

Authorised Version No. 112

Corrections Act 1986

No. 117 of 1986

Authorised Version incorporating amendments as at
1 July 2015

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Authorised Version No. 112

Corrections Act 1986

No. 117 of 1986

Authorised Version incorporating amendments as at

1 July 2015

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—

combined custody treatment order has the same meaning as *old combined custody and treatment order* in clause 1 of Schedule 3 to the **Sentencing Act 1991**;

S. 3 amended by No. 72/2001 s. 3(Sch. item 4.2) (ILA s. 39B(1)).

S. 3(1) def. of *combined custody treatment order* inserted by No. 65/2011 s. 107(Sch. item 2.1).

Corrections Act 1986
No. 117 of 1986
Part 1—Preliminary

S. 3(1) def. of
Commissioner
inserted by
No. 45/2001
s. 23(2).

Commissioner means the person employed as
Commissioner for the purposes of this Act;

S. 3(1) def. of
Commission
substituted as
def. of
Committee by
No. 45/1996
s. 4(a),
repealed by
No. 21/2008
s. 3.

* * * * *

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repealed by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repealed by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),
substituted by
No. 65/2011
s. 107(Sch.
item 2.2).

community-based order has the same meaning as
old community-based order within the
meaning of clause 1 of Schedule 3 to the
Sentencing Act 1991;

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

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);

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)).

correctional order means any of the following—

- (a) a community-based order;
- (aa) a community correction order, within the meaning of the **Sentencing Act 1991**;
- (ab) a community work permit within the meaning of the **Infringements Act 2006**;
- (b) a parole order;
- (c) an old intensive correction order, within the meaning of clause 1 of Schedule 3 to the **Sentencing Act 1991**;
- (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;

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), 45/2001 s. 23(1), 2/2002 s. 12, 53/2003 s. 11(2), 32/2006 s. 90(1), 30/2010 s. 45(a), 48/2011 s. 3(a), 65/2011 s. 107(Sch. item 2.3), 55/2014 s. 144.

- (f) a supervision order under section 26 or 38ZH of 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;
- (g) a combined custody and treatment order;
- (h) a drug treatment order (as defined in section 3(1) of the **Sentencing Act 1991**);

* * * * *

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

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 *Court Secure Treatment Order* inserted by No. 26/2014 s. 455(Sch. item 6.1(a)).

Court Secure Treatment Order means an Order within the meaning of section 94A of the **Sentencing Act 1991**;

<p><i>dentist</i> means a person registered under the Health Practitioner Regulation National Law—</p> <p>(a) to practise in the dental profession as a dentist (other than as a student); and</p> <p>(b) in the dentists division of that profession;</p>	<p>S. 3(1) def. of <i>dentist</i> inserted by No. 10/2013 s. 4(1).</p>
<p>* * * * *</p>	<p>S. 3(1) def. of <i>Director-General</i> repealed by No. 45/1996 s. 17(Sch. 1 item 1(b)).</p>
<p><i>domestic partner</i> of a person means—</p> <p>(a) a person who is in a registered relationship with the person; or</p> <p>(b) 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);</p>	<p>S. 3(1) def. of <i>domestic partner</i> inserted by No. 72/2001 s. 3(Sch. item 4.1), substituted by No. 12/2008 s. 73(1)(Sch. 1 item 12.1).</p>
<p><i>escort officer</i> means—</p> <p>(a) a prison officer; or</p> <p>(b) an escort officer employed under Part 4;</p>	<p>S. 3(1) def. of <i>escort officer</i> inserted by No. 45/2001 s. 3(2).</p>
<p><i>family violence intervention order</i> means—</p> <p>(a) a family violence intervention order within the meaning of section 11 of the Family Violence Protection Act 2008; or</p> <p>(b) one of the following orders made under the Crimes (Family Violence) Act 1987 as in force immediately before its repeal—</p>	<p>S. 3(1) def. of <i>family violence intervention order</i> inserted by No. 30/2010 s. 45(b).</p>

- (i) an intervention order made on grounds referred to in section 4 or 4A of that Act;
- (ii) an intervention order made on grounds referred to in section 4 or 4A of that Act, and subsequently varied or extended under section 16 or 16A of that Act;
- (iii) an interim intervention order made on grounds referred to in section 8 of that Act;

S. 3(1) def. of *fingerprints* inserted by No. 35/2002 s. 7(1).

fingerprints includes finger, palm, toe and sole prints, whether taken by impression or by means of a device to obtain a record of the fingerprints;

Example: Fingerprints may be taken by a scanning device to obtain a digital record of the fingerprints.

