

**Version No. 042**  
**Corrections Act 1986**

**Act No. 117/1986**

Version incorporating amendments as at 20 December 2001

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**Version No. 042**  
**Corrections Act 1986**

**Act No. 117/1986**

Version incorporating amendments as at 20 December 2001

**The Parliament of Victoria enacts as follows:**

**PART 1—PRELIMINARY**

**1. Purposes**

The purposes of this Act are—

- (a) to provide for the establishment management and security of prisons and the welfare of prisoners; and
- (b) to provide for the administration of services related to community-based corrections and for the welfare of offenders; and
- (c) to provide for other correctional services.

**2. Commencement**

This Act comes into operation on a day or days to be proclaimed.

**3. Definitions**

(1) In this Act—

**"Committee"** means the Prison Industry Advisory Committee established under Part 8B;

S. 3 amended by No. 72/2001 s. 3(Sch. item 4.2) (ILA s. 39B(1)).  
S. 3(1) def. of "Commission" substituted as def. of "Committee" by No. 45/1996 s. 4(a).



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S. 3(1) def. of  
"Commission  
farm"  
repealed by  
No. 45/1996  
s. 4(b).

\* \* \* \* \*

S. 3(1) def. of  
"Commission  
industrial site"  
repealed by  
No. 45/1996  
s. 4(c).

\* \* \* \* \*

**"community corrections officer"** means a  
community corrections officer appointed  
under Part 4;

S. 3(1) def. of  
"community-  
based order"  
amended by  
No. 49/1991  
s. 119(7)(Sch.  
4 item 3.1).

**"community-based order"** means a community-  
based order under Division 3 of Part 3 of the  
**Sentencing Act 1991**;

**"community corrections centre"** means a  
community corrections centre established  
under Part 9;

S. 3(1) def. of  
"contractor"  
inserted by  
No. 11/1993  
s. 4(2),  
substituted by  
No. 94/1994  
s. 4(a),  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 1(a)).

**"contractor"** means—

- (a) a party to an agreement with the  
Minister under section 8B(1); or
- (b) a party to an agreement with the  
Secretary under section 9(1); or
- (c) a party to an agreement with the Chief  
Commissioner of Police under section  
9AA(1);

**"correctional order"** means any of the following—

- (a) a community-based order;
- (b) a parole order;
- (c) an intensive correction order;
- (d) a direction under section 107(1)(a) of the **Sentencing Act 1991** that a person be released on giving an undertaking that has as a condition that the person be under the supervision of a community corrections officer;
- (e) a direction under section 107(1)(b) of the **Sentencing Act 1991** that a person be released on parole;
- (f) a supervision order under the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997** that includes a condition with respect to supervision of the person subject to the order by a community corrections officer;

S. 3(1) def. of "correctional order" amended by Nos 44/1991 s. 6(a), 49/1991 s. 119(7) (Sch. 4 item 3.2(a)(b)), 11/1993 s. 7(1)(a), 65/1997 s. 81(a).

**"correctional services"** means the following services—

- (a) prisons and services related to prisons or prisoners;
- (b) services related to parole and programmes for persons subject to correctional orders;
- (c) community corrections centres regional centres and locations and services related to community corrections centres regional centres and locations;
- (d) community-based programmes and services related to the administration of community-based orders;

S. 3(1) def. of "correctional services" amended by Nos 44/1991 s. 6(b), 94/1994 s. 4(b).

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S. 3(1) def. of  
"Director-  
General"  
repealed by  
No. 45/1996  
s. 17(Sch. 1  
item 1(b)).

\* \* \* \* \*

S. 3(1) def. of  
"domestic  
partner"  
inserted by  
No. 72/2001  
s. 3(Sch.  
item 4.1).

**"domestic partner"** of a person means a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

S. 3(1) def. of  
"function"  
inserted by  
No. 22/1996  
s. 3.

**"function"** includes duty;

S. 3(1) def. of  
"Governor"  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 1(c)).

**"Governor"** means the Governor of a prison and includes a person nominated by the Secretary to act as the Governor of a prison;

**"lawyer"** means a person admitted as a barrister and solicitor of the Supreme Court;

**"location"** means any of the following places—

- (a) a community corrections centre;
- (b) a place at which an offender is by a correctional order required to live;
- (c) a place which an offender is by a correctional order or Part 9 required to attend for educational recreation or for any other purpose;

S. 3(1) def. of  
"medical  
officer"  
amended by  
No. 46/1998  
s. 7(Sch. 1).

**"medical officer"** means a medical officer employed under Part 4;

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**"near relative"** of a prisoner means—

- (a) a partner of the prisoner;
- (b) a parent or grandparent of the prisoner or of a partner of the prisoner;
- (c) a child or grandchild (of any age) of the prisoner or of a partner of the prisoner;
- (d) a sibling of the prisoner or of a partner of the prisoner;

S. 3(1) def. of "near relative" inserted by No. 72/2001 s. 3(Sch. item 4.1).

**"offender"** means a person of whatever age who is the subject of a correctional order;

**"partner"** of a person means the person's spouse or domestic partner;

S. 3(1) def. of "partner" inserted by No. 72/2001 s. 3(Sch. item 4.1).

**"police gaol"** means a police gaol under Part 3;

**"position"** means office;

**"principal medical officer"** means a principal medical officer employed under Part 4;

S. 3(1) def. of "principal medical officer" amended by No. 46/1998 s. 7(Sch. 1).

**"prison"** means a prison under Part 3 and includes a prison industry site;

S. 3(1) def. of "prison" amended by No. 45/1996 s. 4(d).

**"prisoner"** means a person who by virtue of section 4 is deemed to be in the custody of the Secretary;

S. 3(1) def. of "prisoner" amended by No. 45/1996 s. 17(Sch. 1 item 1(d)).

**"prison industry site"** means a place appointed as a prison industry site under section 84F;

S. 3(1) def. of "prison industry site" inserted by No. 45/1996 s. 4(e).

S. 3(1) def. of "relative" inserted by No. 72/2001 s. 3(Sch. item 4.1).

**"prison officer"** means a prison officer employed under Part 4;

**"Regional Manager"** means a Regional Manager appointed under Part 4;

**"relative"** of a prisoner means—

- (a) a partner of the prisoner;
- (b) a parent or grandparent of the prisoner or of a partner of the prisoner;
- (c) a child or grandchild (of any age) of the prisoner or of a partner of the prisoner;
- (d) a sibling of the prisoner or of a partner of the prisoner;
- (e) a child (of any age) of a sibling of the prisoner or of a sibling of a partner of the prisoner;
- (f) a child (of any age) of a sibling of a parent of the prisoner or of a sibling of a parent of a partner of the prisoner;

S. 3(1) def. of "Secretary" inserted by No. 45/1996 s. 17(Sch. 1 item 1(e)), amended by No. 46/1998 s. 7(Sch. 1).

**"Secretary"** means Secretary to the Department of Justice under the **Public Sector Management and Employment Act 1998** and includes a person acting as the Secretary to the Department of Justice under that Act;

S. 3(1) def. of "spouse" inserted by No. 72/2001 s. 3(Sch. item 4.1).

**"spouse"** of a person means a person to whom the person is married;

**"sub-contractor"** means a sub-contractor of a contractor;

S. 3(1) def. of "sub-contractor" inserted by No. 94/1994 s. 4(c).

**"volunteer"** means a person whose name appears in the Register of Volunteers kept under Part 4.

- (2) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.

S. 3(2) inserted by No. 72/2001 s. 3(Sch. item 4.2).

**4. Persons deemed to be in Secretary's custody**

- (1) A person of whatever age who is detained in custody in a prison or is serving a sentence of imprisonment, is deemed to be in the custody of the Secretary.
- (2) The following persons are not to be regarded as being in the Secretary's custody—
- (a) a person who is on parole;
  - (ab) a person who is serving a sentence of imprisonment by way of intensive correction in the community;
  - (b) a person who is serving the whole or a part of a prison sentence in a police gaol;
  - (ba) a person who pursuant to section 56(2) is transferred to an institution within the meaning of paragraph (c), (d), (e), (f) or (g),

S. 4(1) amended by No. 45/1996 s. 17(Sch. 1 item 2(a)).

S. 4(2) amended by No. 45/1996 s. 17(Sch. 1 item 2(b)).

S. 4(2)(ab) inserted by No. 49/1991 s. 119(7) (Sch. 4 item 3.3).

S. 4(2)(ba) inserted by No. 16/1991 s. 3(1)(a).

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of the definition of institution in section 56(1);

- (c) a person who pursuant to an Act other than this Act has been transferred to and is detained in a place for the detention and care of persons who are mentally ill or intellectually disadvantaged;
- (d) a person who by order of a court is held in police custody;

S. 4(2)(e)  
repealed by  
No. 44/1991  
s. 6(c).

\* \* \* \* \*

S. 4(2)(f)  
amended by  
Nos 16/1991  
s. 3(1)(b),  
26/1997  
s. 12(6).

- (f) a person who is appearing before a court and who is in the custody of a member of the police force or of a protective services officer appointed under the **Police Regulation Act 1958** or of the Chief Commissioner of Police.

- (3) A person is on parole if there is in force a parole order relating to that person and the person is serving a sentence of imprisonment but is not detained in custody in a prison.

**5. Act to bind Crown**

This Act binds the Crown, not only in right of the State of Victoria but also, as far as the legislative power of the Parliament permits, the Crown in all its other capacities.

S. 6  
repealed by  
No. 11/1993  
s. 7(1)(b).

\* \* \* \* \*

PART 2—ADMINISTRATION

7. *Functions of Secretary*

\* \* \* \* \*

S. 7(1)  
repealed by  
No. 45/1996  
s. 17(Sch. 1  
item 3(a)).

- (2) Nothing in this Act or the regulations is to be construed as conferring or imposing on the Secretary any functions, powers, duties or responsibilities in relation to the administration of hospital, medical, nursing and other health services provided for prisoners or offenders, or in connection with prisons, police gaols or locations.

S. 7(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 3(b)).

8. *Delegation*

S. 8  
amended by  
No. 16/1991  
ss 14(2), 15(2),  
substituted by  
No. 94/1994  
s. 5.

- (1) The Secretary may, by instrument, delegate to the Commissioner or to any other employee of the Department of Justice or to any officer within the meaning of Part 5 or Part 9 any function, power, duty or responsibility of the Secretary—

S. 8(1)  
amended by  
Nos 45/1996  
s. 17(Sch. 1  
item 4(a)(b)),  
46/1998  
s. 7(Sch. 1).

- (a) under this Act or the regulations or under any other Act other than the **Public Sector Management and Employment Act 1998**;  
or

S. 8(1)(a)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

- (b) under an agreement under Part 2A—  
except this power of delegation and the Secretary's powers under section 54A.

- (2) The Secretary may under sub-section (1) delegate a function, power, duty or responsibility to a person or class of persons.

S. 8(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 4(a)).



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s. 8A

**8A. Commissioner**

S. 8A  
inserted by  
No. 94/1994  
s. 6.

S. 8A(1)  
amended by  
Nos 45/1996  
s. 17(Sch. 1  
item 5),  
46/1998  
s. 7(Sch. 1).

(1) The Secretary may under Part 3 of the **Public Sector Management and Employment Act 1998** employ a person to be Commissioner for the purposes of this Act.

(2) The Commissioner is responsible for—

(a) monitoring performance in the provision of all correctional services to achieve the safe custody and welfare of prisoners and offenders; and

S. 8A(2)(b)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 5).

(b) exercising any other functions relating to correctional services that the Secretary may determine from time to time.

(3) The Commissioner must endeavour to exercise his or her functions in relation to correctional services impartially between all providers of correctional services so far as this is consistent with the safe custody and welfare of prisoners and offenders and the proper operation of the correctional services.

S. 9  
repealed by  
No. 16/1991  
s. 15(3).

\* \* \* \* \*

**PART 2A—ENGAGEMENT OF CONTRACTORS**

Pt 2A  
(Heading and  
ss 9–9G)  
inserted by  
No. 11/1993  
s. 4(1).

**Division 1—Correctional services agreements**

Pt 2A Div. 1  
(Heading and  
ss 8B–8G)  
inserted by  
No. 94/1994  
s. 7.

**8B. Minister may enter into correctional services agreements**

S. 8B  
inserted by  
No. 94/1994  
s. 7.

- (1) The Minister may, for and on behalf of the Crown—
  - (a) enter into an agreement with a person or body for the provision by that person or body of any correctional services; or
  - (b) enter into an agreement with a person or body which is ancillary to an agreement entered into under paragraph (a), including an agreement with any person or body providing financial accommodation (within the meaning of the **Borrowing and Investment Powers Act 1987**) or a guarantee in respect of an agreement entered into under paragraph (a).
- (2) The Minister must obtain the written approval of the Treasurer before entering into an agreement under sub-section (1).

**8C. Matters to be included in agreement**

S. 8C  
inserted by  
No. 94/1994  
s. 7.

- (1) An agreement under section 8B(1)(a) must provide for—
  - (a) compliance by the contractor with all relevant provisions of this Act or the

- regulations or of any other Act or instrument of a legislative character;
- (b) objectives and performance standards in relation to the provision of services;
  - (c) the fees, costs and charges to be paid to the contractor;
  - (d) the submission of periodic reports in relation to the contractor's operations under the agreement;
  - (e) an indemnity by the contractor in favour of the Crown and the Minister;
  - (f) the office the holder of which is to be the principal officer for the purposes of the application of the **Freedom of Information Act 1982** to the contractor;
  - (g) the office the holder of which is to be the principal officer for the purposes of the application of the **Ombudsman Act 1973** to the contractor;
  - (h) any other matter that may be prescribed.
- (2) An agreement under section 8B(1) may contain—
- (a) a provision leaving any matter to be determined, approved or dispensed with by a specified person or body;
  - (b) a provision providing for the assignment to the Minister or any other person of any right or interest;
  - (c) a provision providing for the Minister to delegate powers and functions under the agreement;
  - (d) a provision providing for sub-contracting;
  - (e) a provision requiring the provision by the contractor of a performance bond;
-

- 
- (f) a provision providing for the suspension of obligations under the agreement in specified circumstances, except the obligations referred to in sub-section (1)(e), (f) and (g);
  - (g) in the case of an agreement under section 8B(1)(b), a provision providing for—
    - (i) the Minister to take over, or nominate any other person or body to take over, rights or obligations under any other agreement or transaction;
    - (ii) the transfer of land to the Minister in the circumstances set out in the agreement;
  - (h) a provision providing for rights of access in relation to correctional services;
  - (i) any other provisions that are not inconsistent with this Act or the regulations.

**8D. Agreement to run with land**

- (1) An agreement entered into under section 8B(1)(b) under which the owner of land covenants to transfer that land to the Minister in the circumstances set out in the agreement must be under seal and must bind the owner of land to those covenants.
- (2) Sections 181, 182 and 183 of the **Planning and Environment Act 1987** apply to that agreement as if a reference in those sections to the responsible authority were a reference to the Minister.
- (3) Land which is transferred to the Minister in accordance with an agreement under section 8B(1)(b) is deemed to be unalienated land of the Crown freed and discharged from all trusts, limitations, reservations, restrictions, encumbrances, estates and interests.

S. 8D  
inserted by  
No. 94/1994  
s. 7.

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- (4) No compensation is payable by the Crown in respect of the transfer of land to the Minister in accordance with an agreement under section 8B(1)(b) except compensation (if any) which is expressly provided for in that agreement.

S. 8E  
inserted by  
No. 94/1994  
s. 7.

### **8E. Rights of access**

S. 8E(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 6).

- (1) A contractor or sub-contractor must give the Minister, the Secretary and any person authorised by the Secretary free and unfettered access at all times, together with any assistants and equipment that the Minister, the Secretary or authorised person considers necessary—
- (a) to any correctional service under the management or control of the contractor or sub-contractor (as the case requires) which is the subject of an agreement under Part 2A; and
  - (b) to all persons detained or employed there; and
  - (c) to all documents in the possession of the contractor or sub-contractor (as the case requires) in relation to any correctional service which is the subject of an agreement under Part 2A—

for the purpose of ensuring compliance with the Act or the regulations or an agreement under Part 2A or ensuring that the safe custody and welfare of prisoners and offenders are maintained.

Penalty: 50 penalty units.

- (2) A contractor or sub-contractor must give an administrator appointed under section 8F free and unfettered access at all times, together with any
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assistants and equipment that the administrator considers necessary—

- (a) to any correctional service under the management or control of the contractor or sub-contractor (as the case requires) which is the subject of an agreement under Part 2A; and
- (b) to all persons detained or employed there; and
- (c) to all documents in the possession of the contractor or sub-contractor (as the case requires) in relation to any correctional service which is the subject of an agreement under Part 2A—

for the purpose of enabling the administrator to carry out his or her powers and functions under that section.

Penalty: 50 penalty units.

- (3) An authorisation under sub-section (1) must be in writing and may be given subject to any conditions and limitations that the Secretary thinks fit.

S. 8E(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 6).

**8F. *Emergency powers***

- (1) If an agreement under section 8B(1) relates to the management of a correctional service, the Minister may intervene in the management of that service if—
  - (a) the Minister considers that—
    - (i) there is an emergency in the service; or
    - (ii) the contractor has failed to provide competent management of the service; and

S. 8F  
inserted by  
No. 94/1994  
s. 7.

- (b) the Minister considers that it is in the public interest or the interest of the safe custody or welfare of prisoners or offenders to intervene.
- (2) If the Minister intervenes in the management of a correctional service, the Minister may appoint an administrator to manage the service until the Minister determines that—
  - (a) the emergency is over; or
  - (b) the contractor is able to manage the service to the satisfaction of the Minister.
- (3) If an administrator is appointed under sub-section (2), then for the period of that appointment—
  - (a) the contractor a sub-contractor and any person appointed or employed by the contractor or a sub-contractor to manage the service must—
    - (i) manage the service in accordance with the directions of the administrator; or
    - (ii) cease to manage the service completely or to the extent directed by the administrator; and
  - (b) any person who is employed by the contractor or a sub-contractor in relation to the service must comply with the directions of the administrator in relation to the management and operation of the service.

Penalty: 50 penalty units.

- (4) An administrator appointed under sub-section (2) has and may exercise all of the functions or powers under this Act or the regulations of a Governor, prison officer, Regional Manager and community corrections officer in relation to the
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service and prisoners and offenders for the period of appointment.

- (5) The Secretary must provide the administrator with any assistance necessary to the carrying out of his or her functions under this section.

S. 8F(5)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 7).

- (6) This section applies despite anything to the contrary in the agreement.

**8G. Building work**

S. 8G  
inserted by  
No. 94/1994  
s. 7.

- (1) Section 218 of the **Building Act 1993** does not apply to the carrying out of building work under an agreement under section 8B(1)(a).
- (2) Sections 30 and 73 of the **Building Act 1993** do not apply in relation to any permit, approval, amendment, plan or other document relating to building work carried out or to be carried out under an agreement under section 8B(1)(a).

**Division 2—Management Agreements**

Pt 2A Div. 2  
(Heading)  
inserted by  
No. 94/1994  
s. 8.

**9. Management agreements**

New s. 9  
inserted by  
No. 11/1993  
s. 4(1).

- (1) The Secretary may, for and on behalf of the Crown, enter into an agreement with a person or body for the provision by that person or body of any correctional services.

