeding seven days—

- (a) playing games;
- (b) loss of grade;
- (c) forfeiture of earnings.

32. Punishment of inmate by superintendent

The superintendent of a borstal institution may punish any inmate found after due inquiry by him to be guilty of a borstal institution offence by awarding him one or more of the following punishments—

- (a) removal to the penal grade;
- (b) deprivation of either or both of the following privileges for a period not exceeding one month—
 - (i) playing games;
 - (ii) earnings;
- (c) loss of grade for a period not exceeding three months;
- (d) confinement in a room for three days;
- (e) such restricted diet as may be prescribed, for a period not exceeding three days.

33. Punishment of inmate by commissioner

(1) The Commissioner may punish any inmate found after due inquiry by him to be guilty of a borstal institution offence.

(2) The superintendent on finding an inmate guilty of a borstal institution offence may, if he is of the opinion that in the circumstances of the case the powers of punishment he possesses are inadequate, transfer the case to the Commissioner for punishment.

(3) The superintendent, if he transfers a case to the Commissioner under subsection (2) of this section, shall forward to the Commissioner—

- (a) a copy of the charge;
- (b) the record of all the evidence he has taken, including the evidence of the inmate;

- (c) the reasons why he has found the inmate guilty; and
- (d) any representations the inmate wishes to make to the Commissioner in regard to punishment.

(4) The Commissioner, on receipt of a record forwarded to him under subsection (3) of this section, may—

- (a) punish the inmate; or
- (b) reverse the findings of the superintendent and find the inmate not guilty; or
- (c) require the superintendent to take further evidence and submit it to him before he makes a decision.

(5) The Commissioner may award an inmate one or more of the following punishments—

- (a) any award authorized under section 32 of this Act;
- (b) deprivation of privileges;
- (c) loss of grade;
- (d) confinement in a room for not more than fourteen days;
- (e) restricted diet as may be prescribed for a period not exceeding fifteen days;
- (f) corporal punishment not exceeding ten strokes.

34. Inmate's defence

No inmate shall be punished for a borstal institution offence until he has had an opportunity of hearing the charge against him and making his defence.

35. Restricted diet

(1) No inmate shall be subjected to restricted diet until certified by a medical officer or other person appointed for such purpose by the medical officer as medically fit to undergo it.

(2) A person shall not be required to perform work while he is on a restricted diet.

36. Corporal punishment

(1) No sentence of corporal punishment shall be carried out until a period of twenty-four hours has elapsed from the time of the order thereof and a medical officer has certified that the offender is physically fit to undergo the punishment.

(2) A medical officer may give such orders for the prevention of injury to the health of the offender ordered to receive corporal punishment as he may deem necessary, and such orders shall be carried out before the punishment is inflicted; and if, during the course of the infliction of the punishment, the medical officer orders it to be discontinued it shall be discontinued accordingly.

(3) Corporal punishment shall not be inflicted upon any female inmate.

37. Segregation of inmate

Whenever it appears to the superintendent that it is desirable for the good order and discipline of the borstal institution for an inmate to be segregated and not to work nor to be associated with other inmates, it shall be lawful for the superintendent to order the segregation of such inmate for such period as he considers necessary.

38. Register of punishment

The superintendent shall cause to be entered in a register, which shall be open to the inspection of the Board of Visitors, a record of all punishments imposed upon inmates, showing in respect of each inmate punished his name, the nature of his offence and the extent of his punishment.

PART IX – GENERAL

39. Return of person to borstal institution

- (1) Any person in respect of whom a borstal order is in force who—
- (a) escapes from the borstal institution in which he is detained, or from any hospital or other institution to which he has been removed on account of his physical or mental condition; or
 - (b) runs away from the person into whose charge he has been entrusted under a licence; or
 - (c) fails to return to a borstal institution on the revocation of his licence under section 27 of this Act or of his leave of absence under section 25 of this Act or on recall under section 29(2) of this Act,

may be arrested without warrant by an authorized officer and taken back to a borstal institution.