S. 3(1) def. of *firearm* inserted by No. 12/2014 s. 3.

firearm includes a firearm that is a prescribed non-lethal firearm;

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

function includes duty;

S. 3(1) def. of *garment search* inserted by No. 10/2013 s. 4(1).

garment search means a search of any article of clothing worn by a person or in the person's possession, during which the article of clothing is touched or removed from the person's body;

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;

Health Services Commissioner means the Commissioner as defined in the **Health Services (Conciliation and Review) Act 1987**;

S. 3(1) def. of *Health Services Commissioner* inserted by No. 45/2001 s. 23(2).

* * * * *

S. 3(1) def. of *home detention order* inserted by No. 53/2003 s. 11(1), repealed by No. 48/2011 s. 3(b).

* * * * *

S. 3(1) def. of *hospital security order* inserted by No. 69/2005 s. 26(1), repealed by No. 26/2014 s. 455(Sch. item 6.1(b)).

Human Rights Commissioner means the Human Rights Commissioner appointed under the Human Rights and Equal Opportunity Commission Act 1986 of the Commonwealth;

S. 3(1) def. of *Human Rights Commissioner* inserted by No. 45/2001 s. 23(2).

lawyer means an Australian lawyer;

S. 3(1) def. of *lawyer* substituted by No. 18/2005 s. 18(Sch. 1 item 22.1), amended by No. 17/2014 s. 160(Sch. 2 item 23).

S. 3(1) def. of
letter
inserted by
No. 45/2001
s. 23(2).

letter, in relation to a prisoner, means a document containing a communication to, or from, the prisoner, and includes any article accompanying the document;

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;

S. 3(1) def. of
midwife
inserted by
No. 13/2010
s. 51(Sch.
item 16.1).

midwife means a person registered under the Health Practitioner Regulation National Law—

- (a) to practise in the nursing and midwifery profession as a midwife (other than as a student); and
- (b) in the register of midwives kept for that profession;

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

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;

<p><i>nurse</i> means a person registered under the Health Practitioner Regulation National Law to practise in the nursing and midwifery profession as a nurse (other than as a midwife or as a student);</p>	<p>S. 3(1) def. of <i>nurse</i> inserted by No. 13/2010 s. 51(Sch. item 16.1).</p>
<p><i>offender</i>, other than in sections 30A to 30I, means a person of whatever age who is the subject of a correctional order;</p>	<p>S. 3(1) def. of <i>offender</i> amended by No. 49/2006 s. 3.</p>
<p><i>partner</i> of a person means the person's spouse or domestic partner;</p>	<p>S. 3(1) def. of <i>partner</i> inserted by No. 72/2001 s. 3(Sch. item 4.1).</p>
<p><i>pat-down search</i> means a search of a person during which the person's clothed body is touched;</p>	<p>S. 3(1) def. of <i>pat-down search</i> inserted by No. 10/2013 s. 4(1).</p>
<p><i>personal safety intervention order</i> means—</p> <ul style="list-style-type: none">(a) a personal safety intervention order within the meaning of the Personal Safety Intervention Orders Act 2010; or(b) an intervention order within the meaning of the Stalking Intervention Orders Act 2008 (as in force immediately before its repeal); or(c) an order made under section 4 of the Crimes (Family Violence) Act 1987 of a kind referred to in section 21A(5) of the Crimes Act 1958, both as in force immediately before their repeal;	<p>S. 3(1) def. of <i>personal safety intervention order</i> inserted by No. 53/2010 s. 221(Sch. item 3.1(a)).</p>

S. 3(1) def. of
*police
custody
transfer order*
inserted by
No. 10/2013
s. 4(2).

police custody transfer order means a police custody transfer order made under section 56D;

S. 3(1) def. of
police officer
inserted by
No. 37/2014
s. 10(Sch.
item 32.1).

police gaol means a police gaol under Part 3;

police officer means—

- (a) except in section 47E, a police officer within the meaning of the **Victoria Police Act 2013**; and
- (b) in section 47E, a police officer (within the meaning of Part 5.3 of the Criminal Code of the Commonwealth);

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

position means office;