S. 9(1)  
amended by  
Nos 94/1994  
s. 9(1)(a)(i)(ii),  
45/1996  
s. 17(Sch. 1  
item 8).

- (2) The agreement must provide for—
- (a) compliance by the contractor with all relevant provisions of this Act or the



s. 9

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regulations or of any other Act or instrument of a legislative character;

(b) objectives and performance standards in relation to the provision of the services;

S. 9(2)(c)  
repealed by  
No. 94/1994  
s. 9(1)(b)(i).

\* \* \* \* \*

S. 9(2)(d)  
amended by  
No. 94/1994  
s. 9(1)(b)(ii).

(d) the fees, costs and charges to be paid to the contractor;

S. 9(2)(e)  
amended by  
No. 94/1994  
s. 9(1)(b)(iii).

(e) the submission of periodic reports in relation to the contractor's operations;

S. 9(2)(f)  
repealed by  
No. 94/1994  
s. 9(1)(b)(iv).

\* \* \* \* \*

S. 9(2)(g)  
substituted by  
No. 94/1994  
s. 9(1)(b)(v),  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 8).

(g) an indemnity by the contractor in favour of the Crown and the Secretary;

S. 9(2)(h)  
repealed by  
No. 94/1994  
s. 9(1)(b)(vi).

\* \* \* \* \*

(i) the office the holder of which is to be the principal officer for the purposes of the application of the **Freedom of Information Act 1982** to the contractor;

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- (j) the office the holder of which is to be the principal officer for the purposes of the application of the **Ombudsman Act 1973** to the contractor;
- (k) any other matter that may be prescribed.
- (3) The agreement may contain—
- (a) a provision leaving any matter to be determined, approved or dispensed with by a specified person or body;
- (b) a provision providing for the assignment to the Secretary or any other person of any right or interest;
- (c) a provision providing for the Secretary to delegate powers and functions under the agreement;
- (d) a provision providing for sub-contracting;
- (e) a provision requiring the provision by the contractor of a performance bond;
- (f) a provision providing for the suspension of obligations under the agreement in specified circumstances;
- (g) a provision providing for rights of access in relation to correctional services;
- (h) any other provisions that are not inconsistent with this Act or the regulations.
- S. 9(3) substituted by No. 94/1994 s. 9(2).
- S. 9(3)(b) amended by No. 45/1996 s. 17(Sch. 1 item 8).
- S. 9(3)(c) amended by No. 45/1996 s. 17(Sch. 1 item 8).

Pt 2A Div. 3  
(Heading and  
ss 9AA–9AC)  
inserted by  
No. 94/1994  
s. 10,  
substituted by  
No. 26/1997  
s. 10.

S. 9AA  
inserted by  
No. 94/1994  
s. 10,  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 9),  
substituted by  
No. 26/1997  
s. 11.

S.  
9AA(1)(b)(iii)  
amended by  
No. 65/1997  
s. 81(b).

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**Division 3—Agreements with the Chief Commissioner of  
Police**

**9AA. *Agreements with the Chief Commissioner***

- (1) The Chief Commissioner of Police may, for and on behalf of the Crown, enter into an agreement with a person or body, including the Secretary, for the provision by that person or body of—
- (a) custodial services in police gaols; or
  - (b) services related to the transport of—
    - (i) persons detained in a police gaol to or from a police gaol; or
    - (ii) persons detained in custody in a prison from the prison to a court or police gaol or from a court to a prison or police gaol; or
    - (iii) forensic patients, security patients or involuntary patients within the meaning of the **Mental Health Act 1986** from an approved mental health service under that Act to a court or a police gaol or from a court or police gaol to a court or police gaol or approved mental health service; or
    - (iv) persons detained in a remand centre, youth residential centre or youth training centre within the meaning of the **Children and Young Persons Act 1989** from that centre to a court or a police gaol or from a court or police

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gaol to a court or police gaol or such a centre; or

- (c) services related to security in relation to persons in the custody of the Chief Commissioner of Police.

- (2) In this section "**transport**" includes escort, bring, transfer, convey, take and deliver.

**9AB. Matters to be included in agreement**

S. 9AB  
inserted by  
No. 94/1994  
s. 10.

- (1) An agreement under section 9AA must provide for—
- (a) compliance by the contractor with all relevant provisions of this Act or the regulations or of any other Act or instrument of a legislative character;
  - (b) objectives and performance standards in relation to the provision of services;
  - (c) the fees, costs and charges to be paid to the contractor;
  - (d) the submission of periodic reports in relation to the contractor's operations;
  - (e) an indemnity by the contractor in favour of the Crown and the Chief Commissioner of Police;
  - (f) the office the holder of which is to be the principal officer for the purposes of the application of the **Freedom of Information Act 1982** to the contractor;
  - (g) the office the holder of which is to be the principal officer for the purposes of the application of the **Ombudsman Act 1973** to the contractor;
  - (h) any other matter that may be prescribed.
- (2) An agreement under section 9AA may contain—
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- (a) a provision leaving any matter to be determined, approved or dispensed with by a specified person or body;
- (b) a provision providing for the assignment to the Chief Commissioner or any other person of any right or interest;
- (c) a provision providing for the Chief Commissioner to delegate powers and functions under the agreement;
- (d) a provision providing for sub-contracting;
- (e) a provision requiring the provision by the contractor of a performance bond;
- (f) a provision providing for the suspension of obligations under the agreement in specified circumstances;
- (g) a provision providing for rights of access in relation to correctional services;
- (h) any other provisions that are not inconsistent with this Act or the regulations.

S. 9AC  
inserted by  
No. 94/1994  
s. 10.

**9AC. Rights of access**

- (1) A contractor or sub-contractor must give the Chief Commissioner of Police and any person authorised by the Chief Commissioner free and unfettered access at all times together with any assistants and equipment that the Chief Commissioner or the authorised person considers necessary—
  - (a) to any police gaol or any vehicle under the management or control of the contractor or sub-contractor (as the case requires); and
  - (b) to all persons detained or employed there; and

S. 9AC(1)(a)  
amended by  
No. 26/1997  
s. 12(5).

- (c) to all documents in the possession of the contractor as a provider of services under this Act or under an agreement under section 9AA—

for the purpose of ensuring compliance with the Act or the regulations or ensuring that the safe custody and welfare of persons detained in the police gaol are maintained.

Penalty: 50 penalty units.

- (2) An authorisation under sub-section (1) must be in writing and may be subject to any conditions and limitations that the Chief Commissioner thinks fit.

#### **Division 4—General provisions relating to agreements**

Pt 2A Div. 4  
(Heading)  
inserted by  
No. 94/1994  
s. 11.

#### **9A. Authorisation of certain staff**

S. 9A  
inserted by  
No. 11/1993  
s. 4(1).

- (1) The Secretary may, by instrument, authorise a contractor under Division 1 or 2 or a sub-contractor of that contractor or a person employed by that contractor or sub-contractor to exercise all or any of the functions or powers under this Act or the regulations or under any other Act or the regulations under that Act of—

S. 9A(1)  
amended by  
No. 94/1994  
s. 12(1),  
substituted by  
No. 22/1996  
s. 4(1),  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 10).

- (a) the Secretary; or

S. 9A(1)(a)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 10).

- (b) an officer within the meaning of Part 5; or

- (c) an officer within the meaning of Part 9.

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s. 9A

S. 9A(1A)  
inserted by  
No. 94/1994  
s. 12(2),  
substituted by  
No. 45/1996  
s. 12.

(1A) The Chief Commissioner of Police may, by instrument, authorise a contractor under Division 3 or a sub-contractor of that contractor or a person employed by that contractor or sub-contractor to exercise all or any of the functions or powers as may be exercised under section 27 of the **Bail Act 1977** or Part 9A of this Act or under the regulations made under this Act by a member of the police force.

S. 9A(1B)  
inserted by  
No. 26/1997  
s. 12(1).

(1B) The Chief Commissioner may, by instrument, authorise a contractor under an agreement entered into under section 9AA or a sub-contractor of that contractor or a person employed by that contractor or sub-contractor—

- (a) to carry out the transport of any persons or class of persons in accordance with that agreement and to detain those persons while being transported; and
- (b) to exercise all or any of the following powers and functions—
  - (i) to give an order to a person being transported which the authorised person believes on reasonable grounds is necessary for the safety of the person being transported or other persons;
  - (ii) to search and examine a person being transported or any thing in the person's possession or under the person's control if the authorised person believes on reasonable grounds that this is necessary for the safety of the person being transported or other persons;
  - (iii) to seize anything found on the person being transported or in that person's possession or under that person's control if the authorised person believes

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- on reasonable grounds that this is necessary for the safety of the person being transported or other persons;
- (iv) to apply handcuffs to a person being transported if the authorised person believes on reasonable grounds that the use of handcuffs is necessary to prevent the escape of the person being transported or the assault of, or injury to, any person.
- (2) An authority may be given subject to any conditions or limitations that are stated in it.
- (3) A contractor or sub-contractor or a person employed by a contractor or sub-contractor is incapable of exercising any function or power referred to in sub-section (1), (1A) or (1B) except in accordance with an authority given under that sub-section.
- (4) The Secretary or the Chief Commissioner of Police may refuse to give an authority to any person if he or she considers that it is in the public interest not to give it.
- (5) Without limiting sub-section (4), the Secretary or the Chief Commissioner of Police may refuse to give an authority—
- (a) to any person who has not undertaken a relevant course of training or instruction accredited by the Secretary or the Chief Commissioner of Police for the purposes of this Part; or
- S. 9A(3) amended by Nos 94/1994 s. 12(3)(a)(b), 22/1996 s. 4(2), 26/1997 s. 12(2).
- S. 9A(4) amended by Nos 94/1994 s. 12(3)(c), 45/1996 s. 17(Sch. 1 item 10).
- S. 9A(5) amended by Nos 94/1994 s. 12(3)(c), 45/1996 s. 17(Sch. 1 item 10).
- S. 9A(5)(a) amended by Nos 94/1994 s. 12(3)(c), 45/1996 s. 17(Sch. 1 item 10).



*Corrections Act 1986*

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**s. 9B**

S. 9A(5)(b)  
amended by  
Nos 94/1994  
s. 12(3)(c),  
45/1996  
s. 17(Sch. 1  
item 10).

(b) to any person whom the Secretary or the Chief Commissioner of Police considers not to be a fit and proper person to be so authorised for any reason including criminal record, character or educational standard.

S. 9A(6)  
amended by  
Nos 94/1994  
s. 12(3)(c)(d),  
45/1996  
s. 17(Sch. 1  
item 10).

(6) After giving the person a reasonable opportunity to be heard, the Secretary or the Chief Commissioner of Police may at any time revoke an authority given by him or her to that person if he or she considers that it is in the public interest to do so.

S. 9A(7)  
amended by  
Nos 94/1994  
s. 12(3)(c)(e),  
45/1996  
s. 17(Sch. 1  
item 10).

(7) Without limiting sub-section (6), the Secretary or the Chief Commissioner of Police may revoke an authority given by him or her if—

S. 9A(7)(a)  
amended by  
Nos 94/1994  
s. 12(3)(c),  
45/1996  
s. 17(Sch. 1  
item 10).

(a) in the opinion of the Secretary or the Chief Commissioner of Police it ought not to have been given having regard to sub-sections (4) and (5); or

(b) the person has failed to comply with any provision of this Act or the regulations or with any direction given to him or her under this Act or the regulations.

S. 9A(8)  
inserted by  
No. 26/1997  
s. 12(3).

(8) In this section "**transport**" includes escort, bring, transfer, convey, take and deliver.

S. 9B  
inserted by  
No. 11/1993  
s. 4(1).

**9B. *Police inquiry and report***

*Corrections Act 1986*

*Act No. 117/1986*

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(1) Before—

(a) the Minister enters into an agreement under section 8B(1); or

**S. 9B(1)**  
substituted by  
**No. 94/1994**  
s. 13(1),  
amended by  
**No. 45/1996**  
s. 17(Sch. 1  
item 11).

(b) the Secretary enters into an agreement under section 9(1); or

**S. 9B(1)(b)**  
amended by  
**No. 45/1996**  
s. 17(Sch. 1  
item 11).

(c) the Secretary authorises a person under section 9A(1) to exercise any functions or powers—

**S. 9B(1)(c)**  
amended by  
**No. 45/1996**  
s. 17(Sch. 1  
item 11).

the Secretary must request the Chief Commissioner of Police to inquire into and report to him or her on the character, honesty and integrity of any relevant person.

(1A) Before the Chief Commissioner of Police—

(a) enters into an agreement under section 9AA;  
or

**S. 9B(1A)**  
inserted by  
**No. 94/1994**  
s. 13(1).

(b) authorises a person under section 9A(1A) or (1B) to exercise any functions or powers—

**S. 9B(1A)(b)**  
amended by  
**No. 26/1997**  
s. 12(4).

the Chief Commissioner of Police must inquire into the character, honesty and integrity of any relevant person.

(2) For the purposes of this section a person is a relevant person if he or she—

(a) is the proposed contractor; or

(b) holds or will hold a position of director, manager or secretary or any other executive

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position (however designated) whether in his or her own right or on behalf of any other person, in the proposed business of the contractor as a provider of services under this Act; or

- (c) has or will have a share in the capital of, or an entitlement to receive any income derived from, the proposed business of the contractor as a provider of services under this Act and as a result is or will be able to exercise a significant influence over or with respect to the management or operation of that business; or
- (d) is or will be entitled to exercise a power (whether by voting or otherwise and whether alone or in association with others)—
  - (i) to participate in any directorial, managerial or executive decision of the contractor as a provider of services under this Act; or
  - (ii) to elect or appoint any person to a position referred to in paragraph (b); or
- (e) is employed or will be employed by the contractor or proposed contractor.

- (3) The Chief Commissioner of Police must cause appropriate enquiries to be made in response to a request made under sub-section (1) and report the results of those enquiries to the Secretary.
- (4) The Secretary must give a copy of a report under sub-section (3) to the Minister if it was sought in relation to a proposed agreement under section 8B(1).

S. 9B(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 11).

S. 9B(4)  
inserted by  
No. 94/1994  
s. 13(2),  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 11).

**9C. Status of staff**

- (1) A person authorised under section 9A to exercise all or any of the functions or powers of a Governor, prison officer, Regional Manager or community corrections officer must, for the purposes of this Act and all other purposes (including the purposes of section 479C of the **Crimes Act 1958**), be taken to be a Governor, prison officer, Regional Manager or community corrections officer, as the case requires.
- (2) Despite sub-section (1), a person referred to in that sub-section—
  - (a) does not hold the position of Governor, prison officer, Regional Manager or community corrections officer, as the case requires; and
  - (b) is not subject to the **Public Sector Management and Employment Act 1998**.

S. 9C  
inserted by  
No. 11/1993  
s. 4(1).

S. 9C(2)(b)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

**9CA. Staff—police gaols**

A reference in section 27 of the **Bail Act 1977** or Part 9A of this Act or the regulations made under this Act to a member of the police force includes, in relation to the exercise of any function or power under that section or Part or those regulations, a reference to a person authorised under section 9A(1A) to exercise that function or power.

S. 9CA  
inserted by  
No. 94/1994  
s. 14,  
substituted by  
No. 45/1996  
s. 13.

**9CAA. Transport functions**

- (1) If a person is authorised under section 9A(1B) to carry out the transport of any person to or from a place, any provision of an Act or regulation or of a warrant or order of a court or of any order or instrument under an Act which requires or

S. 9CAA  
inserted by  
No. 26/1997  
s. 13.

authorises (either expressly or by necessary implication) a member of the police force (by name or otherwise) to transport that person to or from that place must be taken to also authorise the person authorised under section 9A(1B) to carry out that transport function in place of a member of the police force in accordance with that authorisation.

- (2) Nothing in sub-section (1) prevents a member of the police force from exercising any function referred to in that sub-section or any other function under the provision, warrant, order or instrument.
- (3) Despite anything to the contrary in any other provision of this Act or in any other Act or regulation or in any warrant, order or instrument of any kind, a person who is being transported to or from a place by a person authorised under section 9A(1B) is deemed to be in the custody of the Chief Commissioner of Police while being so transported.
- (4) In this section "**transport**" includes escort, bring, transfer, convey, take and deliver.

S. 9CB  
inserted by  
No. 94/1994  
s. 14,  
amended by  
No. 26/1997  
s. 14(a)(b).

**9CB. *Use of reasonable force by staff—police goals***

- (1) A person authorised under section 9A(1A) or 9A(1B) to exercise a function or power may, where necessary, use reasonable force to compel a person who is deemed under section 11(7) or section 9CAA to be in the custody of the Chief Commissioner of Police to obey an order given by the first-mentioned person in the exercise of that function or power.
- (2) Where a person uses force under the powers in sub-section (1), the person must report the fact to the Chief Commissioner of Police without delay.

- (3) A person who uses force in accordance with this section is not liable for injury caused by that use of force.

**9D. Employment of monitors**

S. 9D  
inserted by  
No. 11/1993  
s. 4(1).

- (1) There may be employed under Part 3 of the **Public Sector Management and Employment Act 1998** such monitors as are necessary for the purposes of this Part.

S. 9D(1)  
substituted by  
No. 46/1998  
s. 7(Sch. 1).

- (2) Monitors employed in relation to agreements under section 8B(1) or 9(1) are responsible to the Secretary for assessment and review of the provision of services by contractors or sub-contractors under those agreements and have any other functions that may be prescribed or specified by the Secretary.

S. 9D(2)  
amended by  
Nos 94/1994  
s. 15(1),  
45/1996  
s. 17(Sch. 1  
item 12),  
substituted by  
No. 26/1997  
s. 15(1),  
amended by  
No. 46/1998  
s. 7(Sch. 1).

- (2A) Monitors employed in relation to agreements under section 9AA are responsible to the Chief Commissioner of Police for assessment and review of the provision of services by contractors or sub-contractors under those agreements and have any other functions that may be prescribed or specified by the Chief Commissioner.

S. 9D(2A)  
inserted by  
No. 26/1997  
s. 15(1),  
amended by  
No. 46/1998  
s. 7(Sch. 1).

- (3) A monitor referred to in sub-section (2) must make an annual report in writing to the Secretary on his or her operations. That report is to form part of the Department's annual report under the **Financial Management Act 1994**.

S. 9D(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 12),  
substituted by  
No. 26/1997  
s. 15(1).

- (3A) A monitor referred to in sub-section (2A) must make an annual report in writing to the Chief Commissioner of Police on his or her operations.

S. 9D(3A)  
inserted by  
No. 26/1997  
s. 15(1).

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That report is to form part of the Chief Commissioner's annual report under the **Financial Management Act 1994**.

S. 9D(4)  
amended by  
No. 94/1994  
s. 15(2)(a).

- (4) A contractor or sub-contractor must give a monitor free and unfettered access at all times—

S. 9D(4)(a)  
amended by  
Nos 94/1994  
s. 15(2)(b)(c),  
26/1997  
s. 15(2).

- (a) to all premises, places or vehicles under the management or control of the contractor or sub-contractor (as the case requires) in accordance with, or for the purposes of, an agreement under section 8B(1), 9(1) or 9AA or a sub-contract agreement under that agreement and to all persons detained or employed there; and

S. 9D(4)(b)  
amended by  
No. 94/1994  
s. 15(2)(b).

- (b) to all documents in the possession of the contractor or sub-contractor (as the case requires) as a provider of services under this Act.

S. 9E  
inserted by  
No. 11/1993  
s. 4(1).

#### **9E. Minimum standards**

S. 9E(1)  
amended by  
Nos 94/1994  
s. 16(1),  
45/1996  
s. 17(Sch. 1  
item 13).

- (1) The Secretary must cause a written statement to be prepared setting out minimum standards in relation to the provision of services by a contractor under an agreement entered into under section 8B(1) or 9(1).

S. 9E(2)  
substituted by  
No. 94/1994  
s. 16(2).

- (2) The Chief Commissioner of Police must cause a written statement to be prepared setting out minimum standards in relation to the provision of services by a contractor under an agreement entered into under section 9AA.

- (3) The Secretary or Chief Commissioner of Police may from time to time amend the statement prepared by him or her.

S. 9E(3) inserted by No. 94/1994 s. 16(2), amended by No. 45/1996 s. 17(Sch. 1 item 13).

#### 9F. *Application of FOI*

The **Freedom of Information Act 1982** applies to a contractor in its capacity as a provider of services under this Act or to a sub-contractor in its capacity as a manager of a prison or police gaol under a sub-contract agreement as if—

S. 9F inserted by No. 11/1993 s. 4(1), amended by No. 94/1994 s. 17(a).

- (a) the contractor or sub-contractor (as the case requires) were an agency within the meaning of that Act; and
- (b) the holder of the office specified in the agreement under section 8B(1), 9(1) or 9AA or in the sub-contract agreement (as the case requires) for the purposes of the application of the **Freedom of Information Act 1982** were the principal officer of that agency; and
- (c) the Minister were the responsible Minister of that agency; and
- (d) the persons employed by the contractor or sub-contractor (as the case requires) were officers of that agency.

