



1950

## c 188 Jails Act

Ontario

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## CHAPTER 188

## The Jails Act

## 1. In this Act,

Interpretation.

(a) "inspector" means inspector appointed under *The Penal and Reform Institutions Inspection Act*; Rev. Stat., c. 273.

(b) "Minister" means Minister of Reform Institutions. R.S.O. 1937, c. 388, s. 1, *amended*.

2. All jails in Ontario shall be prisons of the Supreme Court. R.S.O. 1937, c. 388, s. 2. Prisons of Court.

3.—(1) Every jail erected in a provisional judicial district under the authority of the Lieutenant-Governor in Council, or any building declared so to be by the Lieutenant-Governor in Council, shall be a common jail of the district. Jails in districts.

(2) The common jails and the industrial farms in the several districts shall be respectively common jails and industrial farms for all the districts, and any court or magistrate may direct the committal to any of them, either for safe custody or for punishment of any person who may be lawfully committed by such court or magistrate to the common jail or industrial farm of the district in which the order for committal is made. R.S.O. 1937, c. 388, s. 3. Jails and industrial farms common for all districts.

4. Any person imprisoned in a lock-up in a district may be transferred by order of an inspector to the common jail in the district town of the district. R.S.O. 1937, c. 388, s. 4. Transfer from lock-up to common jail.

5. The Lieutenant-Governor may appoint a jailer of every common jail who shall perform all the duties and be under and subject to all the liabilities that the jailers of the common jails in counties perform and are subject to, and shall give such security for the due performance of the duties of his office as the Lieutenant-Governor in Council from time to time prescribes, and every such jailer shall be paid out of money appropriated by the Legislature for that purpose, such sums of money annually as the Lieutenant-Governor in Council may think reasonable for the services performed. R.S.O. 1937, c. 388, s. 5. Appointment of jailer.

Vacancy.

**6.**—(1) In case of a vacancy, the sheriff shall appoint some proper person to act as jailer until an appointment is made by the Lieutenant-Governor in Council.

When Sheriff to be *ex officio* jailer.

(2) The Lieutenant-Governor in Council may, upon the application of the sheriff, declare that the public interests do not require that another jailer of the jail at the district town shall be appointed, and thereupon the sheriff shall be *ex officio* jailer of such jail, and shall perform all the duties and shall be subject to all the liabilities of the office. R.S.O. 1937, c. 388, s. 6.

Plans for jails.

**7.** Every jail shall be constructed and built according to a plan approved by the inspector, and sanctioned by the Lieutenant-Governor in Council, and no jail built after the 4th day of March, 1868, in any county, otherwise than according to a plan so approved and sanctioned, or which does not, after its completion, receive the approval of the inspector, shall be deemed to be in law the jail of such county. R.S.O. 1937, c. 388, s. 7.

Consideration of plans.

**8.** The inspector, before deciding upon the plan of a jail most proper to be adopted, or approving a jail after its completion, shall take into consideration,

- (a) the nature and extent of the ground upon which the jail has been or is to be built;
- (b) its relative situation to any street and buildings, and to any river or other water supply;
- (c) its comparative elevation and capability of being drained;
- (d) the material of which it has been or is to be constructed;
- (e) the necessity of guarding against cold and dampness, and of providing properly for ventilation and light for each corridor;
- (f) the proper classification of prisoners, having regard to age, sex, and cause of confinement;
- (g) the best means of ensuring their safe custody without the necessity of resorting to severe treatment;
- (h) the due accommodation of the jailer and turnkeys, so that they may have ready access to the prisoners and conveniently oversee them;
- (i) the prevention of any intercourse between prisoners and persons without the walls of the building;

- (j) the prevention of nuisances from whatever cause, and the necessity of providing proper and sufficient sanitary conveniences;
- (k) the combining provision, as well for the reformation of convicts, as far as may be practicable, as for their employment, in order that the jail may really serve as a place of correction;
- (l) the admission of prisoners to air and exercise without the walls of the building; and
- (m) the enclosure of the yard and premises with a secure wall. R.S.O. 1937, c. 388, s. 8.

9.—(1) If the inspector at any time finds that the common jail in any county or city is out of repair or is unsafe or unfit for the confinement of prisoners, or is not constructed or maintained in conformity with section 8, or does not afford sufficient space or room for the number of prisoners usually confined therein, he shall forthwith report the fact to the Lieutenant-Governor, and shall at the same time furnish a copy of such report to the council of such county or city. Unfit jails.