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

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

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

S. 3(1) def. of
prisoner
amended by
No. 45/1996
s. 17(Sch. 1
item 1(d)),
substituted by
No. 45/2001
s. 3(1).

prisoner means a person who under Part 1A is deemed to be in the legal custody of the Secretary;

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

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

prison officer means a prison officer employed under Part 4;

Regional Manager means a Regional Manager appointed under Part 4;

registered medical practitioner means a person registered under the Health Practitioner Regulation National Law to practise in the medical profession (other than as a student);

S. 3(1) def. of *registered medical practitioner* inserted by No. 13/2010 s. 51(Sch. item 16.1).

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 *relative* inserted by No. 72/2001 s. 3(Sch. item 4.1).

scanning search means a search of a person, or of the property of a person, using an electronic or other device, during which the person is not touched;

S. 3(1) def. of *scanning search* inserted by No. 10/2013 s. 4(1).

S. 3(1) def. of *Secretary* inserted by No. 45/1996 s. 17(Sch. 1 item 1(e)), amended by Nos 46/1998 s. 7(Sch. 1), 108/2004 s. 117(1) (Sch. 3 item 45.1).

Secretary means Secretary to the Department of Justice under the **Public Administration Act 2004** and includes a person acting as the Secretary to the Department of Justice under that Act;

S. 3(1) def. of *Secretary to the Department of Health* inserted by No. 29/2010 s. 52(1).

Secretary to the Department of Health means the Department Head (within the meaning of the **Public Administration Act 2004**) of the Department of Health;

S. 3(1) def. of *smoke* inserted by No. 45/2014 s. 3.

smoke means the drawing or releasing of smoke or fumes resulting from heating or burning an ignited tobacco product, and includes but is not limited to, holding or controlling an ignited tobacco product;

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;

S. 3(1) def. of *stalking intervention order* inserted by No. 30/2010 s. 45(b), repealed by No. 53/2010 s. 221(Sch. item 3.1(b)).

* * * * *

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

sub-contractor means a sub-contractor of a contractor;

<p><i>supervise</i>, in relation to a prisoner or person, includes to take charge of and to hold the prisoner or person;</p>	<p>S. 3(1) def. of <i>supervise</i> inserted by No. 45/2001 s. 3(2).</p>
<p><i>tobacco smoking accessory</i> means any smoking implement and includes but is not limited to, cigarette papers, pipes, cigarette holders, hookahs, water pipes, cigarette lighters, matches or other similar methods of ignition of a tobacco product;</p>	<p>S. 3(1) def. of <i>tobacco smoking accessory</i> inserted by No. 45/2014 s. 3.</p>
<p><i>tobacco product</i> means tobacco, cigarette or cigar or any other product the main ingredient of which is tobacco and which is designed for human consumption;</p>	<p>S. 3(1) def. of <i>tobacco product</i> inserted by No. 45/2014 s. 3.</p>
<p><i>transition centre</i> means a transition centre under Part 3;</p>	<p>S. 3(1) def. of <i>transition centre</i> inserted by No. 2/2005 s. 3.</p>
<p><i>transport</i> includes escort, bring, transfer, convey, take and deliver;</p>	<p>S. 3(1) def. of <i>transport</i> inserted by No. 45/2001 s. 3(2).</p>
<p><i>victims register</i> means the register established under the regulations for the purpose of recording persons entitled to be given information under section 30A and to make victim submissions;</p>	<p>S. 3(1) def. of <i>victims register</i> inserted by No. 14/2004 s. 4.</p>
<p><i>victim submission</i> means a submission made under section 74A to the Adult Parole Board;</p>	<p>S. 3(1) def. of <i>victim submission</i> inserted by No. 14/2004 s. 4.</p>
<p><i>volunteer</i> means a person whose name appears in the Register of Volunteers kept under Part 4.</p>	

S. 3(2)
inserted by
No. 72/2001
s. 3(Sch.
item 4.2),
substituted by
No. 12/2008
s. 73(1)(Sch. 1
item 12.2).

- (2) For the purposes of the definition of *domestic partner* in subsection (1)—
- (a) *registered relationship* has the same meaning as in the **Relationships Act 2008**; and
 - (b) in determining whether persons who are not in a registered relationship 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 35(2) of the **Relationships Act 2008** as may be relevant in a particular case.