S. 9F(a) amended by No. 94/1994 s. 17(b).

S. 9F(b) amended by No. 94/1994 s. 17(c).

S. 9F(d) amended by No. 94/1994 s. 17(b).

#### 9G. *Investigation of administrative actions*

The **Ombudsman Act 1973** applies to a contractor in its capacity as a provider of services under this Act or to a sub-contractor in its capacity as a manager of a prison or police gaol under a sub-contract agreement as if—

S. 9G inserted by No. 11/1993 s. 4(1), amended by No. 94/1994 s. 18(a).

- (a) the contractor or sub-contractor (as the case requires) were a public statutory body within the meaning of that Act; and

S. 9G(a) amended by No. 94/1994 s. 18(b).



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**S. 9G(b)**  
amended by  
**No. 94/1994**  
s. 18(c).

(b) the holder of the office specified in the agreement under section 8B(1), 9(1) or 9AA or in the sub-contract agreement (as the case requires) for the purposes of the application of the **Ombudsman Act 1973** were the principal officer of that public statutory body; and

**S. 9G(c)**  
amended by  
**No. 94/1994**  
s. 18(b).

(c) the persons employed by the contractor or sub-contractor (as the case requires) were employees of that public statutory body.

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**PART 3—PRISONS AND POLICE GAOLS**

**10. Establishment of prisons**

- (1) The Governor in Council may by Order appoint any premises or place to be a prison.
- (2) The name of a prison is the name given to it in the Order establishing it.
- (3) The maximum number of persons to be detained in a prison is the number (if any) stated in the Order establishing it.
- (3A) The Governor in Council may by Order revoke the appointment of any place or premises as a prison, including a place or premises listed in column 2 of Schedule 2. S. 10(3A)  
inserted by  
No. 45/1996  
s. 14(1).
- (4) An Order under sub-section (1) or (3A) comes into operation on its making or on a later date stated in the Order. S. 10(4)  
amended by  
No. 45/1996  
s. 14(2).
- (5) The Minister must within seven days after the making of an Order under sub-section (1) or (3A) publish a copy of the Order in the Government Gazette. S. 10(5)  
amended by  
No. 45/1996  
s. 14(3).
- (6) Each of the premises and places which were prisons under Part V of the **Community Services Act 1970** as in force immediately before the commencement of this section and were known by the names listed in column 1 of Schedule 2 is deemed to be appointed as a prison under this section by the name given to it in column 2 of that Schedule. S. 10(6)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(a)).
- (7) Upon the name of a prison being changed a reference in an Act other than this Act, a subordinate instrument or a document to the prison by its old name is deemed to be a reference to the prison by its new name.

**11. Police gaols**

- (1) The Governor in Council may by Order appoint any premises or place that is not a prison to be a police gaol.
- (2) The maximum number of persons to be detained in a police gaol is the number (if any) stated in the Order establishing the police gaol.
- (3) The maximum period for which a person may be held in a police gaol is the period (if any) stated in the Order establishing the police gaol.
- (4) An Order under sub-section (1) comes into operation on its making or on a later date stated in the Order.
- (5) The Minister must within 7 days after the making of an Order under sub-section (1) publish a copy of the Order in the Government Gazette.
- (6) Any premises which were or place which was a police gaol within the meaning of section 113 or 115 of the **Community Services Act 1970** as in force immediately before the commencement of this section are deemed to be appointed a police gaol under this section.
- (7) A person who is detained in custody in a police gaol or is serving a sentence of imprisonment in a police gaol is deemed to be in the custody of the Chief Commissioner of Police.
- (7A) As soon as possible after a person is received into a police gaol to serve the whole or a part of a prison sentence a member of the police force must take the person's fingerprints.
- (8) A person deemed to be in the custody of the Chief Commissioner of Police ceases to be in that custody when the person's transfer from the police gaol to the prison is completed.

S. 11(6)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(b)).

S. 11(7A)  
inserted by  
No. 38/1988  
s. 7(1)(a).

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- (9) If under this Act a prisoner or offender is transferred from one place to another and the custody of the person passes on transfer, the transfer shall not be regarded as occurring until—
- (a) the person is received in the other place; and
  - (b) the documents authorizing the person's detention in the other place are produced to the proper officer in that place.
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PART 4—OFFICERS

**12. *Employment under Public Sector Management and Employment Act***

S. 12(1)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

- (1) There may be employed under Part 3 of the **Public Sector Management and Employment Act 1998** a Secretary to the Adult Parole Board and such Governors, prison officers, principal medical officers, medical officers, Regional Managers, community corrections officers and other officers and employees as are necessary for the purposes of this Act.

S. 12(2)(3)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(c)),  
repealed by  
No. 46/1998  
s. 7(Sch. 1).

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S. 12(4)(5)  
repealed by  
No. 46/1998  
s. 7(Sch. 1).

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S. 12(6)  
amended by  
No. 11/1993  
s. 7(1)(c),  
repealed by  
No. 46/1998  
s. 7(Sch. 1).

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**13. *Volunteers***

S. 13(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 14).

- (1) The Secretary may by instrument authorize a person to work in an unpaid capacity for prison purposes or at a location.

S. 13(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 14).

- (2) The Secretary must not under sub-section (1) authorize a person to do work which is part of the duties of a prison officer.

(3) The period for which and the other terms and conditions under which, a person is authorized to work under sub-section (1) are those stated in the person's instrument of authority.

(4) If a person is authorized to work as an officer under Part 5 or Part 9 other than a prison officer the provisions of this Act relating to officers of that kind (except provisions relating to remuneration) apply to the person.

(5) The Secretary must as soon as possible give to a person authorized to work under sub-section (1) a copy of the person's instrument of authority.

S. 13(5)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 14).

(6) The Secretary must keep a register containing copies of instruments of authority issued under this section.

S. 13(6)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 14).

(7) A person who immediately before the commencement of this section held a position as an honorary probation officer under section 507 of the **Crimes Act 1958** or an honorary parole officer under Division 4 of Part VIII of the **Community Services Act 1970** is deemed to be authorized under sub-section (1) to work as a volunteer on the same terms and conditions as those stated in the person's instrument of appointment as an honorary probation officer or an honorary parole officer.

S. 13(7)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(d)).

**PART 5—PRISON OFFICERS AND OTHER OFFICERS  
WORKING IN PRISONS**

**Division 1—General**

**14. Definitions**

In this Part—

S. 14 def. of  
"officer"  
amended by  
Nos 23/1994  
s. 118(Sch. 1  
item 14.1),  
45/1996  
s. 7(a).

**"officer"** means a person who is—

- (a) a Governor; or
- (b) a prison officer; or
- (c) a volunteer; or
- (d) an officer or employee in the public service or the teaching service or the Technical and Further Education Teaching Service who is working in a prison or with prisoners; or

\* \* \* \* \*

- (f) a member of a prescribed class of persons who works in a prison as a psychiatrist, registered medical practitioner, dentist, nurse or health worker.

**Division 2—Work**

**15. Authorized persons may act as prison officers**

S. 15(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 15).

- (1) The Secretary may by instrument authorize a member of the police force or a class of members of the police force to exercise in accordance with the regulations all or any of the powers of a prison officer.
- (2) An authority may be given subject to such conditions and limitations as are stated in the authority.

**16. Secretary may authorize medical practitioner to act as medical officer**

- (1) If there is no medical officer appointed for a prison or the medical officer for the prison is absent the Secretary may by instrument authorize a registered medical practitioner within the meaning of the **Medical Practice Act 1994** to act as medical officer for that prison while the position of medical officer is vacant or until the return of the medical officer.
- (2) Before authorizing a person to act as medical officer the Secretary must consult with the Secretary to the Department of Human Services.
- (3) An authority under sub-section (1) may be given subject to such conditions and limitations as are stated in the authority.
- (4) This Act applies to a person authorized to act as medical officer as if the person were a medical officer.

S. 16(1) amended by Nos 23/1994 s. 118(Sch. 1 item 14.2), 45/1996 s. 17(Sch. 1 item 16).

S. 16(2) amended by Nos 45/1996 s. 17(Sch. 1 item 16), 46/1998 s. 7(Sch. 1).

**17. Powers of Secretary**

- (1) The Secretary has and may exercise all or any of the powers or functions of a Governor of a prison or a prison officer under this Act.
- (2) The Secretary may exercise the powers and functions under sub-section (1) in relation to a particular prison or class of prisons or in relation to all prisons in Victoria.

S. 17 substituted by No. 94/1994 s. 19.

S. 17(1) amended by No. 45/1996 s. 17(Sch. 1 item 17).

S. 17(2) amended by No. 45/1996 s. 17(Sch. 1 item 17).



S. 17(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 17).

- (3) An exercise by the Secretary of any power or function under sub-section (1) in relation to a matter, prevails over the exercise by a Governor or prison officer of that power or function in relation to that matter.

**18. *Prison officer subject to direction of principal of training institutions***

- (1) An officer attending a training institution is subject to the direction of the principal of that institution.
- (2) In this section "**training institution**" means an institution for the training of officers established or conducted in accordance with the regulations.

**19. *Officers subject to certain directions***

- (1) A prison officer is subject to the directions of the Governor of the prison to which the prison officer is assigned.
- (2) The Governor of a prison may give to officers within the meaning of paragraph (f) of the definition of "officer" in section 14 who are working at the prison or with prisoners such directions as the Governor considers necessary for the security of the prison.
- (3) The Governor may give to other officers working at the prison or with prisoners such directions as the Governor considers necessary for the management good order or security of the prison or the prisoners.

**20. *Duties relating to security and welfare***

- (1) An officer in charge of a prison or part of a prison must take all reasonable steps for the security of the prison or part of the prison.

(2) An officer in charge of prisoners must take all reasonable steps for the safe custody and welfare of the prisoners.

(3) An officer must not jeopardize the security of the prison.

(4) An officer must make returns and reports in accordance with the regulations and other returns and reports required by the Secretary.

S. 20(4)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 18(a)).

(5) An officer must keep records in accordance with the regulations and other records required by the Secretary.

S. 20(5)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 18(a)).

(6) In relation to officers within the meaning of paragraph (f) of the definition of "officer" in section 14—

(a) sub-section (2) applies as if it did not include a reference to welfare; and

(b) sub-sections (4) and (5) apply as if they referred to returns, reports and records concerning prison security only.

(7) At the Secretary's request an officer must make available to the Secretary a return or report prepared under sub-section (4), or a record kept under sub-section (5).

S. 20(7)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 18(a)(b)).

## 21. *Duties of Governor*

(1) The Governor of a prison is responsible for the management, security and good order of the

prison and the safe custody and welfare of the prisoners.

- (2) The Governor of a prison must take reasonable steps to ensure that officers assigned to the prison know what their powers and duties are and what provision is made by or under this Act concerning prisons and prisoners.
- (3) The Governor of a prison must give all necessary directions to ensure that—
  - (a) officers within the meaning of paragraph (f) of the definition of "officer" in section 14 assigned to the prison comply with the provisions of this Act and the regulations relating to prison security; and
  - (b) other officers assigned to the prison comply with this Act, and the regulations.

## ***22. Reports to Governor***

- (1) An officer must report immediately to the Governor anything which might reasonably be thought to jeopardize the security of the prison or the welfare of the prisoners.
- (2) An officer must report immediately to the Governor—
  - (a) the escape or suspected escape of a prisoner in the officer's charge; and
  - (b) the escape or suspected escape of a prisoner from the prison where the officer is working if the escape or suspected escape comes to the officer's notice.

## ***23. Control of prisoners***

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*Corrections Act 1986*

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- (1) An officer may give any order to a prisoner which the officer believes to be necessary for the security or good order of the prison or the safety or welfare of the prisoner or other persons.
- (2) A prison officer may where necessary use reasonable force to compel a prisoner to obey an order given by the prison officer or by an officer under this section.
- (3) Where a prison officer uses force to compel a prisoner to obey an order the prison officer must report the fact forthwith to the Governor.
- (4) Where a Governor uses or orders the use of force to compel a prisoner to obey an order the Governor must report the fact to the Secretary.
- (5) A prison officer is not liable for injury or damage caused by the use of force in accordance with this section.

**S. 23(4)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 19).**

**PART 6—MANAGEMENT AND ADMINISTRATION  
OF PRISONS**

**Division 1—Management and Security of Prisons**

**24. *Delegation by Governor***

A Governor may by instrument delegate to any officer or class of officers within the meaning of Part 5 any function or power of the Governor under this Act, except this power of delegation, and any power which is declared by the regulations to be a power which the Governor cannot delegate.

**25. *Secretary may nominate person to act as Governor***

S. 25(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 20).

- (1) If the Governor of a prison is absent from the prison or the position of Governor is vacant the Secretary may nominate a prison officer to act as Governor of the prison while the Governor is absent or the position of the Governor is vacant.
- (2) A prison officer nominated to act as Governor has the functions powers and duties of the Governor while so acting.

**26. *Management of prisons in Governor's temporary absence***

S. 26(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 21).

- (1) If the Governor of a prison is to be absent temporarily from the prison the Governor may nominate a prison officer to be in charge of the prison during the Governor's absence.
- (2) If the Governor of a prison is absent from the prison and has not nominated a prison officer to be in charge of the prison and the Secretary has not nominated a prison officer to act as Governor, the most senior ranking prison officer then on duty is in charge of the prison.

- (3) A prison officer in charge of a prison has the functions powers and duties of the Governor until the Governor returns or the Secretary nominates a person to act as Governor of the prison.

S. 26(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 21).

## 27. *Dogs*

- (1) A prison officer may use an approved dog to assist the prison officer in—
- (a) carrying out searches under Division 3; or
  - (b) tracking a prisoner who has escaped; or
  - (c) escorting prisoners while they are being moved from one place to another; or
  - (d) disarming prisoners; or
  - (e) searching inside a prison for prisoners or persons who have entered, or remain in the prison without lawful authority; or
  - (f) carrying out searches outside the prison to find persons attempting to break into the prison; or
  - (g) any circumstances in which the security or good order of the prison is threatened.
- (2) Without affecting the liability of the Crown or any other body or person, a prison officer is not personally liable for injury or damage caused by the use of an approved dog in accordance with this section.
- (3) In this section "**approved dog**" means a dog approved in accordance with the regulations for use by a prison officer.

## 28. *Photographing and fingerprinting*

- (1) As soon as possible after a prisoner's reception into a prison an officer must take photographs of the prisoner and may take the prisoner's fingerprints.

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- (2) For the purpose of identifying prisoners and compiling records concerning prisoners an officer may at any time after a prisoner's reception into a prison take photographs of the prisoner.
  - (3) An officer may give to a prisoner all necessary directions to enable the taking of accurate photographs and fingerprints.

**29. Medical tests and samples**

- (1) As soon as possible after a prisoner's reception into a prison the prisoner must submit to medical tests.
- (2) At any time after a prisoner's reception into a prison the principal medical officer may direct the prisoner to submit to medical tests.
- (3) In this section "**medical tests**" means any—
  - (a) medical examinations; and
  - (b) tests (including the taking of samples of breath, blood and other bodily secretions) to assess a person's physical and mental health—

determined by the principal medical officer.
- (4) In determining medical tests which prisoners must undergo the principal medical officer must have regard to the safety and welfare of the other prisoners in the prison.

S. 29A  
inserted by  
No. 16/1991  
s. 4.

**29A. Prisoners may be tested for drug use**

- (1) If the Governor considers it necessary to do so in the interests of the management, good order or security of the prison, he or she may at any time direct a prisoner to submit to tests to assess whether the prisoner is using a drug of addiction or a drug of dependence within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**.
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(2) Tests under sub-section (1)—

- (a) must be of a kind approved by the Secretary;  
and
- (b) may include the taking of samples of urine;  
and
- (c) must be carried out by an officer within the  
meaning of Part 5.

S. 29A(2)(a)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 22).

**30. Secrecy**

(1) In this section—

**"confidential information"** means—

- (a) information relating to the  
classification of a prisoner given to the  
Secretary or to the classification  
committee established under the  
Corrections Regulations 1988; or
- (b) information given to the Adult Parole  
Board that is not disclosed in a decision  
of the Board or in any reasons given by  
the Board for a decision of the Board;  
or
- (c) information given to an official visitor  
as an official visitor; or
- (d) information relating to the personal  
affairs of a prisoner; or
- (e) information concerning procedures or  
plans to be adopted or followed in a  
prison in the event of an emergency; or
- (f) information concerning the  
management of, or the operation of  
security measures in, or in relation to, a  
prison; or

S. 30(1) def. of  
"confidential  
information"  
substituted by  
No. 16/1991  
s. 5(1),  
amended by  
Nos 11/1993  
s. 4(3)(a),  
94/1994 s. 20,  
45/1996  
s. 17(Sch. 1  
item 23(a)).



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- (g) information concerning the investigation of a breach or possible breach of the law by a prisoner or an officer within the meaning of Part 5; or
  - (h) information contained in a report given to a court that is not disclosed in a decision of the court or in any reasons given by the court for a decision of the court; or
  - (i) information of a business, commercial or financial nature relating to—
    - (i) the provision of services referred to in section 8B(1) or 9(1); or
    - (ii) an agreement entered into under section 8B(1) or 9(1) or a sub-contract agreement under that agreement;

S. 30(1) def. of "information" inserted by No. 16/1991 s. 5(1).

**"information"** includes photographs, fingerprints, samples and results of tests;

S. 30(1) def. of "position" amended by Nos 11/1993 s. 4(3)(b), 45/1996 s. 17(Sch. 1 item 23(b)).

**"position"** means any of the following—

- (a) a position as an officer within the meaning of Part 5;
  - (b) a delegate of the Secretary or a Governor;
  - (c) a person authorized to exercise the functions or powers of a prison officer or a medical officer;
  - (d) a position of being a person authorised under section 9A to exercise functions or powers.
- (2) A person who holds or has held a position must not, except to the extent necessary to perform

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official duties powers or functions of that position, record, disclose, communicate or make use of confidential information.

Penalty: 5 penalty units.

(3) Sub-section (2) does not prevent a person from—

- (a) giving evidence or producing a document to a court in the course of criminal proceedings or proceedings under this Act, even though the evidence or document contains confidential information; or
- (b) disclosing or communicating confidential information in accordance with the written authority of the Minister or the person to whom the information relates; or
- (c) disclosing or communicating confidential information to the Ombudsman or the Ombudsman's officers; or
- (d) disclosing confidential information that is a photograph to a person who holds a position or is a member of the police force, if the disclosure is made to assist the person to perform official duties; or
- (e) disclosing confidential information to the extent specifically authorised by another Act.

**S. 30(3) amended by No. 11/1993 s. 7(1)(d).**

**S. 30(3)(e) inserted by No. 16/1991 s. 5(2).**

### **31. Children**

*Corrections Act 1986*

*Act No. 117/1986*

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S. 31(1)  
amended by  
Nos 16/1991  
s. 6, 45/1996  
s. 17(Sch. 1  
item 24).

- (1) At the request of a prisoner who is the child's parent the Secretary may permit the prisoner's child to live with the prisoner in the prison if the Secretary is satisfied that—
  - (a) it is in the best interests of the child to live with his or her parent in the prison; and
  - (b) the management good order or security of the prison will not be threatened by the child living in the prison.
- (2) The prisoner is responsible for the safety and care of the prisoner's child while the child lives in the prison.

S. 31(3)  
amended by  
Nos 16/1991  
s. 6, 45/1996  
s. 17(Sch. 1  
item 24).

- (3) If the Secretary considers that the child's behaviour is threatening the security or good order of the prison or the child's safety is threatened, the Secretary may cause the child to be removed from the prison.

S. 31(4)  
inserted by  
No. 72/2001  
s. 3(Sch.  
item 4.3).

- (4) In this section, "**parent**" of a child means a person who would have day to day care and control of the child and with whom the child would ordinarily be resident if the person were not in prison.

S. 31A  
inserted by  
No. 16/1991  
s. 7,  
repealed by  
No. 45/1996  
s. 5.

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**32. *Offences relating to prison security***

- (1) A person who without being authorized to do so by this Act or the regulations—
    - (a) enters or attempts to enter a prison; or
    - (b) communicates or attempts to communicate with a prisoner; or
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(c) takes or sends or attempts to take or send anything into or out of a prison—

is guilty of an offence.

Penalty: 2 years imprisonment.

(2) If a prison officer believes on reasonable grounds that a person who is outside but near a prison or near a place where prisoners are, is acting in a way which threatens or is likely to threaten the security of the prison or the prisoners, the prison officer may order the person to leave the neighbourhood of the prison or place.