(2) The council shall thereupon appoint a special committee to confer with the inspector, and to arrange with him as to the repairs, alterations or additions that may be deemed necessary to remedy the defects reported upon, and to report the same to the council. Conference with inspector.

(3) If the inspector and the committee do not agree upon what repairs, alterations and additions are necessary, the matter shall be referred to the Lieutenant-Governor in Council to decide, and his decision shall be reported to the council. Case of disagreement.

(4) It shall be the duty of the council, by by-law, to provide for the making of the repairs, alterations or additions so arranged for and reported or decided upon, and for the appropriation of any money that may be required for that purpose, and in default thereof the council may be proceeded against at the instance and prosecution either of the Attorney-General or of any private prosecutor, to compel the making by the council of such repairs, alterations or additions. By-law for repairs.

(5) The inspector and the special committee of the county or city council shall, in arranging the particulars of the necessary repairs, alterations or additions, have due regard to the plan of the jail and to the ability of the council to meet the expense thereof, and in the case of alterations or additions, shall make the same as few and inexpensive as, in their opinion, Repairs to be proportioned to circumstances and resources of council.

the requirements of this Act, and of the public service will admit. R.S.O. 1937, c. 388, s. 9.

Duty of  
inspector  
when  
vacancy  
occurs.

**10.**—(1) Where a vacancy occurs in the office of jailer of any county jail, and the number of prisoners who have been confined in the jail during the three years ending on the 31st of December immediately preceding the occurrence of such vacancy did not exceed on an average six *per diem* in any of such years, it shall be the duty of the inspector to issue and transmit to the county council his certificate to that effect, and he shall also notify the sheriff of the county that the jail may be made subject to this section.

Power of  
county  
council.

(2) The council may, after the receipt of such certificate and within three months after the occurrence of such vacancy or at the next meeting of the council thereafter, by resolution declare that the public interests do not require the appointment of a jailer.

Sheriff may  
agree to act  
as jailer.

(3) The sheriff may thereupon agree with the council to act as jailer and for the remuneration to be allowed him for the performance of the duties of jailer, and in that event it shall not be necessary for the sheriff to appoint a jailer, but he shall himself be *ex officio* the jailer and shall, with such assistance as he deems necessary, perform all the duties and be subject to all the responsibilities of the office.

His duty.

Sheriff may  
appoint  
jailer  
*pro tempore*  
or act  
himself.

(4) Pending the action of the council, the sheriff may either make a temporary appointment of a jailer, or may elect himself to perform the duties of the jailer, in which case he shall be *ex officio* jailer and shall perform all the duties and shall be subject to all the liabilities of the office.

Sheriff must  
appoint  
if council  
fails to act.

(5) If the council does not within the time thereby limited pass the resolution mentioned in subsection 2, the sheriff shall forthwith thereafter appoint the temporary jailer or some other proper person to be the jailer.

Salary of  
temporary  
jailer or  
sheriff.

(6) The temporary jailer or the sheriff, while acting under subsection 4, shall be paid at the same rate of salary as was paid to the jailer who held the office previous to the occurrence of the vacancy. R.S.O. 1937, c. 388, s. 10.

Transfer of  
prisoners.

**11.**—(1) Where the number of prisoners confined in the jail of any county during two years does not exceed on an average four *per diem* for either of such years and the inspector reports to the Lieutenant-Governor that it would be proper that an agreement should be made for keeping the prisoners of such county in the jail of an adjoining county, the council of the first-mentioned county may agree with the council of

the adjoining county for keeping and maintaining such prisoners in the jail of the adjoining county.

(2) The two years shall be the two years ending on the 31st day of December immediately preceding the making of the agreement. How average reckoned. R.S.O. 1937, c. 388, s. 11.

**12.** If such agreement is made, the Lieutenant-Governor in Council may sanction the same and shall issue a proclamation declaring that from a day to be named therein the jail of the adjoining county shall also be the common jail of the first-mentioned county, and it shall so continue from that day until the Lieutenant-Governor in Council issues a proclamation terminating the agreement. Sanction by Lieutenant-Governor in Council. R.S.O. 1937, c. 388, s. 12.

**13.—**(1) No such first-mentioned proclamation shall be issued unless there is direct railway communication between the county towns of the two counties, nor until the inspector has reported that a sufficient lock-up for the safe custody of prisoners held or committed for trial in the first-mentioned county or in custody prior to their committal for trial or pending their removal to the county jail, reformatory or penitentiary has been provided in or near the county town of the first-mentioned county. Prerequisites to sanction.