S. 4
amended by
Nos 16/1991
s. 3(1)(a)(b),
44/1991
s. 6(c),
49/1991
s. 119(7)
(Sch. 4
item 3.3),
45/1996
s. 17(Sch. 1
item 2(a)(b)),
26/1997
s. 12(6),
repealed by
No. 45/2001
s. 4, new s. 4
inserted by
No. 2/2005
s. 4.

4 References to prisons to include transition centres

S. 4(1)
amended by
No. 50/2008
s. 4.

- (1) A reference in the following provisions of this Act to a prison is to be read as including a reference to a transition centre, unless the contrary intention appears: Parts 1, 1A, 2, 2A, 4, 5, 6, 7, 8 (other than sections 56 and 56AC), 8A, 9C and 10.

- (2) A reference in any other Act, in any subordinate instrument or in any other document to a prison is to be read as including a reference to a transition centre, unless the contrary intention appears.
- (3) A reference to a Governor in this Act or in any regulations made under this Act is to be read as including a reference to the officer in charge of a transition centre, unless the contrary intention appears.
- (4) A reference in any other Act, in any subordinate instrument or in any other document to a Governor of a prison is to be read as including a reference to the officer in charge of a transition centre, unless the contrary intention appears.

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 1A—LEGAL CUSTODY

Pt 1A
(Heading and
ss 6–6F)
inserted by
No. 45/2001
s. 5.

6 Order of imprisonment

In this Part, an order of imprisonment is—

- (a) a sentence of imprisonment imposed by a court; or
- (b) an order or warrant issued by a court requiring or directing the imprisonment of a person or the detention of a person in a prison or in a place of detention on court premises; or
- (c) a direction, order or warrant or other instrument made or issued under an Act requiring or directing or authorising the imprisonment of a person or the detention of a person in a prison or the transfer of a person to or from a prison or the return of a person to a prison; or

S. 6(ca)
inserted by
No. 5/2006
s. 14(1).

- (ca) a preventative detention order within the meaning of the **Terrorism (Community Protection) Act 2003** or an order for a person's detention made under a corresponding preventative detention law within the meaning of that Act; or

S. 6(d)
amended by
Nos 49/2006
s. 4, 91/2009
s. 201(1).

- (d) an order issued under an interstate law of a participating State within the meaning of the **Prisoners (Interstate Transfer) Act 1983** that corresponds with an order of transfer under that Act or a transfer order made under the Transfer of Prisoners Act 1983 of the Commonwealth or an order made under section 31 of that Act that provides for the

transfer of a person from another State or a Territory to Victoria; or

- (e) a detention order or interim detention order within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

S. 6(e)
inserted by
No. 91/2009
s. 201(2).

6A When is a person in the legal custody of the Secretary?

S. 6A
inserted by
No. 45/2001
s. 5.

- (1) A person is deemed to enter the legal custody of the Secretary when—
- (a) an order of imprisonment is made in relation to the person; and
- (b) either of the following events occurs—
- (i) a person acting under lawful authority on behalf of the Secretary takes physical custody of the person; or
- (ii) a person at a prison acting under lawful authority on behalf of the Secretary receives the person into the prison.

(1A) Subsection (1) applies each time when—

S. 6A(1A)
inserted by
No. 5/2006
s. 14(2).

- (a) a person who has ceased to be in the legal custody of the Secretary by force of section 6B(ca) is again taken into custody and detained under the order referred to in that section; and
- (b) either of the events referred to in subsection (1)(b) occurs.
- (2) A person who enters the legal custody of the Secretary under subsection (1) is deemed to remain in that custody until that custody ceases under this Part.
- (3) This section applies to a person regardless of the person's age.

S. 6A(4)
inserted by
No. 91/2009
s. 201(3).

- (4) A person in respect of whom a detention order or an interim detention order within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009** has been made is deemed to be in the legal custody of the Secretary following the occurrence of either event set out in subsection (1)(b).

S. 6B
inserted by
No. 45/2001
s. 5,
amended by
No. 5/2006
s. 14(4) (ILA
s. 39B(1)).

6B When does legal custody of the Secretary cease?