(3) A person who disobeys an order to leave the neighbourhood of a prison or place is guilty of an offence.

Penalty: 5 penalty units.

(4) If a prison officer believes on reasonable grounds that a person is committing or has committed an offence under this section, the prison officer may apprehend the person without warrant.

S. 32(4)  
substituted by  
No. 16/1991  
s. 8.

(4A) A prison officer who has apprehended a person pursuant to sub-section (4) must as soon as possible deliver the person to the custody of a member of the police force to be dealt with according to law.

S. 32(4A)  
inserted by  
No. 16/1991  
s. 8.

(5) The **Crimes Act 1958** (except section 458(1) and 458(2)) applies to the apprehension of a person under this section as if the person were found committing an offence within the meaning of section 458(1)(a) of that Act<sup>1</sup>.

## Division 2—Access to Prisons

### 33. *Definitions*

In this Division—

**"official visitor"** means an official visitor appointed under this Division;

**"visitor"** means any of the following persons—

- (a) a judge of the Supreme Court;
- (b) a judge of the County Court;
- (c) a magistrate;

\*            \*            \*            \*            \*

- (e) an official visitor;
- (f) the Ombudsman or the Ombudsman's officers;
- (g) a person authorized to visit a prison by the Minister, the Secretary or a Governor;
- (h) a person who visits a prison under section 37;
- (i) a lawyer;
- (j) a person authorized by a lawyer to act on the lawyer's behalf;
- (k) a member of the police force;
- (l) a person authorized to visit a prison under a contact visiting programme or a residential visiting programme.

S. 33 def. of "visitor" amended by No. 45/1996 ss 7(b), 17(Sch. 1 item 25).

S. 34 amended by No. 45/1996 s. 7(c).

### 34. *Visits by judges or magistrates*

- (1) A judge of the Supreme Court or the County Court or a magistrate may visit any prison at any time.
- (2) A person who visits a prison under this section may report on the visit to the Minister.

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- (3) A person's report under this section to the Minister may include recommendations as to the action to be taken concerning any matters mentioned in the report.

**35. *Appointment of official visitors***

- (1) For each prison the Minister may appoint official visitors.
- (2) The terms and conditions of appointment of an official visitor are those stated in the instrument of appointment.

**36. *Secrecy***

- (1) A person who is or has been an official visitor must not, except to the extent necessary to perform official duties, disclose or make use of information gained by the person as an official visitor.

Penalty: 5 penalty units.

- (2) Sub-section (1) does not prevent a person from—
- (a) producing a document or giving evidence to a court, where the document or evidence includes information mentioned in sub-section (1), in the course of criminal proceedings under this Act; or
- (b) disclosing information mentioned in sub-section (1) to a person nominated by the Minister.

**37. *Visits by relatives or friends***

- (1) With the permission of the Governor, a prisoner's relatives or friends may enter a prison and visit the prisoner.
- (2) A relative or friend who visits a prisoner may see and speak with the prisoner but is not permitted to touch the prisoner, unless the visit is part of a

contact visiting programme or residential visiting programme.

- (3) The Governor may give to a visitor under this section such orders as are necessary for the management and good order and security of the prison.
- (4) A visitor who disobeys a Governor's order is guilty of an offence.

Penalty: 5 penalty units.

### **38. Contact visiting and residential visiting**

S. 38(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 26).

- (1) The Secretary may in accordance with the regulations by instrument approve contact visiting programmes under which a prisoner's family and friends may visit and have physical contact with the prisoner.

S. 38(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 26).

- (2) The Secretary may in accordance with the regulations by instrument approve residential visiting programmes under which a prisoner's family may stay with the prisoner in the prison.
- (3) The Governor of a prison must in accordance with the regulations bring to the attention of all prisoners eligible to take part in a contact visiting programme or a residential visiting programme the privileges offered by the programme.
- (4) In this section "**family**" of a prisoner includes—
  - (a) a near relative of the prisoner; and
  - (b) any other person who has a long standing close personal relationship with the prisoner.

### **39. Exclusion of visitors for security reasons**

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- (1) The Governor of a prison may by order prohibit a relative or friend wishing to visit a prisoner under sections 37 or 38 from entering or remaining in the prison if the Governor believes on reasonable grounds that the person's entry into the prison or visit to the prisoner might endanger the good order or security of the prison or the safety of the prisoners.
  - (2) The Governor of a prison may order a person visiting the prison under sections 37 or 38 to leave the prison if the Governor believes on reasonable grounds that—
    - (a) the person has committed an offence under section 32; or
    - (b) the person has contravened the regulations; or
    - (c) the person has disobeyed an order of the Governor given under this Division.
  - (3) A person who disobeys an order under this section is guilty of an offence.  
Penalty: 10 penalty units.
  - (4) If a visitor disobeys an order to leave a prison under this section a prison officer may, if necessary, use reasonable force to compel the visitor to leave the prison.
  - (5) A prison officer who uses force to compel a visitor to leave a prison must as soon as possible report the fact to the Governor.
  - (6) A prison officer is not liable for injury or damage caused by the use of force in accordance with this section.

**40. *Visits by lawyers and their assistants***



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S. 40(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 27).

- (1) A lawyer acting in the course of the lawyer's practice may at the times fixed by the regulations enter a prison and visit a prisoner.
- (2) As well as the visits authorized by sub-section (1) a lawyer acting in the course of the lawyer's practice may with the permission of the Minister, the Secretary or the Governor enter a prison and visit a prisoner.
- (3) With the Governor's permission, a person authorized by a lawyer to act on the lawyer's behalf in connection with the lawyer's practice may enter a prison and visit a prisoner.

**41. *Visits by the police***

S. 41(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 28).

- (1) A member of the police force may at the times fixed by the regulations enter a prison and visit a prisoner.
- (2) As well as visits authorized by sub-section (1), a member of the police force may with the permission of the Secretary or the Governor enter a prison and visit a prisoner at any time stated in the permission.
- (3) A prisoner may refuse a visit from a member of the police force under this section.
- (4) A prisoner is not required to answer questions asked by a member of the police force during a visit authorized by this section.
- (5) A prisoner may request a prison officer to be present at, or to observe but not hear, any part of an interview between the prisoner and a member of the police force visiting the prison.

S. 41(6)  
inserted by  
No. 86/2000  
s. 8(3).

- (6) Nothing in this section applies to any questioning or investigation by a member of the police force in
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accordance with an order made under section 464B(5) of the **Crimes Act 1958**.

**42. Visitors to give prescribed information**

(1) A person who wishes to enter or has entered a prison as a visitor must, if asked, give to a prison officer the prescribed information as to the person's identity, address, occupation, age, relationship (if any) to the prisoner and as to the purpose of the person's visit.

(2) A person who wishes to enter or has entered a prison as a visitor and who knowingly gives to a prison officer information that is false or misleading is guilty of an offence.

Penalty: 5 penalty units.

(3) If when asked, a person does not give the prescribed information to a prison officer or gives information to a prison officer that is false or misleading the prison officer may—

(a) if the person has not entered the prison, by order prohibit the person from entering the prison; or

(b) if the person has entered the prison, order the person to leave the prison immediately.

(4) A person who disobeys an order under this section is guilty of an offence.

Penalty: 5 penalty units.

(5) A person ordered to leave a prison under this section may only re-enter the prison with the Secretary's permission.

S. 42(5)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 29).

(6) If a person disobeys an order to leave a prison, a prison officer may, if necessary, use reasonable force to compel the person to leave the prison.

- (7) A prison officer who orders a person to leave a prison or uses force to compel a person to leave a prison must as soon as possible report the fact to the Governor.

**43. Governor may refuse or terminate visits for security reasons**

- (1) If the Governor of a prison believes on reasonable grounds that the security of the prison or the safety of a visitor is threatened, the Governor may—
- (a) by order prohibit a person from entering the prison as a visitor; or
  - (b) order the visitor to leave the prison immediately.

S. 43(1A) inserted by No. 94/1994 s. 21(1), amended by No. 45/1996 s. 17(Sch. 1 item 30).

- (1A) Without limiting any other power of the Secretary under this Act, if the Secretary believes on reasonable grounds that the good order or security of prisons or the safety of prisoners or visitors to prisons is threatened, the Secretary may by order prohibit a person from entering all or any prisons in Victoria as a visitor.

S. 43(1B) inserted by No. 94/1994 s. 21(1).

- (1B) An order under sub-section (1A) in relation to a matter prevails over any order under sub-section (1) or section 39 in relation to that matter.

S. 43(2) amended by No. 94/1994 s. 21(2).

- (2) A person who disobeys an order under this section is guilty of an offence.

Penalty: 5 penalty units.

- (3) If a person disobeys a Governor's order to leave a prison, a prison officer may, if necessary, use reasonable force to compel the person to leave the prison.

**Division 3—Search and Seizure**

**44. Formal searches**

*Corrections Act 1986*

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- (1) A person who wishes to enter or remain in a prison as a visitor must, if asked, submit to a formal search.
- (2) In this section "**formal search**" means a search to detect the presence of drugs weapons or metal articles carried out by an electronic or mechanical device.
- (3) If, when asked, a person does not submit to a formal search, a prison officer may prohibit the person from entering the prison or if the person is in the prison order the person to leave the prison immediately.

**45. Search**

- (1) The Governor of a prison may for the security or good order of the prison or the prisoners at any time order a prison officer to—
  - (a) search any part of the prison; or
  - (b) search and examine a prisoner, a visitor to the prison (except a judge of the Supreme Court or County Court, or a magistrate), an officer or any other person in the prison; or
  - (c) search and examine any thing in the prison; or
  - (d) as well as the formal search required by section 44, require a person wishing to enter a prison (other than a judge of the Supreme Court or County Court or a magistrate) to submit to search and examination of the person and of any thing in the person's possession or under the person's control; or
  - (e) conduct any search under paragraph (a), (b), (c) or (d) at random.

S. 45(1)  
amended by  
No. 16/1991  
s. 9(a)(c).

S. 45(1)(e)  
inserted by  
No. 16/1991  
s. 9(b).

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- (2) If the Governor of a prison outside the metropolitan area believes on reasonable grounds that, by reason of any activity outside but near the prison, the security or good order of the prison or the prisoners is threatened, the Governor may order a prison officer to search and examine any thing outside but near the prison and to require a person outside but near the prison to submit to a search.
- (3) If a person, other than a prisoner or a prison officer, refuses to submit to be searched under this section while inside the prison the Governor may order the person to leave the prison immediately.
- (4) A person who disobeys a Governor's order under sub-section (3) is guilty of an offence.
- Penalty: 5 penalty units.
- (5) A prison officer may, if necessary, use reasonable force to compel a person to obey an order to leave the prison.
- (6) A prison officer is not liable for injury or damage caused in carrying out searches in accordance with this section.
- (7) The Governor may at any time make an order terminating a search under this section.
- (8) In this section and sections 44 and 46—

**"metropolitan area"** means an area within the radius of 30 kilometres from the general post office at the corner of Elizabeth Street and Bourke Street; and

**"prison"** includes a place where prisoners are.

#### 46. *Seizure*

- (1) In carrying out searches under sections 44 and 45 a prison officer may seize any one or more of the following—
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S. 45(8)  
amended by  
No. 16/1991  
s. 15(4).

- (a) any thing found in the prison, whether in a person's possession or not, which the prison officer believes on reasonable grounds jeopardizes or is likely to jeopardize the security or good order of the prison or the safety of persons in the prison;
  - (b) any thing found on a prisoner or in a prisoner's possession, other than a thing which the prisoner is authorized to wear or to possess under Division 4, the regulations, or a direction of the Governor;
  - (c) any thing which a prisoner is authorized to wear or to possess under Division 4, the regulations or a direction of the Governor, which the prison officer believes on reasonable grounds jeopardizes or is likely to jeopardize the security of the prison or the safety of persons in the prison.
- (2) A prison officer who seizes any thing under subsection (1) must immediately inform the Governor.
  - (3) A Governor must deal in accordance with the regulations with any thing, which is not a drug of dependence, and is seized under this section.

#### **Division 4—Prisoners Rights**

##### **47. *Prisoners rights***

- (1) Every prisoner has the following rights—
  - (a) if not ordinarily engaged in outdoor work, the right to be in the open air for at least an hour each day, if the weather permits;
  - (b) the right to be provided with food that is adequate to maintain the health and well-being of the prisoner;

S. 47(1)(f)  
amended by  
No. 23/1994  
s. 118(Sch. 1  
item 14.4).

- (c) the right to be provided with special dietary food where the Governor is satisfied that such food is necessary for medical reasons or on account of the prisoner's religious beliefs or because the prisoner is a vegetarian;
- (d) the right to be provided with clothing that is suitable for the climate and for any work which the prisoner is required to do and adequate to maintain the health of the prisoner;
- (e) if not serving a sentence of imprisonment, the right to wear suitable clothing owned by the prisoner;
- (f) the right to have access to reasonable medical care and treatment necessary for the preservation of health including, with the approval of the principal medical officer but at the prisoner's own expense, a private registered medical practitioner physiotherapist or chiropractor chosen by the prisoner;
- (g) if intellectually disabled or mentally ill, the right to have reasonable access within the prison or, with the Governor's approval outside a prison to such special care and treatment as the medical officer considers necessary or desirable in the circumstances;
- (h) the right to have access to reasonable dental treatment necessary for the preservation of dental health;
- (i) the right to practise a religion of the prisoner's choice and, if consistent with prison security and good prison management to join with other prisoners in practising that

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- religion and to possess such articles as are necessary for the practice of that religion;
- (j) the right to make complaints concerning prison management to the Minister, the Secretary, the Governor, an official visitor and the Ombudsman;
- (k) the right to receive at least one visit which is to last at least half an hour in each week under section 37;
- (l) the right to be classified under a classification system established in accordance with the regulations as soon as possible after being sentenced and to have that classification reviewed annually;
- (m) the right to send letters to, and receive letters from, the Ombudsman or the Ombudsman's officers, without those letters being opened by prison staff;
- (n) the right to send and receive other letters uncensored by prison staff;
- (o) the right to take part in educational programmes in the prison.
- (2) A prisoner's rights under this section are additional to, and do not affect any other rights which a prisoner has under an Act other than this Act or at common law.
- (3) Sub-section (1)(m) does not prevent the opening of letters in accordance with section 28(3) of the **Ombudsman Act 1973** or section 86L(7) of the **Police Regulation Act 1958**.

S. 47(1)(j)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 31).

S. 47(1)(n)  
amended by  
No. 16/1991  
s. 10(1).

S. 47(3)  
inserted by  
No. 15/1989  
s. 29.



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s. 47

**S. 47(4)**  
**inserted by**  
**No. 16/1991**  
**s. 10(2).**

- (4) Despite sub-section (1)(n), if the Governor reasonably believes that any letter sent or received by a prisoner is a threat to prison security or may be of a threatening or harassing nature, the Governor may—
- (a) if the belief concerns the whole letter, stop the letter from being sent or received by the prisoner; or
  - (b) if the belief concerns only part of a letter, cause the relevant part of the letter to be censored.
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PART 7—PRISON DISCIPLINE

48. *Definitions*

In this Part—

\* \* \* \* \*

S. 48 def. of "Chief prison officer" repealed by No. 16/1991 s. 11(1).

"disciplinary officer" means a prison officer—

S. 48 def. of "disciplinary officer" inserted by No. 16/1991 s. 11(1), amended by No. 45/1996 s. 17(Sch. 1 item 32).

- (a) nominated by the Secretary as a disciplinary officer; or
- (b) in a class of prison officers nominated by the Secretary as disciplinary officers;

"privilege" in relation to a prison means any of the privileges determined in accordance with the regulations for that prison;

"prison offence" means a contravention of this Act or the regulations;

"register of offences" means the register of prison offences established in accordance with the regulations.

49. *Disciplinary officers*

The Secretary may by instrument nominate—

- (a) a prison officer to be a disciplinary officer in a prison or in any part of a prison; or
- (b) officers in a class of prison officers to be disciplinary officers in a prison or in any part of a prison.

S. 49 substituted by No. 16/1991 s. 11(2), amended by No. 45/1996 s. 17(Sch. 1 item 33).

**50. Prison offences**

S. 50(1)  
amended by  
No. 16/1991  
s. 11(3).

(1) If an officer suspects that a prisoner has committed a prison offence the officer must as soon as possible report the fact to the disciplinary officer.

S. 50(2)  
amended by  
No. 16/1991  
s. 11(3).

(2) The disciplinary officer must make proper investigation of all alleged prison offences which come to the officer's notice and must give the prisoner alleged to have committed the offence an opportunity of making an explanation.

S. 50(3)  
amended by  
No. 16/1991  
s. 11(3).

(3) If after investigating an alleged prison offence the disciplinary officer is satisfied that no offence has been committed the disciplinary officer is to take no further action.

S. 50(4)  
amended by  
No. 16/1991  
s. 11(3).

(4) If after investigating an alleged prison offence the disciplinary officer is satisfied that the offence has been committed but is trivial, the disciplinary officer need take no further action.

S. 50(5)  
amended by  
No. 16/1991  
ss 11(3),  
12(a)(i).

(5) Subject to sub-section (4) if after investigating an alleged prison offence the disciplinary officer is satisfied that the prisoner has committed the offence the disciplinary officer must record the offence in the register of offences and may, in addition, do one of the following—

- (a) reprimand a prisoner; or
- (b) withdraw one of the prisoner's privileges for less than 14 days; or

S. 50(5)(c)  
repealed by  
No. 16/1991  
s. 12(a)(ii).

\* \* \* \* \*

- (d) charge the prisoner with the prison offence;  
or

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- (e) take steps to have the matter dealt with under the criminal law. S. 50(5)(e) amended by No. 16/1991 s. 12(a)(iii).
- (6) A charge for a prison offence must be in writing, and the disciplinary officer must as soon as possible give a copy of the charge to the Governor and the prisoner. S. 50(6) amended by No. 16/1991 s. 11(3).
- \* \* \* \* \* S. 50(7)(8) repealed by No. 44/1991 s. 6(d).
- (9) A decision or purported decision of a disciplinary officer under this section cannot be appealed against, reviewed, challenged or called in question in any court. S. 50(9) amended by No. 16/1991 s. 11(3).

**51. Governor's action where charge laid**

On receiving a copy of a charge for a prison offence the Governor may do any of the following—

- (a) if satisfied that the prison offence should have been dealt with by the disciplinary officer, refer the matter back to the disciplinary officer to be dealt with under section 50(5); S. 51(a) amended by No. 16/1991 s. 11(3).
- (b) if the Governor believes that the Governor has an interest which would prejudice the fair hearing of the charge, refer the matter to another Governor for hearing;
- (c) hear the charge;
- (d) take steps to have the matter dealt with under the criminal law. S. 51(d) amended by No. 16/1991 s. 12(b).

**52. Secretary may nominate Governor to hear charge**

S. 52(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 34).

- (1) At any time before a Governor's hearing a prisoner charged with a prison offence may ask the Governor to refer the matter to another Governor for hearing.
- (2) As soon as possible after receiving a request under sub-section (1) the Governor must refer it to the Secretary unless the Governor refers the charge for a prison offence to another Governor for hearing.

S. 52(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 34).

- (3) On receiving a request under sub-section (1) the Secretary may grant it and may nominate another Governor to hear the charge for the prison offence or may refuse the request.

S. 52(4)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 34).

- (4) As soon as possible after deciding to grant or refuse a request under sub-section (3) the Secretary must give notice of the decision to the Governor of the prison concerned.

S. 52(5)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 34).

- (5) A Governor who has received a request under sub-section (1) must not hear the charge for the prison offence to which the request relates unless and until the Secretary notifies the Governor that the request has been refused.

**53. Governor's hearing**

S. 53(1)  
substituted by  
No. 16/1991  
s. 13(1).

- (1) If a charge is to be heard by the Governor of the prison or by another Governor, the Governor of the prison must—
  - (a) not less than 72 hours before the hearing; or
  - (b) if the Governor and prisoner agree to a shorter period, within that shorter period; or

(c) if the prisoner is due to be discharged from prison within 7 days of the alleged prison offence occurring or if, in the opinion of the Secretary, a period of notice shorter than 72 hours is necessary for the security or good order of the prison, within the period determined by the Secretary—

S. 53(1)(c)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 35).

give notice to the prisoner of the time, date and place of the hearing.