(2) Nothing in this section shall prevent the imprisonment of any such prisoner in the jail of the adjoining county where the committing magistrate or the sheriff in charge deems it expedient that he should be imprisoned therein. Magistrate may commit to jail of adjoining county.

(3) The lock-up may be either the building theretofore used as the jail of the first-mentioned county or part thereof or some other building approved by the inspector. Lock-up. R.S.O. 1937, c. 388, s. 13.

**14.** The county at whose instance such first-mentioned proclamation has been issued shall bear all expenses incurred in respect of the conveying of any prisoners to or from the jail of the adjoining county in excess of those which would have been incurred had the prisoners been detained in a jail in the county town of the first-mentioned county. Expenses of transferring prisoners. R.S.O. 1937, c. 388, s. 14.

**15.** It shall be the duty of the county council to see that the lock-up is always kept in a proper condition for the reception of prisoners, and if the county council fails so to keep the same, the sheriff shall at the cost of the county do what is necessary in that behalf. Duty of county council as to lock-up. R.S.O. 1937, c. 388, s. 15.

Term for which agreement to be made.

Rev. Stat., c. 243.

How terminated.

Effect of proclamation as evidence.

Powers of Lieutenant-Governor in Council.

R.S.C. 1927, c. 163.

Cost of maintenance of prisoner;

and of his transfer;

how settled.

Detention in jail pending removal to reformatory.

**16.**—(1) An agreement made under section 11 shall continue, subject to any variation of the terms thereof by mutual agreement, for five years, and shall after such five years continue until varied by agreement, or if the councils are unable to agree, until varied by arbitration under *The Municipal Act*, but either council may at any time apply to the Lieutenant-Governor in Council to terminate the agreement.

(2) The Lieutenant-Governor in Council may terminate the agreement upon the application of either of the councils interested or of his own motion from a day to be named in his proclamation in that behalf and from such day the jail of the adjoining county shall cease to be the common jail of the first-mentioned county. R.S.O. 1937, c. 388, s. 16.

**17.** The issue of a proclamation under this Act shall be conclusive evidence that the events have happened and that the conditions exist which authorize the issue thereof. R.S.O. 1937, c. 388, s. 17.

**18.**—(1) The Lieutenant-Governor in Council shall, with respect to persons in custody undergoing imprisonment for offences against any law of Ontario or a by-law, or charged with any such offence, or for whose arrest a warrant has been issued, have all the powers conferred upon him in respect of offences against the laws of Canada by the *Prisons and Reformatories Act* (Canada), the provisions of which shall *mutatis mutandis* apply.

(2) The cost of the maintenance of a prisoner transferred under this section shall be paid and borne by the corporation of the county from the jail of which he is transferred, and in case of dispute as to the amount which is payable, shall be determined by the inspector.

(3) The expenses of the transfer of a prisoner under this section or under the *Prisons and Reformatories Act* (Canada) shall be paid by the corporation of the county from the jail of which the prisoner is transferred.

(4) In case of dispute as to the amount payable under subsection 2 or 3, the same shall be determined by the inspector. R.S.O. 1937, c. 388, s. 18.

**19.** Any person sentenced to imprisonment in any reformatory may be detained in the common jail until the proper officer requires the delivery to him of such person for conveyance to the reformatory in which he or she is to be imprisoned. R.S.O. 1937, c. 388, s. 19, *amended*.

**20.**—(1) The Lieutenant-Governor in Council may appoint provincial bailiffs, male or female, who shall be employed for the purpose of conveying any person confined in any of the common jails of Ontario or other place of custody and liable to be removed from thence to any provincial institution in which the person is lawfully directed to be confined, and also in the performance of such other duties as may be assigned to them by the inspector.

Appointment  
of bailiffs.

(2) The inspector may authorize the employment of a suitable person to act as a temporary bailiff, and a temporary bailiff shall have the same powers and may perform the same duties as a provincial bailiff and shall be paid for such temporary services as the Minister may direct. R.S.O. 1937, c. 388, s. 20, *amended*.

Temporary  
bailiffs.

**21.** Any such bailiff may convey any person from the jail or other place of custody to such provincial institution without further authority than the warrant of the inspector, which shall be issued in duplicate, and the person shall be received into the institution and there detained subject to the rules, regulations and discipline thereof until discharged by due course of law or removed under competent authority. R.S.O. 1937, c. 388, s. 21.

Warrant  
for removal.