(2) Where any such person as aforesaid has committed any of the acts mentioned in subsection (1)(a) of this section, the period of his detention in a borstal institution shall be increased by a period equal to the period during which he was unlawfully at large.

40. Assisting escape and harbouring

- (1) If any person knowingly—
- (a) assists or incites a person in respect of whom a borstal order is in force to commit any of the acts specified in section 39(1) of this Act; or
 - (b) harbours or conceals such a person who has committed any such act, or prevents him from returning,

he shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(2) If a court is satisfied, by information on oath, that a person in respect of whom a borstal order is in force has committed one of the acts specified in section 39(1) of this Act and that there is reasonable ground for believing that some other person, named in the information, can produce him, the court may issue a summons requiring that other person to attend at the court on a day specified in the summons and produce the person who has committed the act, and if the person summoned fails without reasonable excuse to comply with the

summons he shall be guilty of an offence and liable, in addition to any other liability to which he may be subject under this Act, to a fine not exceeding one thousand shillings.

41. Trespassing

(1) Any person who without lawful authority enters or remains within the boundaries of a borstal institution or any place where inmates of a borstal institution are working shall be guilty of an offence and, if he refuses to leave when requested to do so, may be arrested without a warrant by a prison officer on the staff of the borstal institution or a police officer.

(2) Any person who, without authority from the Commissioner—

- (a) takes a photograph of any inmate of a borstal institution; or
- (b) takes a photograph or makes a sketch, plan or other representation of any object or person within the precincts of a borstal institution,

shall be guilty of an offence.

(3) Any person who is guilty of an offence under subsection (1) or subsection (2) of this section shall be liable to a fine not exceeding two thousand five hundred shillings or to imprisonment for a term not exceeding three months, or to both such fine and such imprisonment.

42. Power of court to commit borstal inmate to prison

If the Commissioner is of the opinion that any inmate of a borstal institution is of such a character, or has conducted himself in such a manner, as to render his detention in such borstal institution to be no longer expedient, he may cause the inmate to be taken before a court having jurisdiction to try the offence of which he was originally convicted, and that court may direct that the inmate, instead of undergoing the residue of his detention in a borstal institution, shall undergo a term of imprisonment not exceeding three years commencing on the day when the inmate began his detention in a borstal institution.

43. Procedure on conviction during detention in borstal institution

Except where it is otherwise provided in this Act, where a court convicts a person of any offence committed during the period of his detention in a borstal institution and sentences him to a term of imprisonment, such court shall take into consideration in assessing the length of the term passed the period of that person's detention which remained unexpired at the time of such finding or conviction, and shall cancel the order for his detention in a borstal institution.

44. No interference with control of person on licence or under supervision

(1) When a person is absent from a borstal institution in pursuance of a licence, or is under supervision in pursuance of section 29 of this Act, no person whatever shall interfere with the control or supervision conferred in respect of the absent person by the licence or by the said section, as the case may be.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding two thousand five hundred shillings or to imprisonment for a term not exceeding three months, or to both.

45. Removal in custody

A person in respect of whom a borstal order is in force may be removed—

- (a) to or from a borstal institution under the borstal order or under a removal order; or
- (b) to or from a hospital or other institution, mental hospital or leper settlement under section 14, section 15 or section 16 of this Act; or
- (c) to or from a court under section 42 or section 47 of this Act,

in the custody of an authorized officer, and while being so removed he shall be deemed to be in the lawful custody of such officer.

46. Inmate of borstal institution in lawful custody

A person who is detained in a borstal institution by virtue of a borstal order shall be deemed to be in the lawful custody of the superintendent, and during any period that he is in any hospital or other institution, a mental hospital or a leper settlement under section 14, section 15 or section 16 of this Act he shall be deemed to be in the lawful custody of the officer in charge of the institution.