(2) At a hearing a Governor must allow the prisoner reasonable opportunity to call relevant witnesses and cross examine the person conducting the case against the prisoner and witnesses called by that person.

(3) At a Governor's hearing the prisoner, if he or she attends the hearing may be represented by another prisoner if the Governor approves.

S. 53(3)  
amended by  
No. 16/1991  
s. 13(2).

(3A) If a prisoner, having been given notice under subsection (1) of the time, date and place of the hearing, refuses or fails to attend the hearing, the Governor by whom the charge is to be heard may proceed to hear and determine the charge in the prisoner's absence.

S. 53(3A)  
inserted by  
No. 16/1991  
s. 13(3).

(4) If at a Governor's hearing the Governor finds that the prisoner is guilty of the prison offence or the prisoner admits the truth of the charge, the Governor may impose any of the following penalties—

(a) a reprimand;

(b) a fine not exceeding 1 penalty unit;

(c) withdrawal of one or more of the prisoner's privileges for a period not exceeding 14 days for each prison offence committed, but not exceeding in total 30 days;

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S. 53(4)(d)  
repealed by  
No. 44/1991  
s. 6(e).

\* \* \* \* \*

- (5) The payment of fines imposed under sub-section (4) may be recovered by deduction in accordance with the regulations from moneys payable to, or held by or for, the prisoner.
- (6) For each prison offence committed the Governor must not under sub-section (4) impose more than one of the penalties listed in that sub-section.

S. 54  
amended by  
No. 57/1989  
s. 3(Sch. item  
35.1),  
repealed by  
No. 44/1991  
s. 6(f).

\* \* \* \* \*

S. 54A  
inserted by  
No. 16/1991  
s. 14(1).

**54A. *Power of Secretary to withdraw privileges***

S. 54A(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 36).

- (1) If the Secretary is satisfied that—
  - (a) an investigation into whether a prisoner committed a prison offence is being carried out; or
  - (b) a prisoner has been charged under section 50(5)(d) with a prison offence; or
  - (c) steps have been taken to have an alleged prison offence dealt with under the criminal law—

the Secretary may withdraw one or more of the prisoner's privileges for such period as the Secretary thinks fit.

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*Act No. 117/1986*

s. 54A

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- (2) The Secretary may only withdraw a prisoner's privileges under sub-section (1) if he or she is satisfied that it is necessary to do so in the interests of the management, good order and security of the prison concerned.
- (3) The withdrawal of privileges under sub-section (1) does not affect the imposition of any other penalties under this Part or under the criminal law in respect of the prison offence.
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**S. 54A(2)**  
amended by  
**No. 45/1996**  
s. 17(Sch. 1  
item 36).



Pt 8 (Heading)  
amended by  
No. 44/1991  
s. 6(g).

**PART 8—TEMPORARY ABSENCE FROM PRISON**

**Division 1—Definitions**

**55. Definitions**

(1) In this Part—

S. 55(1) def. of  
"approved  
programme"  
repealed by  
No. 45/1996  
s. 15.

\* \* \* \* \*

**"board"** means the parole board established  
under this Part;

**"parole period"** means a period beginning on the  
day on which a person is released from  
prison on parole and ending at the end of the  
person's prison sentence;

S. 55(1) def. of  
"pre-release  
permit"  
repealed by  
No. 44/1991  
s. 6(h).

\* \* \* \* \*

S. 55(1) def. of  
"prison  
sentence"  
amended by  
Nos 44/1991  
s. 6(i), 49/1991  
s. 119(7)  
(Sch. 4 item  
3.4(a)(b)).

**"prison sentence"** in relation to a person means  
the total of the following sentences or non-  
parole periods which have been imposed or  
determined in relation to the person, reduced  
as provided for under this or any other Act—

- (a) if a non-parole period has not been  
fixed in relation to a sentence of  
imprisonment—the sentence of  
imprisonment;

- (b) if a non-parole period has been fixed in relation to a sentence of imprisonment and the prisoner has not served the non-parole period—the non-parole period;
- (c) if a non-parole period has been fixed in relation to a sentence of imprisonment and the prisoner has served the non-parole period and is not on parole—so much of the sentence as the board determines for the purposes of this definition.

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S. 55(2)  
repealed by  
No. 44/1991  
s. 6(j).

## Division 2—Transfer of Prisoners

### 56. *Transfer by Secretary*

- (1) In this section "**institution**" means any of the following—
  - (a) a prison;
  - (b) a police gaol;
  - (c) a hospital;
  - (d) a specialist clinic or a clinic for medical, psychological or psychiatric examination or treatment;
  - (e) a hostel approved by the Secretary in accordance with the regulations;
  - (f) a centre for the examination or treatment of alcoholics or drug dependent persons;

S. 56(1)(e)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 37(a)).

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S. 56(1)(g)  
inserted by  
No. 16/1991  
s. 3(2).  
S. 56(1) def. of  
"prisoner"  
inserted by  
No. 16/1991  
s. 3(3).

(g) a place for the detention and care of persons who are mentally ill or intellectually disadvantaged;

**"prisoner"** includes a person who has been transferred under this section to an institution referred to in paragraph (c), (d), (e), (f) or (g) of the definition of "institution".

S. 56(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 37(a)).

- (2) The Secretary may by instrument authorize the transfer of a prisoner or class of prisoners from one institution to another or from place to place within an institution.
- (3) A prisoner authorized to be transferred under this section is, during the transfer, in the custody of the member of the police force or other officer who is escorting or supervising the person until the transfer is completed.
- (4) The transfer of a prisoner under sub-section (2) is completed when the prisoner is received into the institution or place to which the prisoner is going and the document authorizing the prisoner's transfer is produced to the proper officer of that institution or place.

S. 56(4A)  
inserted by  
No. 16/1991  
s. 3(4).

(4A) A person who is transferred under sub-section (2) to an institution referred to in paragraph (c), (d), (e), (f) or (g) of the definition of "institution" in sub-section (1) is deemed to be in the custody of the chief executive responsible for that institution.

S. 56(4B)  
inserted by  
No. 16/1991  
s. 3(4),  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 37(a)).

(4B) The chief executive of an institution who is deemed to have custody of a person under sub-section (4A) must comply with any instrument of the Secretary under sub-section (2) authorising the transfer of the person from that institution to another institution or from place to place within that institution.

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S. 56(5)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(e)),  
repealed by  
No. 45/1996  
s. 17(Sch. 1  
item 37(b)).

- (6) Nothing in this section affects the operation of the **Mental Health Act 1986** or the **Intellectually Disabled Persons' Services Act 1986**.

S. 56(6)  
inserted by  
No. 16/1991  
s. 3(5).

**Division 2A—Absence to give Evidence at Foreign Proceedings**

Pt 8 Div. 2A  
(Heading and  
s. 56A)  
inserted by  
No. 70/1987  
s. 8.

**56A. Arrangements with Commonwealth**

S. 56A  
inserted by  
No. 70/1987  
s. 8.

- (1) If, under the Mutual Assistance in Criminal Matters Act 1987 of the Commonwealth, the Commonwealth Attorney-General makes arrangements for the travel of a prisoner to a foreign country to give evidence at a proceeding or assistance in relation to an investigation relating to a criminal matter, the Secretary may, by instrument, authorise the prisoner to be released from prison for the purpose of travelling to the foreign country to give evidence at the proceeding or assistance in relation to the investigation.
- (2) An authority given by the Secretary under subsection (1) may be subject to any conditions the Secretary thinks fit.

S. 56A(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 38).

S. 56A(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 38).

Pt 8 Div. 3  
(Heading and  
ss 57, 58)  
substituted as  
Pt 8 Div. 3  
(Heading and  
ss 57–58D) by  
No. 16/1991  
s. 15(1).

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**Division 3—Custodial Community Permits**

S. 57  
substituted by  
No. 16/1991  
s. 15(1).

**57. Secretary may issue custodial community permits**

S. 57(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 39).

- (1) The Secretary may, subject to and in accordance with the regulations, issue a custodial community permit to a prisoner for any of the following purposes—
- (a) a purpose relating to the health, physical fitness or education of the prisoner;
  - (b) a purpose related to the administration of justice, including (but not limited to) being under police protection on account of evidence given or to be given by the prisoner in a legal proceeding within the meaning of the **Evidence Act 1958**;
  - (c) to look for, or perform, work, including (but not limited to) unpaid community work;
  - (d) to visit a person with whom the prisoner has had a long standing personal relationship if that person is seriously ill or in acute personal need;
  - (e) to attend the funeral of a person with whom the prisoner had a long standing personal relationship;
  - (f) to take part in a programme approved by the Secretary that is designed to facilitate—
    - (i) the rehabilitation of the prisoner; or

S. 57(1)(f)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 39).

- 
- (ii) the prisoner's reintegration in the community; or
  - (iii) the preparation of the prisoner for release; or
  - (iv) the maintenance of the prisoner's family ties.
- (2) A custodial community permit—
- (a) authorises the prisoner to be absent from the prison for the period stated in the permit; and
  - (b) is subject to the conditions set out in the regulations and any other conditions stated in the permit.
- (3) Subject to sub-sections (4) and (5), the period stated in a custodial community permit must not exceed 3 days.
- (4) The period stated in a custodial community permit may exceed 3 days if the purpose for which the permit was issued is—
- (a) being under police protection as mentioned in sub-section (1)(b); or
  - (b) performing unpaid community work; or
  - (c) taking part in a programme referred to in sub-section (1)(f).
- (5) If—
- (a) the purpose for which a custodial community permit was issued is performing unpaid community work; and
  - (b) the prisoner has been imprisoned in default of payment of a monetary penalty or an instalment under an instalment order—

the period which may be stated in the permit is the whole or the remaining part of the term for which the prisoner may be imprisoned.

S. 57(6)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 39).

- (6) A prisoner who is authorised to be absent from prison under a custodial community permit continues in the custody of the Secretary while absent.

S. 58  
substituted by  
No. 16/1991  
s. 15(1).

**58. Breach of custodial community permit**

A prisoner who fails without reasonable excuse to comply with any conditions of a custodial community permit is guilty of an offence and liable to imprisonment for a term of not more than 3 years.

S. 58A  
inserted by  
No. 16/1991  
s. 15(1).

**58A. Powers of Secretary with respect to custodial community permits**

S. 58A(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 40).

- (1) The Secretary may before the prisoner is allowed to be absent from the prison under a custodial community permit or at any time during the period of such a permit—
- (a) vary or revoke any condition of the permit or impose any additional condition; or
  - (b) subject to section 57, vary the period of the permit; or
  - (c) revoke the permit.
- (2) The revocation of a custodial community permit or the varying or revocation of a condition or the varying of the period of such a permit or the imposing of an additional condition takes effect immediately.

S. 58B  
inserted by  
No. 16/1991  
s. 15(1).

**58B. Visitors to give prescribed information**

- (1) In this section and sections 58C and 58D—

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**"prisoner"** means a prisoner who is authorised to be absent from a prison under a custodial community permit.

- (2) If a prison officer believes on reasonable grounds that the safety or security of a prisoner or the safety of a visitor to the prisoner is threatened, the prison officer may ask any person who wishes to visit the prisoner to give to the prison officer information as to the person's name, address, relationship (if any) to the prisoner and as to the purpose of the person's visit.
- (3) A person who wishes to visit a prisoner must, give the required information to a prison officer if asked to do so under sub-section (2).
- (4) A person who wishes to visit or visits a prisoner and who knowingly gives to a prison officer information that is false or misleading is guilty of an offence.

Penalty: 5 penalty units.

- (5) If when asked, a person does not give the required information to a prisoner officer or gives information to a prison officer which is false or misleading the prison officer may—
  - (a) prohibit the person from visiting the prisoner; or
  - (b) direct the person to leave the place where the prisoner is.
- (6) A person who disobeys an order under this section is guilty of an offence.

Penalty: 5 penalty units.

**58C. Governor may refuse or terminate visits for security reasons**

- (1) If the Governor of the prison from which a prisoner is absent under a custodial community

S. 58C  
inserted by  
No. 16/1991  
s. 15(1).



permit believes on reasonable grounds that the safety or security of the prisoner or the safety of a visitor to the prisoner is threatened, the Governor may—

- (a) by order prohibit a person from visiting the prisoner; or
  - (b) order the visitor to leave immediately the place where the prisoner is.
- (2) A person who disobeys a Governor's order under this section is guilty of an offence.

Penalty: 5 penalty units.

S. 58D  
inserted by  
No. 16/1991  
s. 15(1).

**58D. *Offence to give item to prisoner***

A visitor to a prisoner who gives or attempts to give to the prisoner anything which jeopardises or is likely to jeopardise the security, management or safety of the prisoner or the safety of persons at the place where the prisoner is, is guilty of an offence.

Penalty: 2 years imprisonment.

Pt 8 Div. 3A  
(Heading and  
s. 58E)  
inserted by  
No. 44/1991  
s. 4(1).

**Division 3A—Emergency Management Days**

S. 58E  
inserted by  
No. 44/1991  
s. 4(1).  
S. 58E(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 41).

**58E. *Emergency management days***

- (1) The Secretary may, in accordance with the regulations, reduce the length of a sentence of imprisonment being served by a person or the length of the non-parole period (if one has been fixed in respect of the sentence) on account of good behaviour while suffering disruption or deprivation—
-

- (a) during an industrial dispute or emergency existing in the prison or police gaol in which the sentence is being served; or
  - (b) in other circumstances of an unforeseen and special nature.
- (2) Sub-section (1) applies to all sentences of imprisonment, including any imposed for murder, irrespective of whether the sentences were imposed before or after the commencement of this section.

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Pt 8 Div. 4  
(Heading and  
ss 59, 60)  
repealed by  
No. 44/1991  
s. 3(1).

**Division 5—Parole**

**61. Establishment of Board**

(1) There is established a Board by the name of the Adult Parole Board.

(2) The Board consists of—

S. 61(2)  
amended by  
No. 11/1993  
s. 7(1)(e).

(a) one or more Judges of the Supreme Court appointed by the Governor in Council on the recommendation of the Chief Justice of the Supreme Court, one of whom is to be appointed chairperson; and

S. 61(2)(a)  
substituted by  
No. 16/1991  
s. 16(1)(a).

(b) one or more Judges of the County Court appointed by the Governor in Council on the recommendation of the Chief Judge of the County Court; and

S. 61(2)(b)  
substituted by  
No. 16/1991  
s. 16(1)(b).

*Corrections Act 1986*

*Act No. 117/1986*

s. 61

S. 61(2)(c)  
substituted by  
No. 16/1991  
s. 16(1)(b).

(c) one or more Magistrates appointed by the Governor in Council on the recommendation of the Chief Magistrate; and

(d) a person, appointed by the Governor in Council as a full-time member; and

S. 61(2)(da)  
inserted by  
No. 16/1991  
s. 16(1)(c).

(da) one or more retired Judges of the Supreme Court or the County Court or retired Magistrates, appointed by the Governor in Council as part-time members; and

(e) such number of persons, as are appointed by the Governor in Council as part-time members; and

S. 61(2)(f)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 42).

(f) the Secretary.

S. 61(3)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(f)).

(3) The Board established by this section is deemed to be the same Board as the Adult Parole Board established under Division 4 of Part VIII of the **Community Services Act 1970** and the Parole Board established under Part IV of the **Crimes Act 1958**.

(4) A reference in an Act other than this Act or in a subordinate instrument or document to the Parole Board or Adult Parole Board is, on the commencement of this section, deemed to be a reference to the Board established by this section.

S. 61(5)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(f)).

(5) All proceedings pending before the Adult Parole Board established under Division 4 of Part VIII of the **Community Services Act 1970** immediately before the commencement of this section may be continued and completed by the Board established by this section, as if those proceedings were commenced under this Act and are not affected by the enactment of this section.

- (6) The Judge of the Supreme Court who, immediately before the commencement of this section, was a member of the Adult Parole Board established under Division 4 of Part VIII of the **Community Services Act 1970** is deemed to have been appointed as the chairperson of the Board established by this section.
- (7) The Adult Parole Board is the same body after the commencement of section 16 of the **Corrections (Prison Management and Prisoners) Act 1991** as it was before that commencement despite the changes in its membership made by that section.

**62. Deputy members**

- (1) In this section "**member**" includes the chairperson of the Board.
- (2) If a member (other than the Secretary) is unable to perform the duties of a member or is absent or the office of a member is vacant the Governor in Council may, on any recommendation which is necessary for the appointment of a member of that kind, appoint a qualified person to act in the member's place while the member is unable to perform the duties of office, is absent or the office of member is vacant.
- (3) If the Secretary is unable to perform the duties of a member or is absent, the Governor in Council may on the recommendation of the Secretary appoint a person to act as a member in the Secretary's place while the Secretary is unable to perform the duties of the member or is absent.
- (4) If the office of Secretary is vacant the Governor in Council may on the recommendation of the Minister appoint a person to act as a member while the office of the Secretary is vacant.

- (5) While acting in a member's place a deputy member appointed under sub-sections (2), (3) or (4) has the functions powers and duties of that member.
- (6) A deputy member is entitled to receive—
  - (a) such remuneration as is fixed by the Governor in Council; and
  - (b) such travelling and other allowances as are fixed by the Governor in Council.
- (7) A deputy member acting in the place of a chairperson has the functions powers and duties of a member and if the deputy chairperson is absent, has the functions of the chairperson.

**63. Terms of office**

- (1) A member of the Board holds office for the term, and subject to the conditions stated in the member's instrument of appointment but is eligible for re-appointment.
- (2) The Secretary ceases to hold office as a member of the Board upon ceasing to hold the office of Secretary.
- (3) A member of the Board may resign the office of member by writing signed by the member and given to the person who nominated or appointed the member.
- (4) The office of a member becomes vacant if—
  - (a) the member dies; or
  - (b) the member resigns; or

S. 63(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 44).

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- (c) the member's term of office expires.
- (5) A vacancy in the office of a member may be filled by appointment in accordance with this Division.
- (6) If a member who is a Judge of the Supreme Court or the County Court ceases to be a Judge, the member ceases to hold office as a member.
- (6A) If a member who is a Magistrate ceases to be a Magistrate, the member ceases to hold office as a member. **S. 63(6A) inserted by No. 16/1991 s. 16(3).**
- (7) A member is not in respect of the office of member subject to the **Public Sector Management and Employment Act 1998**. **S. 63(7) amended by No. 46/1998 s. 7(Sch. 1).**
- (8) The appointment as a member of the Board of a Judge of the Supreme Court or the County Court does not affect the tenure of office, rank, status or the remuneration rights or privileges of the Judge as the holder of office as a Judge, and for all purposes, service as a member of the Board by a Judge is to be regarded as service as a Judge.
- (9) A member of the Board (other than a Judge of the Supreme Court or County Court or a Magistrate) is entitled to receive— **S. 63(9) amended by No. 16/1991 s. 16(4).**
- (a) such remuneration as is fixed by the Governor in Council; and
- (b) such travelling and other allowances and expenses as are fixed by the Governor in Council.
- (10) A member of the Board who is a Judge of the Supreme Court or County Court or a Magistrate is entitled to receive such travelling and other allowances and expenses as are fixed by the Governor in Council. **S. 63(10) amended by No. 16/1991 s. 16(4).**
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S. 63(12)  
amended by  
No. 50/1988  
s. 93(2)(Sch. 2  
Pt 2 item 7).

- (11) The remuneration, travelling and other allowances and expenses fixed for members of the Board may be different for different classes of members.
- (12) If a person was immediately before becoming a member of the Board an officer within the meaning of the **State Superannuation Act 1988**, the member continues subject to that Act, to be an officer within the meaning of that Act.

#### 64. Divisions

S. 64(2)  
amended by  
No. 16/1991  
s. 16(5).

- (1) The Board may exercise its powers and functions in divisions of the Board.
- (2) A division of the Board consists of three members of whom at least one must be a Judge, retired Judge, Magistrate or retired Magistrate and that Judge, retired Judge, Magistrate or retired Magistrate is to be chairperson of that division.
- (3) The chairperson of the Board may give directions as to the arrangement of the business of the Board and as to the persons who are to constitute divisions of the Board for the purposes of particular matters.
- (4) The following questions which may arise before a division of the Board are to be decided by the chairperson of the division alone—
  - (a) whether a question is a question of fact or of law;
  - (b) any question determined to be a question of law.