**22.** The bailiff, in the conveyance of the person to a provincial institution, may secure and convey him in and through any county or district through which the bailiff may have to pass, and until the person has been delivered to and placed in the institution, the bailiff shall have, in every part of Ontario, the same power and authority over and with regard to him, and to command the assistance of any person to prevent his escape, and to recapture him in case of an escape, as the sheriff of the county or district in which he was convicted or confined would have had in conveying him from one part to another of that county or district. R.S.O. 1937, c. 388, s. 22.

Powers of  
bailiffs.

**23.** The bailiff shall give to the sheriff or jailer one of the duplicates of the warrant and a receipt for every person delivered to him, and shall thereupon with all convenient speed convey and deliver up the person with the other duplicate to the superintendent or other official head of the provincial institution, who shall give his receipt in writing for every person so received by him to the bailiff, and every such person shall be kept in the institution until discharged by due course of law or removed under competent authority. R.S.O. 1937, c. 388, s. 23.

Bailiffs to  
give and  
take receipts  
for persons  
in their  
charge.

**24.**—(1) The county or other municipality in which the jail or other place of custody is situate and from which the

Expenses  
of removal.



person is removed by the bailiff, shall be liable to pay to the Treasurer of Ontario, on demand, the expenses incurred in the removal and conveyance of the person, together with 60 per cent added thereto.

How borne.

(2) Where a jail is maintained jointly by a city and county, or in the case of a town separated from a county, the county shall be deemed to be the municipality in which the jail is situate, and the city or town shall pay its just proportion of such expenses and additional percentage, and if not mutually agreed upon, the same shall be determined by arbitration as provided by *The Municipal Act*. R.S.O. 1937, c. 388, s. 24.

Rev. Stat.,  
c. 243.

Employment  
of prisoners  
outside jail.

**25.** The Lieutenant-Governor in Council may direct or authorize the employment beyond the limits of the common jail upon any work or duty, the nature of which is specified in the Order in Council, of any person who is sentenced to be imprisoned with hard labour in the jail under any statute of Ontario or for the breach of a by-law of any municipal corporation or board of commissioners of police. R.S.O. 1937, c. 388, s. 25.

Discipline of  
jail to be  
observed  
during em-  
ployment.

R.S.C. 1927,  
c. 163.

**26.** Every such prisoner shall, during such employment, be subject to the rules, regulations and discipline of the jail, and to any regulations made by the Lieutenant-Governor in Council under the *Prisons and Reformatories Act* (Canada) for preventing escapes and preserving discipline. R.S.O. 1937, c. 388, s. 26.

Supervision.

**27.** No such prisoner shall be so employed, except under the strictest care and supervision of officers appointed to that duty. R.S.O. 1937, c. 388, s. 27.

What to be  
deemed part  
of jail.

**28.** Every street, highway or public thoroughfare on which prisoners may pass in going to or returning from their work, and every place where they may be employed under this Act, shall, while so used, be deemed to be a part of the jail for the purposes of this Act. R.S.O. 1937, c. 388, s. 28.

Division  
of earnings  
of prisoners.

**29.—(1)** An account shall be kept of the amount earned by the labour of prisoners imprisoned in any common jail, and such amount shall be divided between the Province and the county in proportion to the amount contributed by them respectively towards the care and maintenance of the prisoners.

How and  
when made.

(2) The division shall be made by such officer, or other person, and at such time as the Lieutenant-Governor in Council shall direct. R.S.O. 1937, c. 388, s. 29.

**30.** In the case of a county in which a city or separated town is situate, the share of such earnings which the city or town shall be entitled to receive from the county shall, in case the councils are unable to agree, be determined annually by arbitration under *The Municipal Act*. R.S.O. 1937, c. 388, s. 30. Division of earnings between county and city or town.  
Rev. Stat., c. 243.

**31.—(1)** No jailer, keeper or other officer of any jail, lock-up or industrial farm shall sell, lend, use, or give away, or knowingly permit or suffer any intoxicating liquors within the meaning of *The Liquor Control Act* to be sold, used, lent or given away to any prisoner or to any person committed to an industrial farm, or to be brought into the same, other than as may be prescribed by or given by the direction of a legally qualified medical practitioner. No intoxicating liquors to be given to prisoners by officers;  
Rev. Stat., c. 210.

(2) No person shall give, convey or supply to any prisoner confined in any jail or industrial farm, any intoxicating liquor within the meaning of *The Liquor Control Act* otherwise than as authorized by this Act. or by any person.

(3) Every person who contravenes this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$100. Penalty.

(4) For a second offence of the like nature by such jailer, keeper, or other officer, he shall also forfeit his office. R.S.O. 1937, c. 388, s. 31. Second offence by officer.



