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Reformatories Act, 1921

Act 82 of 1921

Legislation as at 1 December 1998

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Reformatories Act, 1921

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Reformatories Act, 1921

Act 82 of 1921

Commenced on 2 December 1921

[This is the version of this document at 1 December 1998.]

An Act to enable the courts to punish juvenile adult offenders by ordering their detention in reformatories, to provide for the detention of such persons and for matters incidental thereto.

1. Short title

This Act may be cited as the Reformatories Act, 1921.

2. Interpretation

In this Act, unless the context otherwise requires—

“**juvenile**” means any person under the age of sixteen years, and any person under the age of eighteen years whose classification as a juvenile adult has been expressly sanctioned by the Minister;

“**juvenile adult**” means any person who is between the ages of sixteen and twenty-one years, and any person who is between the ages of twenty-one and twenty-five years whose classification as a juvenile adult has been expressly sanctioned by the Minister;

“**juvenile adult reformatory**” includes in addition to any institution established as such any division of a gaol or juvenile reformatory similarly established or an industrial school;

“**Minister**” means the Minister responsible for Welfare.

3. Detention of juvenile in reformatories, and trials *in camera*, etc.

- (1) If any juvenile is convicted of an offence punishable with imprisonment, the court may order him to be sent to a juvenile reformatory to be detained for not less than two years and not more than five years, or in the alternative may sentence him to imprisonment:

Provided that the period for which a juvenile shall be detained in a juvenile reformatory shall expire on or before the date on which he attains the age of eighteen years.

- (2) The trial of such juvenile may be held *in camera* and in some place other than an ordinary court-room:

Provided that in such case the parent or guardian or other person interested in such juvenile shall have the right to be present.

- (3) All sentences or orders made under this section shall be subject to review under the Subordinate Court Proclamation (Cap. 20).

4. Procedure on sentence

- (1) If any court orders a juvenile to be detained in a juvenile reformatory a warrant shall be issued by the court for that purpose setting forth the offence of which the juvenile has been convicted, the period for which he is to be detained and his age, and the said warrant shall be transmitted to such officer as the Minister may direct and shall be the authority for the conveyance of the juvenile to a juvenile reformatory and his detention therein.

- (2) The court shall transmit with such warrant an account, in such form as the Minister may prescribe, of the history and antecedents of the juvenile so far as may be ascertainable by it.

5. Detention of juvenile adults

The court before which any juvenile adult is convicted may, instead of imposing a sentence of imprisonment, order that he be detained in a juvenile reformatory for not less than two and not more than five years and [section 4](#) shall thereupon *mutatis mutandis* apply to such juvenile adult.

6. Removal to Republic prisons and reformatories

- (1) Any person who has, whether before or after the taking effect of this Act, been sentenced by any court to imprisonment and who is still liable to serve such sentence or any portion thereof may by warrant signed by the Minister be removed into custody in the Republic in order that he may be detained in any prison or gaol thereof and imprisoned in accordance with any law in force in the Republic authorising such detention and imprisonment until the expiry of the sentence or during such portion thereof as may be deemed necessary.
- (2) Any person who has been ordered to be detained in a juvenile reformatory or in a juvenile adult reformatory may while still subject to such order by warrant signed by the Minister be removed into custody in the Republic in order that he may be detained in any juvenile reformatory or juvenile adult reformatory as the case may be in the Republic in accordance with any law in force in the Republic authorising such detention until the expiry of the period mentioned in the order or during such portion thereof as may be deemed necessary.
- (3) No person shall be removed into custody in the Republic under this section unless the original warrant of committal accompanies such person.
- (4) Any person in course of removal under a warrant signed under this section shall be deemed to be in lawful custody whilst within Swaziland.

7. Detention pending removal

Any person who has been ordered by a court to be detained in a juvenile reformatory or in a juvenile adult reformatory shall pending his removal to any such reformatory in the Republic be detained in Swaziland in such building and in the custody of such person as the Minister may direct and subject to such conditions as may be prescribed.

8. Regulations

The Minister may make regulations providing for the removal of prisoners and of juveniles and juvenile adults under this Act and for their custody pending such removal.

9. Agreement with Republic Government

- (1) The Minister on behalf of the Government may enter into an agreement with the Government of the Republic on such terms and conditions as he may think fit for the reception in the Republic and detention in any—
 - (a) prison or gaol therein of any person sentenced by a court to imprisonment with or without hard labour; and
 - (b) juvenile reformatory or juvenile adult reformatory therein of any person who being a juvenile adult has been ordered by a court to be detained in a juvenile reformatory or juvenile adult reformatory.
- (2) The agreement dated the twenty-eighth day of October, 1920, contained in the Schedule shall be deemed to have been lawfully entered into under this section.

10. Conviction, etc. may be challenged although convict removed

This Act shall not prevent the conviction, judgment or sentence of any person removed hereunder from Swaziland into lawful custody in the Republic from being called into question within Swaziland in the same manner as if he had not been so removed and the sentence or order for detention of any such person may be remitted or his discharge ordered in the same manner and by the same authority as if he had not been so removed.

11. Presumption of age

For the purposes of this Act a person shall be presumed to be a juvenile or juvenile adult if it appears to the court before which he is tried that he is within the limits of age prescribed for a juvenile or juvenile adult as the case may be.

Schedule

Agreement under section 14 of the Prisons and Reformatories Act Amendment Act, No. 46 of 1920

Whereas it appears that provision has been made by section 14 of the Prisons and Reformatories Act Amendment Act, [No. 46 of 1920](#), authorising the Governor-General of the Union of South Africa to enter into an agreement with the Officer Administering the Government of any territory in South Africa south of the Equator (being a portion of the British Dominions or a territory under the protection of the Crown), for the purposes specified in the said section;

And whereas the High Commissioner for South Africa desires to enter into such an agreement as aforesaid on behalf of the Administration of Swaziland;

And whereas the Officer Administering the Government of the Union of South Africa has consented thereto;

Now, therefore, it is hereby agreed between the Officer Administering the Government of the Union of South Africa and the High Commissioner for South Africa that subject to the provisions of the said Act, and to conditions herein after appearing, an agreement shall exist—

- (a) for the reception in the Union and detention in any prison or gaol therein of any person sentenced by a competent Court of Swaziland according to law in force therein to imprisonment with or without hard labour; and
- (b) for the reception in the Union and detention in any juvenile reformatory or juvenile adult reformatory therein of any person who, being a juvenile or juvenile adult, has been ordered by a competent Court of Swaziland according to law in force therein, to be detained in a juvenile or juvenile adult reformatory.

And the Officer Administering the Government of the Union of South Africa and the High Commissioner for South Africa hereby agree on behalf of the Union Government and the Administration of Swaziland, respectively, that when accommodation is available, and the Union Government has agreed to accept any prisoner or juvenile, there shall be paid by the Administration of Swaziland to the Union Government in respect of each prisoner or juvenile, the sum of three shillings per head per day, or such other amount as may be mutually agreed upon between the Protectorate Administration and the Prisons Department of the Union of South Africa, and that the Union Government shall be entitled to a refund of any expenses incurred by the latter Department in returning such persons to their homes on discharge from custody.

This agreement shall take effect as provided by law on the publication of a summary of the terms thereof in the *Gazette* of the Union of South Africa, and shall be terminated on three months' notice being given by either of the parties to the agreement.