- (1) A person ceases to be in the legal custody of the Secretary—

S. 6B(1)(a)
amended by
No. 91/2009
s. 201(4).

- (a) on the expiration of the person's sentence of imprisonment, or if the person is serving more than one sentence of imprisonment, on the expiration of all of those sentences of imprisonment, unless the person is also in that custody under a detention order or an interim detention order under the **Serious Sex Offenders (Detention and Supervision) Act 2009** or for some other reason; or

- (b) when the Secretary acting under lawful direction or authority releases the person from the Secretary's legal custody; or

- (c) when the legal custody of the person is lawfully transferred from the Secretary to the Chief Commissioner of Police or another person; or

S. 6B(ca)
inserted by
No. 5/2006
s. 14(3).

- (ca) if the person is being detained under an order referred to in section 6(ca), during any period when he or she is taken not to be detained under the order by force of section 13V of the **Terrorism (Community Protection) Act 2003** or section 105.26 of the Criminal Code of the Commonwealth; or

- (d) if the person is in a prison or is in the physical custody of an officer within the meaning of Part 5 or an escort officer or of a person acting under lawful authority on behalf of the Secretary, when the person escapes from that prison or physical custody; or
- (e) if the person is in the community in the legal custody of the Secretary, when the person does anything that constitutes an offence under section 479C(2) or (3) of the **Crimes Act 1958**.

(2) Despite subsection (1)(a), a person being detained under an order referred to in section 6(ca) who is in the legal custody of the Secretary does not cease to be in the legal custody of the Secretary on the expiration of the order if—

S. 6B(2)
inserted by
No. 5/2006
s. 14(4).

- (a) another such order comes into force in relation to the person immediately after that expiration; or
- (b) another such order continues in force in relation to the person.

6C Persons not regarded to be in the Secretary's legal custody

S. 6C
inserted by
No. 45/2001
s. 5.

(1) Despite section 6A, the following persons are not to be regarded as being in the Secretary's legal custody—

- (a) a person who is on parole;
- (b) a person who is serving a combined custody and treatment order and who is in the community under that order;
- (ba) a person who is subject to a drug treatment order and who is in the community under that order;

S. 6C(1)(ba)
inserted by
No. 2/2002
s. 13(1).

S. 6C(1)(bb)
inserted by
No. 53/2003
s. 12,
repealed by
No. 48/2011
s. 4, new
s. 6C(1)(bb)
inserted by
No. 10/2013
s. 5.

(bb) a person who is absent from prison under a police custody transfer order;

S. 6C(1)(bc)
inserted by
No. 2/2005
s. 8(1).

(bc) a person who is absent from a prison under a fine default permit;

(c) a person who is serving a sentence of imprisonment by way of intensive correction in the community;

(d) a person who is serving a sentence of imprisonment that was wholly or partly suspended and who is in the community in accordance with that sentence.

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

S. 6C(3)
inserted by
No. 2/2002
s. 13(2).

(3) A person is in the community under a drug treatment order even if he or she is—

(a) submitting to residential detoxification or other treatment in accordance with a program condition attached to the order; or

(b) at a place in accordance with an order under section 18ZL(1)(c) or (e) of the **Sentencing Act 1991**.

S. 6D
inserted by
No. 45/2001
s. 5.

6D When is a person in the legal custody of the Chief Commissioner of Police?

(1) A person is deemed to enter the legal custody of the Chief Commissioner of Police for the purposes of this Act when—

(a) an order of imprisonment is made in relation to the person, or an order is made by a court requiring the person to be held in police custody, or there is other lawful authority to detain the person in a police gaol; and

(b) either of the following events occurs—

(i) a police officer or a person acting under lawful authority on behalf of the Chief Commissioner takes physical custody of the person; or

S. 6D(1)(b)(i)
amended by
No. 37/2014
s. 10(Sch.
item 32.2).

(ii) a person at a police gaol acting under lawful authority on behalf of the Chief Commissioner receives the person into the police gaol.

(1A) Subsection (1) applies each time when—

S. 6D(1A)
inserted by
No. 5/2006
s. 14(5).

(a) a person who has ceased to be in the legal custody of the Chief Commissioner of Police by force of section 6E(ca) is again taken into custody and detained under the order referred to in that section; and

(b) either of the events referred to in subsection (1)(b) occurs.

(2) A person is also deemed to enter into the legal custody of the Chief Commissioner when—

(a) the person is remanded in custody by a court or a bail justice under the **Children, Youth and Families Act 2005**; and

S. 6D(2)(a)
amended by
No. 48/2006
s. 42(Sch.
item 8.1).

(b) a police officer or a person acting under lawful authority on behalf of the Chief Commissioner takes physical custody of the person.