S. 65  
amended by  
No. 16/1991  
s. 16(6).

#### 65. Chairperson

The chairperson or, in the chairperson's absence a member appointed under section 61(2)(a), (b) or (c) chosen in accordance with the procedure determined by the chairperson is to preside at

meetings of the Board, except where the Board meets as a division of the Board.

**66. Meetings**

- (1) The Board must meet at such times and places as are fixed by the regulations and at such other times and places as are fixed by the chairperson or acting chairperson.
- (2) The following questions which may arise at a meeting of the Board are to be decided by the person presiding at the meeting alone—
  - (a) whether a question is a question of fact or of law;
  - (b) any question determined to be a question of law.
- (3) The decision of a majority of the members present at a meeting of the Board on a question arising at the meeting (other than a question which under sub-section (2) is to be decided by the person presiding at the meeting alone) is the decision of the Board on that matter.
- (4) If there is an equality of votes on a question arising at a meeting of the Board, the person presiding at the meeting has a second or casting vote.
- (5) A question is not to be decided at a meeting of the Board unless the chairperson or acting chairperson and at least 3 other members of the Board are present.
- (6) Subject to the regulations, the Board may regulate its procedure.
- (7) An act or decision of the Board is not invalid simply because of—
  - (a) a vacancy in the office of a member; or



- (b) a defect or irregularity in the appointment of a member.

**67. Secretary of the Board or member may act on behalf of Board**

S. 67(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 45).

- (1) If the Board has heard and determined a matter the Secretary of the Board or a member of the Board may on behalf of the Board sign and issue all necessary orders and documents relating to that matter.
- (2) An order or document signed under sub-section (1) has effect as if signed by all the members of the Board.

**68. Evidentiary**

S. 68(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 46(a)).

- (1) All Courts must take judicial notice of the signature on a document of the Secretary of the Board or a member of the Board if the document is required or authorized to be signed by the Secretary or member under this Division, and must presume that the document was duly signed.

S. 68(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 46(b)).

- (2) A certificate signed by the Secretary of the Board which purports to set out the Board's decision or determination on a matter is evidence of the making of that decision or determination by the Board.

**69. Functions of Board**

S. 69(1)  
amended by  
Nos 16/1987  
s. 4(3)(Sch. 1  
item 7(g)),  
41/1993 s. 18,  
44/1996 s. 11.

- (1) The Board has the functions conferred on it by this Act and the regulations and by Division 10 of Part 4 of the **Children and Young Persons Act 1989** and the regulations made under that Division and by Subdivision (1A) of Division 2 of Part 3 of the **Sentencing Act 1991** and the regulations made under that Subdivision.
- (2) In exercising its functions, the Board is not bound by the rules of natural justice.

- 
- (3) A civil or criminal action cannot be brought against the Board or a member of the Board for anything done in good faith and with reasonable care in the performance of the Board's or member's functions or powers under this Act.

**70. Officers to assist Board**

The officers in the Office of Corrections must assist the Board in—

- (a) supervising persons released on parole; and

S. 70(a)  
amended by  
No. 44/1991  
s. 6(l).

- (b) performing the Board's other functions.

**71. Powers to take evidence etc.**

Sections 17, 18, 19, 20, 20A, 21, 21A and the Rules and Orders made under section 20(4) of the **Evidence Act 1958** apply to the Board and its proceedings as if the Board were a body of persons to whom the Governor in Council has issued a commission and the person presiding at meetings of the Board were the President or Chairman of that Commission.

**72. Reports**

- (1) Before 30 September in each year the Board must give to the Minister a report relating to the 12 months ending on 30 June in that year and concerning—
- (a) the number of persons released on parole during that period; and
- (b) the number of persons returned to prison during that period on cancellation of parole; and

s. 72

*Corrections Act 1986*  
*Act No. 117/1986*

(c) the operation of this Division, the activities of the Board and the activities of officers assisting the Board during that period.

(2) The Minister must cause the Board's annual report to be laid before the Legislative Council and the Legislative Assembly before the end of the fourteenth sitting day of the Legislative Council or the Legislative Assembly after the annual report has been received by the Minister.

S. 72(3)  
repealed by  
No. 65/1997  
s. 81(c).

\* \* \* \* \*

(4) When required by the Minister the Board must give to the Minister a report and recommendation concerning a person who at the time of the report is serving a prison sentence.

(5) When the Minister requires the Board must give to the Minister a report on a matter stated in the requirement and relating to the operation of this Division or the activities of the Board.

S. 72(6)  
repealed by  
No. 65/1997  
s. 81(c).

\* \* \* \* \*

(7) At the request of the Attorney-General for the Commonwealth the Minister may authorize the Board or an officer in the Office of Corrections—

(a) to make reports and recommendations concerning a person detained in a prison in Victoria under or pursuant to a law of the Commonwealth, to the Attorney-General for the Commonwealth at the intervals and times required by the Attorney-General for the Commonwealth; and

(b) to exercise a power or perform a function in relation to a person who is or has been

detained in a prison in Victoria under or pursuant to a law of the Commonwealth which is a power or function which the Attorney-General for the Commonwealth might exercise or perform in relation to that person.

**73. Community corrections officers subject to Board's direction**

S. 73  
amended by  
No. 44/1991  
s. 6(m).

In relation to a parole order community corrections officers are subject to the directions of the Board.

**74. Release on parole after service of non-parole period**

- (1) The Board may by instrument order that a prisoner serving a prison sentence in respect of which a non-parole period was fixed be released on parole at the time stated in the order (not being before the end of the non-parole period) and, unless the Board revokes the order before the time for release stated in the order, the prisoner must be released at that time.
- (2) The Board may revoke a parole order before the prisoner is released under the order.
- (3) If before a prisoner is released under a parole order the Board determines that the prisoner should be released at a different time than the time stated in the order, the prisoner must be released at that other time (not being before the end of the non-parole period).
- (4) Subject to sub-section (5) the terms and conditions of a parole order are those set out in the regulations.
- (5) The Board may vary the terms and conditions to which a parole order is subject and may include in a parole order any one or more of the conditions to which a pre-release permit is made subject by

S. 74(1)  
amended by  
No. 49/1991  
s. 119(7)  
(Sch. 4 item  
3.5).

S. 74(3)  
amended by  
No. 49/1991  
s. 119(7)  
(Sch. 4 item  
3.5).

S. 74(5)  
amended by  
No. 49/1991  
s. 119(4).

the regulations or to which, before the repeal of Division 6, such a permit was so made subject.

S. 74(6)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 47).

- (6) If the terms and conditions of a parole order require a prisoner to be under supervision, the Secretary must assign an officer to supervise the prisoner and may from time to time assign other officers to supervise the prisoner in place of the officer first assigned.
- (7) A prisoner released on parole must during the parole period comply with the terms and conditions of the parole order.
- (8) As soon as possible after making a determination revoking or cancelling a parole order the Board must give a copy of the determination to the prisoner including the reasons for the determination.
- (9) In this and the succeeding sections of this Division "**prisoner**" includes a person serving a sentence of imprisonment.

S. 75  
amended by  
Nos 16/1987  
s. 4(3)(Sch. 1  
item 7(h)),  
56/1989  
s. 286(Sch. 2  
item 6) (as  
amended by  
No. 93/1990  
s. 24(h)(iv)),  
45/1996  
s. 17(Sch. 1  
item 48).

**75. Young offenders—sentence and non-parole period**

If, under the **Children and Young Persons Act 1989**, a person is removed from a remand centre or youth training centre to a prison, the person or the Secretary may apply to the court that ordered the detention or, if the person was detained under orders of two or more courts, to the Supreme Court, for an order—

S. 75(b)  
amended by  
No. 49/1991  
s. 119(7)  
(Sch. 4 item  
3.6).

- (a) determining a sentence of imprisonment not exceeding the residue of the period of detention; and
- (b) if appropriate, fixing a non-parole period as if the sentence had been imposed when the detention was ordered.

**76. *Persons on parole deemed still under sentence***

If in relation to a prisoner the parole period elapses without the making by the Board of an order cancelling the parole or the commission by the prisoner, whether in Victoria or elsewhere, of an offence for which the prisoner is sentenced to imprisonment for more than three months (whether during or after the parole period), the prisoner is to be regarded as having served a prison sentence and is to be wholly discharged from the sentence, but until the parole period so elapses or until the prisoner is otherwise discharged from the prison sentence the person released on parole is to be regarded as being still under sentence.

**77. *Cancellation of parole***

- (1) If a prisoner is released on parole the Board may at any time before the end of the parole period by order cancel the parole.
- (2) If the Board has cancelled a prisoner's parole it may at any time by a further order revoke the cancellation.
- (3) A parole order revives on the revocation of an order cancelling the parole.
- (4) The Board must not make an order revoking an order cancelling a prisoner's parole if a warrant has been issued under this section unless the Board is satisfied that the warrant will not be executed.
- (5) If the prisoner is sentenced to another prison sentence for more than 3 months in respect of an offence committed during the parole period, whether in Victoria or elsewhere, the Board may

by order cancel the prisoner's parole, although the parole period may already have elapsed.

(6) If a prisoner's parole is cancelled or deemed to have been cancelled, the Board may—

S. 77(6)(a)  
amended by  
No. 57/1989  
s. 3(Sch. item  
35.2).

(a) authorize any member of the police force, by warrant signed by the Secretary or a member of the Board, to arrest the prisoner and return the prisoner to prison; or

S. 77(6)(b)  
amended by  
No. 57/1989  
s. 3(Sch. item  
35.2).

(b) whether or not a warrant is issued under paragraph (a), authorize the making of an application to a magistrate for a warrant authorizing any member of the police force or other officer to arrest the prisoner and return the prisoner to prison.

(7) If a prisoner's parole is cancelled or deemed to be cancelled—

S. 77(7)(a)  
amended by  
No. 57/1989  
s. 3(Sch. item  
35.3).

(a) the original warrant to imprison or other authority for the person's imprisonment is to be regarded as again in force; and

(b) unless the Board otherwise directs, the period during which the parole order was in force is not to be regarded as time served in respect of the prison sentence.

S. 77(8)  
amended by  
No. 23/1994  
s. 118(Sch. 1  
item 14.5  
(a)(b)).

(8) The Board in determining whether to make vary or cancel a parole order, may arrange for the examination of the prisoner by a registered medical practitioner within the meaning of the **Medical Practice Act 1994**, psychiatrist or psychologist and may require the registered medical practitioner, psychiatrist, psychologist or any other person whom the Board believes may be able to do so, to give a report in writing to the Board.

**78. Prisoners may be released on parole more than once**

The Board may again release a prisoner on parole although the prisoner's parole has been cancelled on a previous occasion or on previous occasions in respect of the same prison sentence but if the prisoner has been sentenced to another prison sentence the Board must not release the prisoner on parole until the prisoner has served the non-parole period or, if no non-parole period is fixed, the prison sentence.

S. 78 amended by No. 49/1991 s. 119(7) (Sch. 4 item 3.7).

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S. 79 amended by Nos 57/1989 s. 3(Sch. item 35.4), 45/1996 s. 17(Sch. 1 item 49(a)(b)), repealed by No. 65/1997 s. 81(c).

\* \* \* \* \*

Pt 8 Div. 6 (Heading and ss 80–84) amended by No. 57/1989 s. 3(Sch. items 35.5, 35.6), repealed by No. 44/1991 s. 5(1).



Pt 8A  
(Heading and  
ss 80–84E)  
inserted by  
No. 94/1994  
s. 22.

**PART 8A—INTERSTATE LEAVE OF ABSENCE FOR  
PRISONERS**

New s. 80  
inserted by  
No. 94/1994  
s. 22.

**80. Definitions**

In this Part—

**"corresponding Director"** in relation to a participating State, means the officer responsible for the administration of prisons in that State;

**"interstate law"** means a law that under an Order in force under section 81 is declared to be an interstate law for the purposes of this Part;

**"participating State"** means any State in which an interstate law is in force;

**"permit"** means a custodial community permit issued under this Part;

**"State"** includes the Australian Capital Territory and the Northern Territory.

New s. 81  
inserted by  
No. 94/1994  
s. 22.

**81. Interstate laws**

- (1) Subject to sub-section (2), the Governor in Council may, by Order published in the Government Gazette, declare that a law of a State other than Victoria is an interstate law for the purposes of this Part.
- (2) An Order must not be made under sub-section (1) in respect of the law of another State unless the Governor in Council is satisfied that the law—
  - (a) substantially corresponds to the provisions of this Part; and

- (b) contains provisions that are referred to in this Part as provisions of an interstate law that correspond to specified provisions of this Part.

**82. Custodial community permit**

The Secretary may issue a custodial community permit to a prisoner for leave to travel to a participating State—

- (a) to visit a person with whom the prisoner has had a long standing personal relationship if that person is seriously ill or in acute personal need; or
- (b) to attend the funeral of a person with whom the prisoner had a long standing personal relationship; or
- (c) for any other compassionate purpose.

New s. 82 inserted by No. 94/1994 s. 22, amended by No. 45/1996 s. 17(Sch. 1 item 50).

**83. Effect of permit**

(1) A permit issued to a prisoner—

- (a) authorises the prisoner to be absent from the prison in the custody of a prison officer for the purpose and for the period stated in the permit; and
- (b) authorises the prison officer appointed to escort the prisoner to take and keep custody of the prisoner for the purpose of escorting the prisoner to the participating State (whether or not across another State) and within the participating State for the purpose set out in the permit and returning the prisoner to the prison from which leave of absence was given; and
- (c) is subject to the conditions set out in the regulations and any other conditions stated in the permit.

New s. 83 inserted by No. 94/1994 s. 22.

S. 83(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 51).

- (2) The period stated in a permit must not exceed 3 days.
- (3) A prisoner who is authorised to be absent from prison under a permit continues in the custody of the Secretary while absent.

S. 83(4)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 51).

- (4) The Secretary may by instrument in writing appoint a prison officer to be an escort for the purposes of this Part.

New s. 84  
inserted by  
No. 94/1994  
s. 22.

#### **84. Variation or revocation of permit**

S. 84(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 52).

- (1) The Secretary may before the prisoner is allowed to be absent from the prison under a permit or at any time during the period of the permit—
  - (a) vary or revoke any condition of the permit or impose any additional condition; or
  - (b) subject to section 83(2), vary the period of the permit; or
  - (c) revoke the permit.
- (2) The revocation of a permit or the varying or revocation of a condition or the varying of the period of the permit or the imposing of an additional condition under this section takes effect immediately.

S. 84A  
inserted by  
No. 94/1994  
s. 22.

#### **84A. Breach of permit**

A prisoner who fails without reasonable excuse to comply with any conditions of a permit is guilty of an offence and liable to imprisonment for a term of not more than 3 years.

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**84B. Notice to participating State and transit States**

S. 84B  
inserted by  
No. 94/1994  
s. 22.

- (1) The Secretary must give notice in writing to the corresponding Director and the chief officer of police of a participating State of the issue of a permit permitting a prisoner to travel to that State and of the period of the permit.
- (2) The Secretary must give notice in writing to the chief officer of police of any other State through which a prisoner is to travel by land to reach the participating State of the issue of a permit permitting the prisoner to travel to the participating State and of the period of the permit.

S. 84B(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 53).

S. 84B(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 53).

**84C. Effect of permit issued under interstate law**

S. 84C  
inserted by  
No. 94/1994  
s. 22.

- (1) If—
  - (a) under an interstate law a permit is issued permitting a person imprisoned in a participating State to travel to Victoria for a purpose similar to a purpose set out in section 82(a), (b) or (c); and
  - (b) pursuant to that permit an escort brings the person to Victoria—

the escort, while in Victoria, is authorised to hold, take and keep custody of the person for the purpose of escorting the prisoner for the purposes set out in the permit and returning the prisoner to the participating State.
- (2) If—
  - (a) under an interstate law a permit is issued permitting a person imprisoned in a participating State (the first State) to travel to another participating State (the second State); and

(b) in the course of escorting the person to the second State or returning the person to the first State pursuant to the permit, an escort brings the person into Victoria—

the escort, while in Victoria, is authorised to hold, take and keep custody of the person for the purpose of escorting the person to the second State and returning him or her to the first State.

S. 84D  
inserted by  
No. 94/1994  
s. 22.

**84D. *Escape from custody of prisoner on leave of absence***

(1) A person in the custody of an escort pursuant to section 84C who escapes from that custody may be apprehended without warrant by the escort, any member of the police force or any other person.

(2) If a person in custody pursuant to section 84C—  
(a) has escaped and been apprehended; or  
(b) has attempted to escape—

that person may be taken before the Magistrates' Court which may, despite the terms of any permit issued under an interstate law, by warrant—

(c) order the person to be returned to the participating State in which the permit was issued; and  
(d) for that purpose, order the person to be delivered to an escort.

(3) Sub-sections (1) and (2) do not apply to a person to whom section 47 of the Crimes Act 1914 of the Commonwealth applies.

(4) A warrant under sub-section (2) may be executed according to its tenor.

(5) A person who is the subject of a warrant issued under sub-section (2) may be detained in the custody of the Secretary as a prisoner until he or she is delivered into the custody of an escort in

S. 84D(5)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 54).

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accordance with the warrant or until the expiration of a period of 7 days from the issuing of the warrant, whichever first occurs.

- (6) If a person who is the subject of a warrant issued under sub-section (2) is not, in accordance with the warrant, delivered into the custody of an escort within a period of 7 days from the issuing of the warrant, the warrant has no further effect.
- (7) A reference in sub-section (2), (5) or (6) to an escort in relation to a person who was, at the time of his or her escape or attempted escape, being escorted under a permit issued in a participating State is a reference to—
  - (a) the escort who had the custody of that person pursuant to that permit; or
  - (b) a prison officer or a member of the police force of the participating State; or
  - (c) a person appointed by the corresponding Director of the participating State by instrument in writing to be an escort for the purpose of escorting that person to the participating State—or any 2 or more of them.

**84E. *Escape from custody—penalty***

- (1) Any person who being in custody under a permit, escapes or attempts to escape from that custody while he or she is not within Victoria or the participating State to or from which he or she was being escorted under that permit is guilty of an indictable offence and is liable to imprisonment for a term not exceeding 7 years, to be served after the expiration of any term of imprisonment, penal servitude or detention to which he or she was subject at the time of his or her escape or attempt to escape.

S. 84E  
inserted by  
No. 94/1994  
s. 22.

(2) Without limiting the generality of section 479C of the **Crimes Act 1958**, that section applies to a person—

- (a) who is in custody under a permit; and
- (b) who escapes from that custody while he or she is not within Victoria or the participating State to or from which he or she was being escorted under that permit—

in the same way as it applies to a person who escapes from lawful custody while undergoing a sentence involving deprivation of liberty in Victoria.

(3) Sub-sections (1) and (2) do not apply to a person to whom section 47 of the Crimes Act 1914 of the Commonwealth applies.

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**PART 8B—PRISON INDUSTRIES**

**Division 1—Prison industry sites and prison industries**

Pt 8B  
(Heading and  
ss 84F–84P)  
inserted by  
No. 45/1996  
s. 3.

**84F. *Appointment of prison industry sites***

S. 84F  
inserted by  
No. 45/1996  
s. 3.

- (1) The Minister may by Order appoint any place outside a prison under Part 3 as a prison industry site for the purposes of this Act.
- (2) The Minister may by Order revoke the appointment of a place as a prison industry site.
- (3) An Order under this section comes into operation on its making or on a later date stated in the Order.
- (4) The Minister must within 7 days after the making of an Order under this section publish a copy of the Order in the Government Gazette.

**84G. *Secretary may carry on business for prison industries***

S. 84G  
inserted by  
No. 45/1996  
s. 3.

- (1) The Secretary may, for or in connection with the management of prison industries and prison industry sites—
  - (a) carry on a business, or businesses, of manufacturing or producing goods, providing services or farming;
  - (b) train prisoners or offenders in the trades and professions associated with any of those businesses;
  - (c) sell goods and services manufactured, produced or provided in the course of any of those businesses;
  - (d) sell produce and stock grown or reared on farms.



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- (2) The Secretary may, for and on behalf of the Crown, enter into an agreement with any person for any purpose in connection with the Secretary's functions under sub-section (1).