47. Inmate required as witness

(1) Whenever the presence of any inmate of a borstal institution is required by any court, such court may issue an order addressed to the superintendent requiring production before the court of the inmate in proper custody at the time and place named in the order, and the superintendent shall cause the inmate named in the order to be brought up as directed, and shall provide for his safe custody during his absence from the borstal institution.

(2) Every such court may by endorsement on such order require the inmate to be again brought up at any time to which the matter may be adjourned.

48. Apprenticeship

If it appears to the superintendent that a person has behaved well while out on licence, the superintendent may on the recommendation of the After-Care Committee arrange a contract of indentured learnership or a contract of apprenticeship for him under the Industrial Training Act (Cap. 237), and on such contract being arranged such person shall be discharged from the borstal institution.

49. Prohibited articles and communication with borstal inmates

(1) Any person who without lawful authority—

- (a) conveys, supplies or causes to be supplied or conveyed to any inmate of a borstal institution, or hides or places for the use of any such inmate, any prohibited article; or
- (b) places, where inmates of a borstal institution work, any prohibited article; or
- (c) brings out of or takes into any borstal institution any prohibited article; or
- (d) in any manner communicates with any inmate of a borstal institution,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(2) In this section, “**prohibited article**” means any article contained in a list which—

- (a) specifies the articles which are prohibited in borstal institutions;
- (b) is written in English, Swahili and the language which the superintendent considers to be the local vernacular language;
- (c) is signed by the Commissioner or the superintendent on his behalf; and
- (d) is posted in a conspicuous place outside the borstal institution.

50. Seizure of prohibited articles, etc.

Whether or not any criminal or disciplinary proceedings are commenced against any person, any prison officer on the staff of a borstal institution may seize any article found to be unlawfully in a borstal institution, and the superintendent may order its confiscation and it shall thereupon be forfeited.

51. Unlawful possession of public property

Any person who—

- (a) is found in possession of any article which has been supplied to a prison officer on the staff of a borstal institution for use on duty, or of any property belonging to a borstal institution, and who fails to account satisfactorily for the possession thereof; or
- (b) without lawful authority or excuse purchases any such article or property from any such officer; or
- (c) aids and abets any such officer to sell or dispose of any such article or property,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both.

52. Rules

(1) The Minister may make rules generally for the better carrying out of the provisions and purposes of this Act, and in particular may make rules for any of the following purposes—

- (a) defining which types of offenders may be sent to particular borstal institutions;
- (b) providing for and regulating the discipline and duties of borstal institution staff, and prescribing punishments for neglect of duty and other offences committed by any member of such staff;
- (c) regulating the conduct, management and discipline of borstal institutions;
- (d) providing for the maintenance, discipline, treatment and education, vocational or otherwise, of the inmates of borstal institutions, and regulating the punishment of inmates for breach of discipline, whether by loss of privileges, restricted diet, confinement or, in serious cases, caning;

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- (e) providing for the payment of youthful offenders for work done while detained in borstal institutions, and prescribing the conditions under which such payments shall be made;
- (f) providing for the photographing of the inmates of borstal institutions;
- (g) prescribing the manner in which Boards of Visitors shall discharge their duties;
- (h) providing for the construction, equipment and supervision of rooms and dormitories;
- (i) regulating the mode and kind of labour and employment;
- (j) making provision for the disposal of articles made by inmates of a borstal institution;
- (k) prescribing the method of disposal of inmates' property left unclaimed for a prescribed period, including its sale and the disposal of the proceeds of such sale.

(2) Rules made under this section may make different provision concerning different borstal institutions or different classes of borstal institutions or different parts of borstal institutions.

53. Amendment of Act 49 of 1962

Section 67(1) of the Prisons Act, 1962, is amended by adding at the end of paragraph (a) of the proviso thereto the expression "a borstal institution as defined in the Borstal Institutions Act, 1963; or".