S. 6D(2)(b)
amended by
No. 37/2014
s. 10(Sch.
item 32.2).

S. 6D(2A)
inserted by
No. 10/2013
s. 6(1).

(2A) A person is also deemed to enter into the legal custody of the Chief Commissioner of Police when—

(a) a police custody transfer order is made in relation to the person; and

S. 6D(2A)(b)
amended by
No. 37/2014
s. 10(Sch.
item 32.2).

(b) a police officer or a person acting under lawful authority on behalf of the Chief Commissioner takes physical custody of the person in accordance with the order.

S. 6D(3)
amended by
No. 10/2013
s. 6(2).

(3) A person who enters the legal custody of the Chief Commissioner of Police under subsection (1), (2) or (2A) is deemed to remain in that custody until that custody ceases under this Part.

(4) This section applies to a person regardless of the person's age.

S. 6E
inserted by
No. 45/2001
s. 5,
amended by
No. 5/2006
s. 14(7) (ILA
s. 39B(1)).

6E When does legal custody of the Chief Commissioner cease?

(1) A person who is deemed by this Act to enter the legal custody of the Chief Commissioner of Police ceases to be in the legal custody of the Chief Commissioner—

(a) on the expiration of the person's sentence of imprisonment, or if the person is serving more than one sentence of imprisonment, on the expiration of all of those sentences of imprisonment, unless the person is also in that custody for some other reason; or

(b) when the Chief Commissioner acting under lawful direction or authority releases the person from the Chief Commissioner's legal custody; or

(c) when the legal custody of the person is lawfully transferred from the Chief Commissioner to the Secretary or another person; or

- (ca) if the person is being detained under an order referred to in section 6(ca), during any period when he or she is taken not to be detained under the order by force of section 13V of the **Terrorism (Community Protection) Act 2003** or section 105.26 of the Criminal Code of the Commonwealth; or **S. 6E(1)(ca) inserted by No. 5/2006 s. 14(6).**
- (cb) if the person is subject to a police custody transfer order, when either of the following events occurs— **S. 6E(1)(cb) inserted by No. 10/2013 s. 7.**
- (i) a person acting under lawful authority on behalf of the Secretary takes physical custody of the person; or
- (ii) a person at a prison acting under lawful authority on behalf of the Secretary receives the person into the prison; or
- (d) if the person is in a police gaol or is in the physical custody of a police officer or of a person acting under lawful authority on behalf of the Chief Commissioner, when the person escapes from that police gaol or physical custody; or **S. 6E(1)(d) amended by Nos 2/2005 s. 8(2)(a), 37/2014 s. 10(Sch. item 32.2).**
- (e) when the Chief Commissioner releases from his or her legal custody a person who has been issued, while in that custody, with a fine default permit by the Secretary. **S. 6E(1)(e) inserted by No. 2/2005 s. 8(2)(b).**
- (2) Despite subsection (1)(a), a person being detained under an order referred to in section 6(ca) who is in the legal custody of the Chief Commissioner of Police does not cease to be in the legal custody of the Chief Commissioner of Police on the expiration of the order if— **S. 6E(2) inserted by No. 5/2006 s. 14(7).**
- (a) another such order comes into force in relation to the person immediately after that expiration; or

(b) another such order continues in force in relation to the person.

S. 6F
inserted by
No. 45/2001
s. 5.

6F Powers of court or tribunal not to be affected

- (1) Every person in the legal custody of the Secretary under this Part who is brought before a court or tribunal remains in the legal custody of the Secretary, subject to any lawful order or direction of the court or tribunal.
 - (2) Every person in the legal custody of the Chief Commissioner of Police under this Part who is brought before a court or tribunal remains in the legal custody of the Chief Commissioner, subject to any lawful order or direction of the court or tribunal.
 - (3) The fact that a person appearing before a court or tribunal is in the legal custody of the Secretary or the Chief Commissioner of Police does not affect any power or authority of the court or tribunal to make orders or directions in relation to the person in respect of the proceedings before the court or tribunal.
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PART 2—ADMINISTRATION

7 Functions of Secretary

- (1) The Secretary is responsible for monitoring performance in the provision of all correctional services to achieve the safe custody and welfare of prisoners and offenders.