S. 84H  
inserted by  
No. 45/1996  
s. 3.

**84H. *Secretary may direct prisoners and offenders to work***

- (1) The Secretary may direct any prisoner or offender other than a prisoner on remand to work in any prison industry or work program approved by the Secretary.
- (2) A prisoner or offender must comply with a direction of the Secretary under this section.

**Division 2—Prison Industry Advisory Committee**

S. 84I  
inserted by  
No. 45/1996  
s. 3.

**84I. *Prison Industry Advisory Committee***

- (1) There is established a Prison Industry Advisory Committee.
- (2) The Committee consists of not more than 10 members appointed by the Minister.
- (3) The Minister must appoint one of the members of the Committee as the Chairperson of the Committee.

S. 84J  
inserted by  
No. 45/1996  
s. 3.

**84J. *Functions***

The functions of the Committee are, at the direction of the Minister, to advise and make recommendations to the Minister on—

- (a) the provision of prison industries; and
- (b) any other matters relating to prison industries.

S. 84K  
inserted by  
No. 45/1996  
s. 3.

**84K. *Terms and conditions of appointment***

- (1) A member of the Committee is appointed for the term, not exceeding 3 years, specified in the instrument of appointment.

(2) A member of the Committee is eligible for re-appointment.

(3) The **Public Sector Management and Employment Act 1998** does not apply to a member of the Committee in respect of the office of member.

S. 84K(3)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

**84L. Remuneration**

A member of the Committee, other than an employee of the public service, is entitled to be paid the remuneration and allowances from time to time determined by the Minister in respect of that member.

S. 84L  
inserted by  
No. 45/1996  
s. 3, amended  
by No.  
46/1998  
s. 7(Sch. 1).

**84M. Resignation and termination**

(1) A member may resign from office by letter in writing signed by the member and delivered to the Minister.

(2) The Minister may at any time remove a member of the Committee from office.

S. 84M  
inserted by  
No. 45/1996  
s. 3.

**84N. Meetings of Committee**

(1) The Committee must meet at the times and places determined by the Chairperson.

(2) The Chairperson must preside at meetings of the Committee at which he or she is present and, if he or she is not present at a meeting, the members present may elect one of their number to preside at the meeting.

(3) Subject to this section and the regulations, the procedure of the Committee is in its discretion.

S. 84N  
inserted by  
No. 45/1996  
s. 3.

**84O. Disclosure of interest**

(1) A member of the Committee who has any direct or indirect pecuniary interest in a matter being considered or about to be considered by the Committee—

S. 84O  
inserted by  
No. 45/1996  
s. 3.

- (a) must as soon as practicable after the relevant facts have come to his or her knowledge, disclose the nature of his or her interest at a meeting of the Committee; and
  - (b) must not, after the disclosure, be present during any deliberation of the Committee with respect to the matter.
- (2) The disclosure of an interest made by a member of the Committee at a meeting must be recorded in the minutes of the meeting.

S. 84P  
inserted by  
No. 45/1996  
s. 3.

**84P. *Periodic reports***

- (1) The Committee may, at any time, prepare and present to the Minister a report on its activities or any part of them.
  - (2) The Committee must, after receiving a request from the Minister for information on any of its activities, give to the Minister the information requested.
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**PART 9—COMMUNITY CORRECTIONS**

**Division 1—Definitions**

**85. Definitions**

In this Part—

**"act of misconduct"** means an offender's contravention of this Act, the regulations, or a direction of the Secretary, a Regional Manager or an officer, which is declared by the regulations to be an act of misconduct;

S. 85 def. of "act of misconduct" amended by No. 45/1996 s. 17(Sch. 1 item 55(a)).

**"community corrections programme"** means a programme or series of programmes approved by the Secretary under this Part;

S. 85 def. of "community corrections programme" amended by No. 45/1996 s. 17(Sch. 1 item 55(b)).

**"officer"** means a person who is—

S. 85 def. of "officer" amended by Nos 11/1993 s. 7(1)(f), 23/1994 s. 118(Sch. 1 item 14.6).

- (a) a Regional Manager; or
- (b) a community corrections officer; or
- (c) a volunteer who is working at a location; or
- (d) an officer or employee in the Public Service or the teaching service or the Technical and Further Education Teaching Service who is working at a location; or
- (e) a member of a prescribed class of persons who works at a location as a psychiatrist, registered medical practitioner, dentist, nurse or health worker;

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**"region"** means an area or several areas designated under this Part.

## **Division 2—Establishment of Community Corrections Centres and Regional Centres**

### **86. Community corrections centres**

- (1) The Governor in Council may by order appoint any premises or place to be a community corrections centre.
- (2) An order establishing a community corrections centre may include a statement restricting the number of offenders who may attend the centre.
- (3) An order establishing a community corrections centre comes into operation on its making or on a later date stated in the order.
- (4) The Minister must within 7 days after the making of an order under sub-section (1) publish a copy of the order in the Government Gazette.
- (5) A place, establishment or institution which was an attendance centre under section 42 of the **Penalties and Sentences Act 1981** as in force immediately before the commencement of item 18 of Schedule 4 of the **Penalties and Sentences Act 1985** is deemed to be appointed a community corrections centre under this section.

### **87. Regions**

- (1) The Secretary may in accordance with the regulations by instrument published in the Government Gazette designate what areas in Victoria are regions.
- (2) An instrument declaring a region may include a statement restricting the number of offenders who may be supervised at locations in the region.

### **88. Regional centres**

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S. 87(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 56).

- (1) The Governor in Council may by order appoint a community corrections centre to be a regional centre.
- (2) An order under sub-section (1) comes into operation on its making or on a later date stated in the order.
- (3) The Minister must within 7 days after the making of an order under sub-section (1) publish a copy of the order in the Government Gazette.

### **Division 3—Officers**

#### **89. Officers subject to Regional Manager's directions**

An officer—

- (a) who is an officer within the meaning of paragraph (e) of the definition of "officer" in section 85 and is working in a region, is subject to the directions relating to the security of locations in the region given by the Regional Manager of the region; and
- (b) who is an officer within the meaning of paragraph (a), (b), (c) or (d) of the definition of "officer" in section 85 is working in a region, is subject to the directions of the Regional Manager of the region.

#### **90. Powers and duties of officers**

- (1) An officer must, when required by the Secretary, make reports and returns and keep records and give those reports, returns and records to the Secretary or to any person or body stated in the requirement.
- (2) An officer must, when required by the Secretary—
  - (a) report to a court concerning an offender or a person who comes before the court for

S. 90(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 57).

S. 90(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 57).

- sentencing or where the court is considering giving a person a bond; and
- (b) report to the Adult Parole Board concerning an offender.
- (3) An officer working at a location—
- (a) must not jeopardize the security or the good order of the location; and
- (b) must report immediately to the Regional Manager anything which might reasonably be thought to jeopardize the security or the good order of the location.
- (4) In relation to officers within the meaning of paragraph (e) of the definition of "officer" in section 85—
- (a) sub-sections (1) and (2) apply as if they referred to reports, returns and records concerning the security of locations only; and
- (b) sub-section (3) applies as if it did not include references to good order.
- (5) An officer in charge of a location or part of a location must take all reasonable steps for the security and management of, and the safety and welfare of offenders at the location or part of the location.
- (6) An officer may give such directions to offenders as are necessary for the management good order or security of a location.
- (7) A community corrections officer may use reasonable force to compel an offender to obey a

direction, if the officer believes on reasonable grounds that the use of force is necessary—

- (a) to prevent the offender or another person being killed or seriously injured; or
  - (b) to prevent serious damage to property.
- (8) If a community corrections officer uses force to compel an offender to obey a direction, the officer must report the fact to the Regional Manager as soon as possible.
- (9) The Regional Manager must as soon as possible report to the Secretary—
- (a) the use of force by the Regional Manager to compel an offender to obey a direction; and
  - (b) the use of force by a community corrections officer, if that officer has reported the fact to the Regional Manager.

S. 90(9)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 57).

**91. Disclosure of information**

Except for the extent necessary to perform official duties, an officer must not disclose to any person except—

- (a) a court; or
- (b) the Minister; or
- (c) the Secretary; or
- (d) a Regional Manager; or
- (e) with the authority of the Minister, Secretary or a Regional Manager; or

S. 91(c)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 58).

S. 91(e)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 58).



- (f) the Ombudsman or the Ombudsman's officers—

information gained because of the officer's position as an officer or contained in a record, return or report prepared by the officer under this Act.

Penalty: 5 penalty units.

### **92. Additional duties of Regional Manager**

- (1) The Regional Manager of a region is responsible for the management good order and security of the locations in the region.
- (2) The Regional Manager of a region must take reasonable steps to ensure that officers working in the region have access to information as to what their powers and duties are and what provision is made by or under this Act and the **Sentencing Act 1991** concerning locations and offenders.
- (3) The Regional Manager of a region must give all necessary directions to ensure that—
  - (a) officers within the meaning of paragraph (e) of the definition of "officer" in section 85 and who are working in or assigned to the region, comply with the provisions of this Act, and the regulations concerning the security of locations; and
  - (b) other officers working in or assigned to the region comply with this Act, the regulations, and the **Sentencing Act 1991**.

S. 92(2)  
amended by  
No. 49/1991  
s. 119(7)  
(Sch. 4  
item 3.8).

S. 92(3)(b)  
amended by  
No. 49/1991  
s. 119(7)(Sch.  
4 item 3.8).

## **Division 4—Discipline of Offenders**

### **93. Additional directions by community corrections officers**

- (1) A community corrections officer may give directions (not inconsistent with any correctional order) to an offender concerning the work which the offender is to undertake at a location and the times at which an offender is to attend a location and the reports which the offender is to make as to attendance and work done.
- (2) A direction under sub-section (1) must not unreasonably interfere with work being done by an offender, education being undertaken by an offender or the practice by an offender of a religion.

**94. *Regional Manager may deal with acts of misconduct***

- (1) The Regional Manager of a region must in accordance with the regulations record any alleged act of misconduct committed by an offender at a location in the region and the action taken by the Regional Manager.
- (2) If the Regional Manager of a region suspects that an offender has committed an act of misconduct at a location in the region the Regional Manager must immediately make proper investigation of the matter.
- (3) During an investigation the Regional Manager must give the offender an opportunity to make submissions about the alleged act of misconduct.
- (4) If after completing an investigation and considering any submissions made by an offender the Regional Manager determines that the offender has committed an act of misconduct but that the act is so trivial that action should not be taken against the offender for breach of a community-based order, the Regional Manager may caution or reprimand the offender and need take no further action.

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- (5) If the Regional Manager determines that the offender has committed an act of misconduct by failing to do satisfactory work at a location, the Regional Manager may by instrument direct that the period during which the offender has not worked satisfactorily is not to be regarded as a period during which the offender has done work for the purposes of this Act.
- (6) The Regional Manager must give to the offender a copy of a direction made under sub-section (5).
- (7) At an offender's request the Secretary may by notice in writing given to the Regional Manager vary or revoke the Regional Manager's direction under this section.

S. 94(7)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 59).

### **Division 5—Community Corrections Programmes**

#### **95. *Approval of community corrections programmes***

- (1) The Secretary may by instrument approve programmes of activities as community corrections programmes in which offenders may take part.
- (2) Community corrections programmes may include, but are not limited to, any of the following—
- (a) community, voluntary or charitable work;
  - (b) programmes for the treatment of alcoholics or drug dependent persons;
  - (c) living at or attending locations;
  - (d) counselling;
  - (e) work at a hospital, home for aged or infirm persons or an educational institution;
  - (f) work at a home or institution for socially disadvantaged or disabled persons;

S. 95(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 60).

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- (g) work on Crown land;
  - (h) educational programmes;
  - (i) personal development programmes.
- (3) A community corrections programme may include a requirement for offenders to report on the activities in which they take part.
- (4) The Regional Manager of a region may determine for each offender under the Regional Manager's supervision an individual programme of activities including activities which are part of a community corrections programme.

#### **Division 6—Management and Administration of Locations**

##### **96. *Officer subject to directions of Principal of training institution***

- (1) An officer attending a training institution is subject to the direction of the Principal of that institution.
- (2) In this section "**training institution**" means an institution for the training of officers established or conducted in accordance with the regulations.

##### **97. *Secretary may nominate person to act as Regional Manager***

- (1) If a Regional Manager is absent from a region or the position of Regional Manager is vacant the Secretary may nominate a community corrections officer to act as Regional Manager while the Regional Manager is absent or the position of Regional Manager is vacant.
- (2) A community corrections officer nominated to act as Regional Manager has the functions powers and duties of a Regional Manager while so acting.

S. 97(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 61).

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**98. Management of region in Regional Manager's temporary absence**

- (1) If a Regional Manager is to be absent temporarily from a region the Regional Manager may nominate a community corrections officer to be in charge of the region during the Regional Manager's absence.
- (2) If the Regional Manager is absent from the region and has not nominated a community corrections officer to be in charge of the region and the Secretary has not nominated a community corrections officer to act as Regional Manager, the most senior ranking community corrections officer then on duty is in charge of the region.
- (3) A community corrections officer in charge of a region has the functions powers and duties of the Regional Manager until the Regional Manager returns or the Secretary nominates a person to act as Regional Manager.

S. 98(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 62).

S. 98(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 62).

**99. Photographing**

- (1) As soon as possible after an offender's reception into a community corrections centre a community corrections officer must take photographs of the offender.
- (2) For the purposes of identifying the offender and completing records concerning offenders an officer may at any time after an offender's reception into a community corrections centre take photographs of the offender.
- (3) An officer may give to an offender all necessary directions to ensure the taking of accurate photographs.

**100. Search**

- (1) A Regional Manager may at any time, order a community corrections officer to—
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- (a) search any part of a community corrections centre in the region; or
  - (b) search and examine an officer, an offender, a visitor or any other person in a community corrections centre; or
  - (c) search and examine anything in a community corrections centre; or
  - (d) require a person wishing to enter a community corrections centre to submit to search and examination of the person and anything in the person's possession or under the person's control—

if the Regional Manager believes that the search is necessary for the security or good order of the community corrections centre or the offenders in it.

- (2) If a person other than an officer or an offender refuses to submit to a search under this section the Regional Manager may order the person to leave the community corrections centre immediately.
- (3) A person who disobeys a Regional Manager's order under sub-section (2) is guilty of an offence.  
Penalty: 5 penalty units.
- (4) A community corrections officer may, if necessary use reasonable force to compel a person to obey an order to leave a community corrections centre.
- (5) A community corrections officer is not liable for injury or damage caused in carrying out searches or using force in accordance with this section.
- (6) A Regional Manager may at any time order a search under this section to be terminated.

**101. *Seizure***

- (1) In carrying out searches under section 100 a community corrections officer may seize anything found in a community corrections centre, whether in a person's possession or not, which the community corrections officer believes on reasonable grounds jeopardizes or is likely to jeopardize the security or good order of the community corrections centre or the safety of persons in it.
- (2) A community corrections officer who seizes anything under sub-section (1) must immediately inform the Regional Manager.
- (3) The Regional Manager must deal in accordance with the regulations with anything, which is not a drug of dependence, seized under this section.

**102. *Delegation***

A Regional Manager may by instrument delegate to an officer or class of officers any function or power of the Regional Manager under this Act, except this power of delegation, and the powers declared by the regulations to be powers which a Regional Manager cannot delegate.

**103. *Access to community corrections centres and locations***

- (1) The Regional Manager of a region may authorize any person to enter a location.
- (2) An authority under sub-section (1) is subject to the conditions determined by the Regional Manager and stated in the authority.
- (3) A person who is authorized to enter a location and who, whilst at the location—
  - (a) contravenes this Act, or the regulations; or

- (b) contravenes a direction given by the Regional Manager; or
- (c) contravenes a condition to which the authority to enter is subject; or
- (d) does anything which, in the Regional Manager's opinion, threatens the good order or security of the location—

must, if ordered by the Regional Manager, leave the location immediately.

- (4) A person who disobeys an order to leave a location is guilty of an offence.

Penalty: 10 penalty units.

**104. Offender subject to Secretary's directions**

- (1) An offender is subject to the Secretary's directions while the offender is at a location, taking part in a community corrections programme or is being transferred from one location to another, from a location to a place where a community corrections programme is conducted, or from that place to a location.
- (2) The Secretary may, if not inconsistent with the correctional order relating to an offender, direct the offender to attend a location or to take part in a community corrections programme.
- (3) An offender who disobeys a direction given by the Secretary under this section is guilty of an offence.

S. 104(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 63(b)).

S. 104(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 63(a)).

S. 104(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 63(a)).

Penalty: 5 penalty units.



Pt 9A  
(Heading and  
ss 104A–  
104D)  
inserted by  
No. 45/1996  
s. 11.

PART 9A—SEARCH AND SEIZURE IN POLICE GAOLS

S. 104A  
inserted by  
No. 45/1996  
s. 11.

**104A. Definitions**

In this Part—

**"charged person"** means—

- (a) a person who has been charged with an offence who is detained in a police gaol; or
- (b) a person who is detained in a police gaol on the order of a court;

**"detained person"** means any person who is detained in a police gaol;

**"officer in charge"** means a member of the police force for the time being in charge of a police gaol;

**"police officer"** means a member of the police force.

S. 104B  
inserted by  
No. 45/1996  
s. 11.

**104B. Formal searches in police gaols**

- (1) A person who wishes to enter or remain in a police gaol as a visitor must, if asked, submit to a formal search.
- (2) In this section **"formal search"** means a search to detect the presence of drugs, weapons or metal articles carried out by an electronic or mechanical device.
- (3) If, when asked, a person does not submit to a formal search, a police officer may prohibit the person from entering the police gaol or if the

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person is in the police gaol, order the person to leave the police gaol immediately.

**104C. Search powers**

S. 104C  
inserted by  
No. 45/1996  
s. 11.

- (1) For the good order or security of a police gaol or detained persons, the officer in charge of the police gaol may, at any time, exercise any of the following powers or order a police officer to exercise any of the following powers—
  - (a) search any part of the police gaol; or
  - (b) search and examine any charged person, a visitor to the police gaol, a police officer or any other person in the police gaol;
  - (c) search and examine any thing in the police gaol or held by the police on behalf of a detained person;
  - (d) as well as the formal search required by section 104B, require a person wishing to enter a police gaol to submit to a search and examination of the person and of any thing in the person's possession or under the person's control; or
  - (e) conduct any search under paragraph (a), (b), (c), or (d) at random.
- (2) Sub-sections (1)(b) and (1)(d) do not apply to a visitor to a police gaol or person wishing to enter a police gaol who is—
  - (a) a judge of the Supreme Court or County Court; or
  - (b) a magistrate; or
  - (c) a relative or friend of a detained person; or
  - (d) visiting a detained person who is a child within the meaning of the **Children and Young Persons Act 1989**.

- (3) The officer in charge of a police gaol may search or examine or order a police officer to search or examine a detained person (other than a charged person) if the officer in charge believes on reasonable grounds that the search or examination is necessary—
  - (a) for the security or good order of the police gaol; or
  - (b) for the safety of persons at the police gaol (whether in custody or not); or
  - (c) to locate a weapon, or any thing that may be used in the escape of a person from a police gaol; or
  - (d) to locate any thing connected with, or affording evidence of, the commission of the offence for which the person is detained in the police gaol;
- (4) If a person, other than a detained person or a police officer, refuses to submit to be searched under this section while inside the police gaol, the officer in charge of the police gaol may order the person to leave the police gaol immediately.
- (5) A person must comply with an order under subsection (4).

Penalty: 5 penalty units.
- (6) The officer in charge of a police gaol may at any time make an order terminating a search under this section.