S. 7(1)
repealed by
No. 45/1996
s. 17(Sch. 1
item 3(a)),
new s. 7(1)
inserted by
No. 21/2008
s. 4(1).

* * * * *

S. 7(2)
amended by
No. 45/1996
s. 17(Sch. 1
item 3(b)),
repealed by
No. 55/2009
s. 3.

8 Delegation

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

- (a) under this Act or the regulations or under any other Act other than the **Public Administration Act 2004**; or

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

S. 8(1)(a)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 45.2).

S. 8(1)(ab)
inserted by
No. 45/2001
s. 24,
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 45.2).

(ab) under regulations made under any Act other than the **Public Administration Act 2004**;
or

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

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

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

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

8A Commissioner

S. 8A(1)
amended by
Nos 45/1996
s. 17(Sch. 1
item 5),
46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 45.2).

(1) The Secretary may under Part 3 of the **Public Administration Act 2004** employ a person to be Commissioner for the purposes of this Act.

(2) The Commissioner is responsible for—

S. 8A(2)(a)
amended by
No. 21/2008
s. 4(2).

(a) assessing 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).

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

PART 2A—ENGAGEMENT OF CONTRACTORS

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

Division 1—Correctional services agreements

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

8B Minister may enter into correctional services agreements

- (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 subsection (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 subsection (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;
- (ha) a provision providing for the Minister to grant a lease or licence under section 8CA;
- (i) any other provisions that are not inconsistent with this Act or the regulations.

S. 8C(2)(ha)
inserted by
No. 12/2014
s. 4.

S. 8CA
inserted by
No. 12/2014
s. 5.

8CA Minister may grant lease or licence over reserved Crown land

- (1) This section applies to Crown land—
 - (a) reserved for prison purposes under section 4 of the **Crown Land (Reserves) Act 1978**; and
 - (b) on which a prison is or is to be located.

- (2) Subject to subsection (3), the Minister may, for and on behalf of the Crown, grant a lease or licence over land to which this section applies.
- (3) A lease or licence granted under subsection (2)—
 - (a) may be entered into for the purposes of an agreement under section 8B(1)(a); and
 - (b) must be for a specific term not exceeding 99 years; and
 - (c) is not subject to the **Land Act 1958** or the **Crown Land (Reserves) Act 1978**.

8D Agreement to run with land

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

- (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.
- (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
Nos 45/1996
s. 17(Sch. 1
item 6),
45/2001
s. 25(a)(i)(ii).

- (1) A contractor or sub-contractor must give the Minister, the Secretary, the Commissioner and any person authorised by the Secretary or the Commissioner free and unfettered access at all times, together with any assistants and equipment that the Minister, the Secretary, the Commissioner 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 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 subsection (1) must be in writing and may be given subject to any conditions and limitations that the Secretary or Commissioner (as the case may be) thinks fit.

S. 8E(3)
amended by
Nos 45/1996
s. 17(Sch. 1
item 6),
45/2001
s. 25(b).

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
- (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.

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

- (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 subsection (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 subsection (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 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.

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S. 8G(1)
repealed by
No. 10/2013
s. 8(1).

(2) Sections 23, 30, 47 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).

S. 8G(2)
amended by
No. 10/2013
s. 8(2).

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).

Corrections Act 1986
No. 117 of 1986
Part 2A—Engagement of contractors

(2) The agreement 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 the services;

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

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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).

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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;
 - (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;
S. 9(3)
substituted by
No. 94/1994
s. 9(2).
 - (b) a provision providing for the assignment to the Secretary or any other person of any right or interest;
S. 9(3)(b)
amended by
No. 45/1996
s. 17(Sch. 1
item 8).
 - (c) a provision providing for the Secretary to delegate powers and functions under the agreement;
S. 9(3)(c)
amended by
No. 45/1996
s. 17(Sch. 1
item 8).
 - (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.

Division 3—Agreements with the Chief Commissioner of Police

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

9AA Agreements with the Chief Commissioner

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.

- (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) patients within the meaning of the **Mental Health Act 2014** from a designated mental health service under that Act to a court or a police gaol or a designated mental health service or from a court or a police gaol to a court or a police gaol or a designated mental health service; or
 - (iv) persons detained in a remand centre, youth residential centre or youth justice centre within the meaning of the **Children, Youth and Families Act 2005** from that centre to a court or a police gaol or from a court or police gaol to a court or police gaol or such a centre; or

S. 9AA(1)
(b)(iii)
amended by
No. 65/1997
s. 81(b),
substituted by
No. 26/2014
s. 455(Sch.
item 6.2),
amended by
No. 20/2015
s. 38.

S. 9AA(1)(b)(iv)
amended by
No. 48/2006
s. 42(Sch.
item 8.2).

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

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S. 9AA(2)
repealed by
No. 45/2001
s. 6.