S. 104D  
inserted by  
No. 45/1996  
s. 11.

**104D. *Seizure***

- (1) In carrying out searches under sections 104B and 104C, a police officer may seize any one or more of the following—
    - (a) any thing found in the police gaol, whether in a person's possession or not, which the
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- police officer believes on reasonable grounds jeopardises or is likely to jeopardise the security or good order of the police gaol or the safety of persons in the police gaol;
- (b) any thing found on a detained person or in a detained person's possession, other than a thing which the detained person is authorised to wear or to possess under the regulations or a direction of the officer in charge of the police gaol;
- (c) any thing which a detained person is authorised to wear or possess under the regulations or a direction of the officer in charge of the police gaol which the police officer believes on reasonable grounds jeopardises or is likely to jeopardise the security of the police gaol or the safety of persons in the police gaol;
- (d) any thing which the police officer believes on reasonable grounds is connected with, or affords evidence of, the commission of the offence for which the person is detained in the police gaol.
- (2) A police officer who seizes any thing under subsection (1) must immediately inform the officer in charge of the police gaol.
- (3) The officer in charge of a police gaol must deal in accordance with the regulations with any thing, which is not a drug of dependence, and is seized under this section.
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**PART 10—GENERAL**

**105. *Proceedings for offences***

S. 105(1)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 64).

- (1) The Secretary or an officer within the meaning of Part 5 or Part 9 authorized by the Secretary may take proceedings for offences against this Act or the regulations.

S. 105(2)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 64).

- (2) For the purposes of sub-section (1), the Secretary may authorize officers generally, a class of officers or a particular officer.

S. 106  
amended by  
Nos 16/1987  
s. 4(3)(Sch. 1  
item 7(i)),  
45/1996  
s. 17(Sch. 1  
item 65(a)(b)).

**106. *Judicial notice of signatures***

If by or under this Act or the **Community Services Act 1970** the Secretary or an officer within the meaning of Part 5 or Part 9 of this Act is required or authorized to sign a document, all courts must take judicial notice of the Secretary's or the officer's signature on that document.

S. 107  
amended by  
Nos 16/1987  
s. 4(3)(Sch. 1  
item 7(j)),  
45/1996  
s. 17(Sch. 1  
item 66(a)(b)).

**107. *Construction of references***

In—

- (a) an Act other than this Act; or
- (b) a subordinate instrument other than a subordinate instrument made under this Act;  
or
- (c) a document which is not an Act or a subordinate instrument—

a reference to "the Director of Children's Welfare", "the Director-General of Social Welfare", "the Director-General of Community Services", "the Director of Probation and Parole", "the Chief Probation Officer" or "the Chief Parole Officer" is—

- (d) if the matter to which the reference relates is after the commencement of this section or by virtue of the **Community Services (Director-General of Corrections) Act 1983** within the responsibilities of the Secretary, deemed to refer to the Secretary; and
- (e) if the matter to which the reference relates is after the commencement of section 17 of the **Corrections (Amendment) Act 1996** within the responsibilities of the Secretary, deemed to refer to the Secretary.

S. 107(d)  
amended by  
No. 46/1998  
s. 7(Sch. 1).

S. 107(e)  
inserted by  
No. 45/1996  
s. 17(Sch. 1  
item 66(b)).

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S. 108  
repealed by  
No. 11/1993  
s. 4(4).

#### 109. *Grants by Minister*

Out of the moneys available for the purpose the Minister may make grants to organizations which, in the Minister's opinion, promote the welfare of prisoners or offenders or provide treatment or help of any other kind for prisoners or offenders.

S. 109  
amended by  
No. 31/1994  
s. 3(Sch. 1  
item 14).

#### 110. *Accident compensation*

A person who is—

- (a) an offender who is required or directed by or under a correctional order, a provision of the **Sentencing Act 1991**, or Part 9 of this Act to work or to take part in a programme of activities; or
- (b) a volunteer who is working in a prison or at a location—

S. 110  
amended by  
No. 49/1991  
s. 119(7)  
(Sch. 4 item  
3.9),  
substituted by  
No. 50/1994  
s. 124.

is deemed, for the purposes of the **Accident Compensation Act 1985**, to be a worker employed by the Crown.

**111. Sheriff's power not affected**

This Act does not affect any function power or duty in relation to prisons or the confinement or release of prisoners which a sheriff has under another Act or a rule of law or practice.

S. 111A inserted by No. 94/1994 s. 23, amended by No. 26/1997 s. 16(1).

**111A. Supreme Court—limitation of jurisdiction**

- (1) It is the intention of this section to alter or vary section 85 of the **Constitution Act 1975** to the extent necessary to prevent the Supreme Court from—
  - (a) entertaining actions for compensation in respect of which section 8D provides that no compensation is payable; and
  - (b) entertaining actions for liability in relation to a matter in respect of which section 9CB provides that there is no liability.
- (2) It is the intention of section 9CB as amended by the **Police and Corrections (Amendment) Act 1997** to alter or vary section 85 of the **Constitution Act 1975**.

S. 111A(2) inserted by No. 26/1997 s. 16(2).

**112. Regulations**

- (1) The Governor in Council may, subject to disallowance by Parliament, make regulations for or with respect to any of the following matters—
  - (a) the management, good order and security of prisons and locations and the discipline and welfare of prisoners and offenders, the privileges of prisoners and the procedures for hearing and dealing with prison offences and acts of misconduct by offenders;
  - (aa) the management, good order and security of police gaols and the discipline and welfare of people detained in them, and the procedures for hearing and dealing with offences and

S. 112(1)(aa) inserted by No. 15/1989 s. 30(1).

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- acts of misconduct committed by people detained in police gaols;
- (b) the establishment of training institutions for officers under Part 5 or Part 9;
- (ba) the training, discipline and conduct of officers;
- (c) the medical and dental testing and treatment (including vaccination) of prisoners, offenders and people detained in police gaols;
- (d) the manner of dealing with property belonging to, sent to, or delivered for prisoners and people detained in police gaols and restrictions on the storage in a prison of property belonging to prisoners and people detained in police gaols;
- (e) the classification of prisoners;
- (f) how and for what purposes prisoners and people detained in police gaols may be placed under restraint and how, where, for how long and in what circumstances prisoners and people detained in police gaols or classes of prisoners and people detained in police gaols may be separated from each other;
- (g) searches under this Act, and the manner of dealing with property seized, including the forfeiture of property to the Crown;
- (h) the work to be done by, or made available for prisoners and offenders, the remuneration (if any) for that work, the issue possession and use of tools and equipment by prisoners
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|--|---|
|  | S. 112(1)(b) amended by No. 16/1991 s. 17(a).   |
|  | S. 112(1)(ba) inserted by No. 16/1991 s. 17(b). |
|  | S. 112(1)(c) amended by No. 15/1989 s. 30(2).   |
|  | S. 112(1)(d) amended by No. 15/1989 s. 30(3).   |
|  | S. 112(1)(f) amended by No. 15/1989 s. 30(4).   |



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and offenders, and the payment of gratuities to prisoners or offenders where no work is available;

S. 112(1)(ha) inserted by No. 45/1996 s. 6.

(ha) access to and operation of prison industries and prison industry sites;

S. 112(1)(i) amended by No. 45/1996 s. 16.

(i) the moneys which may be paid to or received by prisoners or held for prisoners by officers at a prison, the extent to which and the purposes for which prisoners may spend or use moneys earned or received by them or held for them and the extent to which moneys held for a prisoner must be retained until the release of the prisoner from custody and the procedures for investment of those retained moneys and providing that prisoners are not entitled to any interest or other proceeds from the investment of those retained moneys;

S. 112(1)(j) amended by No. 15/1989 s. 30(5)(a)(b).

- (j) communication by or with prisoners and people detained in police gaols, visits to prisons and police gaols and the facilities and accommodation to be provided for families, children and close friends of prisoners;
- (k) the issue of firearms to, and the carrying, use and storage of firearms by, prison officers;
- (l) the circumstances in which dogs may be approved for use by prison officers in accordance with this Act;
- (m) the notices returns and information to be given and the records and registers to be kept for the purposes of this Act;
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- (n) parole orders and the procedure of the Parole Board;
- (o) authorized absences by prisoners and the transfer of prisoners and people detained in police gaols;
- (p) the ways in which a sheriff may carry out a function power or duty in relation to prisons or the confinement or release of prisoners;
- (q) the removal of prisoners from prison in the interests of justice, and the custody of prisoners whilst absent from prison;
- (r) the reduction of the length of a sentence of imprisonment or of the non-parole period, if one has been fixed in respect of the sentence, on account of good behaviour while the person serving the sentence is suffering disruption or deprivation—
- (i) during an industrial dispute or emergency existing in the prison or police gaol in which the sentence is being served; or
  - (ii) in other circumstances of an unforeseen and special nature;
- (s) the issue of authorities under section 15, the conditions to which authorities are subject, and the manner and circumstances in which persons may exercise the powers which they are authorized to exercise;
- (t) prescribing forms;
- (u) generally prescribing any other matter or thing required or permitted by this Act to be prescribed or necessary to be prescribed to give effect to this Act.

S. 112(1)(n)  
amended by  
No. 44/1991  
s. 6(n).

S. 112(1)(o)  
amended by  
No. 15/1989  
s. 30(6).

S. 112(1)(r)  
substituted by  
No. 44/1991  
s. 4(2).

- (2) The regulations—
- (a) may be of general or limited application; and
  - (b) may differ according to differences in time place or circumstances; and
  - (c) may confer discretions or powers or impose duties in connection with the regulations on the Secretary, a Governor, a Regional Manager, an officer employed in the administration of this Act, a volunteer, a prisoner or an offender; and
  - (d) may confer power on the Secretary, a Governor or a Regional Manager to grant exemption from the regulations, to impose conditions subject to which the exemption is granted and to revoke or vary the exemption; and
  - (e) may apply or incorporate by reference any document formulated in accordance with the regulations and concerning the conduct of officers under Part 5 or Part 9, prisoners or offenders, the privileges of prisoners or the routine of a prison or a location; and
  - (f) may impose penalties not exceeding 10 penalty units for contravention of the regulations.
- (3) If a Governor or a Regional Manager grants or varies an exemption under a power conferred by the regulations the Governor or the Regional Manager must as soon as possible report details of the exemption or variation to the Secretary.

S. 112(2)(c)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 67).

S. 112(2)(d)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 67).

S. 112(3)  
amended by  
No. 45/1996  
s. 17(Sch. 1  
item 67).

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(4) The Secretary may by instrument given to the Governor or Regional Manager revoke or vary an exemption granted by the Governor or Regional Manager.

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S. 112(4) amended by No. 45/1996 s. 17(Sch. 1 item 67).

S. 112(5) repealed by No. 45/1996 s. 7(d).

PART 11—TRANSITIONAL PROVISIONS

113. *Act to apply to prison sentences etc. before date of commencement*

S. 113(1)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(k)).

(1) This Act applies to all prisoners, whether or not they were sentenced before or after the commencement of this section, and whether or not at the date of the commencement of this section there is in force in relation to them a parole order or a pre-release permit under the **Community Services Act 1970**.

S. 113(2)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(k)).

(2) A pre-release permit issued under the **Community Services Act 1970** and in force immediately before the date of commencement of this section has effect as if it were a pre-release permit issued under Part 8 of this Act.

S. 113(3)  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(k)).

(3) An order made by the Adult Parole Board under the **Community Services Act 1970** and in force at the date of commencement of this section has effect as if it were an order made under this Act by the Adult Parole Board established by this Act.

(4) A permit or order which under this section has effect as if it were made under this Act may be enforced, varied, amended, cancelled or revoked under the provisions of this Act which relate to permits or orders of that kind.

(5) This Act applies to an offender, whether the correctional order to which the offender is subject is made before or after the date of commencement of this section.

S. 114  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(l)),  
repealed by  
No. 11/1995  
s. 3(2)(Sch. 2).

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**s. 114**

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Sch. 1

**SCHEDULES**

Sch. 1  
amended by  
No. 16/1987  
s. 4(3)(Sch. 1  
item 7(m)),  
repealed by  
No. 11/1993  
s. 7(1)(g).

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SCHEDULE 2

S.10.

NAMES OF PRISONS

<i>Column 1</i>	<i>Column 2</i>
<i>Old Name</i>	<i>New Name</i>
Ararat Prison	Her Majesty's Prison, Ararat.
Her Majesty's Prison, Bendigo	Her Majesty's Prison, Bendigo.
Her Majesty's Prison, Beechworth	Her Majesty's Prison, Beechworth.
Castlemaine Prison	Her Majesty's Prison, Castlemaine.
Her Majesty's Prison, Dhurringile	Her Majesty's Prison, Dhurringile.
Fairlea Female Prison	Her Majesty's Prison, Fairlea.
Her Majesty's Prison, Geelong	Her Majesty's Prison, Geelong.
Morwell River Reforestation Prison	Her Majesty's Prison, Morwell River.
Her Majesty's Prison, Pentridge	Her Majesty's Prison, Pentridge.
Her Majesty's Metropolitan Reception Prison	Her Majesty's Metropolitan Reception Prison.
Sale Prison	Her Majesty's Prison, Sale.
Won Wron Reforestation Prison	Her Majesty's Prison, Won Wron.



## ENDNOTES

### 1. General Information

*Minister's second reading speech—*

*Legislative Assembly: 18 September 1986*

*Legislative Council: 20 November 1986*

The long title for the Bill for this Act was "A Bill for an Act to make provision for the administration and management of correctional services, to make consequential amendments to certain Acts and for other purposes."

The **Corrections Act 1986** was assented to on 23 December 1986 and came into operation as follows:

Sections 1–3, 5, 6, 10, 59, 60, Divisions 1, 5, 6 of Part 8, section 113, Schedule 1 items 2, 5(2)(5), Schedule 2 on 6 May 1987: Government Gazette 6 May 1987 page 1004; Parts 2, 4–7, 9, 10, Divisions 2, 3 of Part 8, sections 4, 11, Schedule 1 items 1, 3–5(1)(3)(4)(6)–(9) on 1 March 1988: Government Gazette 24 February 1988 page 363; section 114 was never proclaimed, repealed by No. 11/1995.

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## 2. Table of Amendments

This Version incorporates amendments made to the **Corrections Act 1986** by Acts and subordinate instruments.

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### **Community Services Act 1987, No. 16/1987**

*Assent Date:* 12.5.87  
*Commencement Date:* S. 4(3)(Sch. 1 item 7) on 22.2.89: Government Gazette 22.2.89 p. 386  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

### **Crimes (Amendment) Act 1987, No. 70/1987**

*Assent Date:* 24.11.87  
*Commencement Date:* S. 8 on 1.9.88: Government Gazette 31.8.88 p. 2598  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

### **Crimes (Fingerprinting) Act 1988, No. 38/1988**

*Assent Date:* 24.5.88  
*Commencement Date:* S. 7(1)(a) on 1.1.90: Government Gazette 20.12.89 p. 3290  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

### **State Superannuation Act 1988, No. 50/1988**

*Assent Date:* 24.5.88  
*Commencement Date:* S. 93(2)(Sch. 2 Pt 2 item 7) on 1.7.88: Government Gazette 1.6.88 p. 1487  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

### **Police Regulation (Amendment) Act 1989, No. 15/1989**

*Assent Date:* 16.5.89  
*Commencement Date:* Ss 29, 30 on 16.5.89: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

### **Children and Young Persons Act 1989, No. 56/1989** (as amended by No. 93/1990)

*Assent Date:* 14.6.89  
*Commencement Date:* S. 286(Sch. 2 item 6) on 31.1.91: Special Gazette (No. 9) 31.1.91 p. 2  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

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**Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989**

*Assent Date:* 14.6.89  
*Commencement Date:* S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette 30.8.89 p. 2210; rest of Act on 1.9.90: Government Gazette 25.7.90 p. 2217  
*Current State:* All of Act in operation

**Corrections (Prison Management and Prisoners) Act 1991, No. 16/1991**

*Assent Date:* 23.4.91  
*Commencement Date:* 1.10.91: Government Gazette 25.9.91 p. 2650  
*Current State:* All of Act in operation

**Corrections (Remissions) Act 1991, No. 44/1991** (as amended by No. 11/1993)

*Assent Date:* 18.6.91  
*Commencement Date:* All of Act (*except* s. 6(k)) on 22.4.92: Government Gazette 15.4.92 p. 898; s. 6(k) was never proclaimed and was repealed by No. 11/1993 s. 7(2)  
*Current State:* All of Act in operation

**Sentencing Act 1991, No. 49/1991**

*Assent Date:* 25.6.91  
*Commencement Date:* 22.4.92: Government Gazette 15.4.92 p. 898  
*Current State:* All of Act in operation

**Corrections (Management) Act 1993, No. 11/1993** (as amended by No. 45/1996)

*Assent Date:* 11.5.93  
*Commencement Date:* Ss 1, 2 on 11.5.93: s. 2(1); rest of Act (*except* ss 5, 6) on 18.6.93: Government Gazette 17.6.93 p. 1534  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

**Sentencing (Amendment) Act 1993, No. 41/1993**

*Assent Date:* 1.6.93  
*Commencement Date:* S. 18 on 15.8.93: Government Gazette 12.8.93 p. 2244  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

**Medical Practice Act 1994, No. 23/1994**

*Assent Date:* 17.5.94  
*Commencement Date:* S. 118(Sch. 1 item 14) on 1.7.94: Government Gazette 23.6.94 p. 1672  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

**Financial Management (Consequential Amendments) Act 1994, No. 31/1994**

*Assent Date:* 31.5.94  
*Commencement Date:* S. 3(Sch. 1 item 14) on 7.7.94: Government Gazette 7.7.94 p. 1878—see **Interpretation of Legislation Act 1984**  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

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*Corrections Act 1986*

*Act No. 117/1986*

Endnotes

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**Accident Compensation (Amendment) Act 1994, No. 50/1994**

*Assent Date:* 15.6.94  
*Commencement Date:* S. 124 on 24.6.94: Special Gazette (No. 37) 24.6.94 p. 2—see **Interpretation of Legislation Act 1984**  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

**Corrections (Amendment) Act 1994, No. 94/1994**

*Assent Date:* 13.12.94  
*Commencement Date:* Ss 1, 2 on 13.2.94: s. 2(1); rest of Act on 12.1.95: Government Gazette 12.1.95 p. 15  
*Current State:* All of Act in operation

**Statute Law Revision Act 1995, No. 11/1995**

*Assent Date:* 26.4.95  
*Commencement Date:* 26.4.95  
*Current State:* All of Act in operation

**Miscellaneous Acts (Omnibus Amendments) Act 1996, No. 22/1996**

*Assent Date:* 2.7.96  
*Commencement Date:* Ss 3, 4 on 2.7.96: s. 2(1)  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

**Children and Young Persons (Miscellaneous Amendments) Act 1996, No. 44/1996**

*Assent Date:* 26.11.96  
*Commencement Date:* 26.11.96: s. 2  
*Current State:* All of Act in operation

**Corrections (Amendment) Act 1996, No. 45/1996**

*Assent Date:* 26.11.96  
*Commencement Date:* Ss 1, 2 on 26.11.96: s. 2(1); rest of Act (*except* ss 11–13) on 6.2.97: Government Gazette 6.2.97 p. 257; ss 11–13 on 20.12.97: Government Gazette 18.12.97 p. 3612  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

**Police and Corrections (Amendment) Act 1997, No. 26/1997**

*Assent Date:* 20.5.97  
*Commencement Date:* Ss 9–16 on 22.5.97: Government Gazette 22.5.97 p. 1131  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

**Crimes (Mental Impairment and Unfitness to be Tried) Act 1997, No. 65/1997**

*Assent Date:* 18.11.97  
*Commencement Date:* S. 81 on 18.4.98: s. 2(3)  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

**Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998**

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*Corrections Act 1986*

*Act No. 117/1986*

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*Assent Date:* 26.5.98  
*Commencement Date:* S. 7(Sch. 1) on 1.7.98: s. 2(2)  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

**Crimes (Questioning of Suspects) Act 2000, No. 86/2000**

*Assent Date:* 5.12.00  
*Commencement Date:* 6.12.00: s. 2  
*Current State:* All of Act in operation

**Statute Law Further Amendment (Relationships) Act 2001, No. 72/2001**

*Assent Date:* 7.11.01  
*Commencement Date:* S. 3(Sch. item 4) on 20.12.01: Government Gazette 20.12.01 p. 3127  
*Current State:* This information relates only to the provision/s amending the **Corrections Act 1986**

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### 3. Explanatory Details

<sup>1</sup> S. 32(5): Note 1 in the **Corrections Act 1986**, No. 117/1986 reads:

Section 32(5): Persons apprehended under section 32(5) are to be treated as if apprehended under section 459 of the **Crimes Act 1958**. This means that the provisions of the Crimes Act dealing with the period for which the apprehended person can be held and the bringing of the apprehended person before the court apply.