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—
- (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 subsection (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

Corrections Act 1986
No. 117 of 1986
Part 2A—Engagement of contractors

S. 9A(1)(c)
amended by
No. 45/2001
s. 7(a).

(c) an officer within the meaning of Part 9; or

S. 9A(1)(d)
inserted by
No. 45/2001
s. 7(b).

(d) an escort officer.

S. 9A(1A)
inserted by
No. 94/1994
s. 12(2),
substituted by
No. 45/1996
s. 12,
amended by
No. 37/2014
s. 10(Sch.
item 32.2).

(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 police officer.

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

S. 9A(1B)(b)
substituted by
No. 45/2001
s. 8(1).

(b) to have and exercise all or any of the following functions—

(i) to take all reasonable steps to ensure a person being transported remains in the physical custody of the authorised person;

(ii) to take all reasonable steps to ensure that the safety and welfare of a person being transported are maintained;

- (iii) to take all reasonable steps to prevent and detect the commission by a person being transported of any unlawful act or any attempt to commit an unlawful act;
- (iv) to report to the Chief Commissioner of Police on the commission by a person being transported of any unlawful act or any attempt to commit an unlawful act;
- (v) to take all reasonable steps to ensure the good order and discipline of a person being transported;
- (vi) to take all reasonable steps to attend to the security of any property that is in the possession of a person being transported;
- (vii) to take all reasonable steps to ensure the person is transported to or from the appropriate place as required by the Chief Commissioner of Police;
- (viii) to take all reasonable steps to ensure that the person is transferred—
 - (A) into the physical custody of another person acting on behalf of the Chief Commissioner of Police; or
 - (B) if legal custody of the person is authorised to be transferred to a person other than the Chief Commissioner, into the physical custody of a person acting on behalf of the person to whom legal custody is to be transferred;
- (c) to exercise all or any of the following powers in relation to the functions set out in paragraph (b)—

S. 9A(1B)(c)
inserted by
No. 45/2001
s. 8(1).

- (i) to order a person being transported to do or not to do anything which the authorised person believes on reasonable grounds is necessary for the safety of the authorised person, the person being transported or any other person;
- (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 authorised person, the person being transported or any other person;
- (iii) to seize any thing found on a person being transported or in that person's possession or under that person's control if the authorised person believes on reasonable grounds that this is necessary for the safety of the authorised person, the person being transported or any other person;
- (iv) subject to subsection (2A), to apply an authorised instrument of restraint to a person being transported if the authorised person believes on reasonable grounds that the application of the instrument of restraint 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.

(2A) A person authorised under subsection (1B)(c)(iv) may apply an instrument of restraint to a person being transported only if—

S. 9A(2A)
inserted by
No. 45/2001
s. 8(2).

- (a) the instrument, or type of instrument, is approved by the Chief Commissioner of Police; and
- (b) the instrument is used in the manner determined by the Chief Commissioner of Police.
- (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 subsection (1), (1A) or (1B) except in accordance with an authority given under that subsection. **S. 9A(3) amended by Nos 94/1994 s. 12(3)(a)(b), 22/1996 s. 4(2), 26/1997 s. 12(2).**
- (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. **S. 9A(4) amended by Nos 94/1994 s. 12(3)(c), 45/1996 s. 17(Sch. 1 item 10).**
- (5) Without limiting subsection (4), the Secretary or the Chief Commissioner of Police may refuse to give an authority— **S. 9A(5) amended by Nos 94/1994 s. 12(3)(c), 45/1996 s. 17(Sch. 1 item 10).**
- (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(5)(a) 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(5)(b) amended by Nos 94/1994 s. 12(3)(c), 45/1996 s. 17(Sch. 1 item 10).**

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 subsection (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 subsections (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),
repealed by
No. 45/2001
s. 8(3).

* * * * *

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

9B Police inquiry and report

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

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

(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 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 subsection (1) and report the results of those enquiries to the Secretary.
- (4) The Secretary must give a copy of a report under subsection (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).

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

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, disciplinary officer,

S. 9C(1)
amended by
No. 45/2001
ss 9, 26.

Regional Manager, community corrections officer or escort 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, disciplinary officer, Regional Manager, community corrections officer or escort officer, as the case requires.

(2) Despite subsection (1), a person referred to in that subsection—

(a) does not hold the position of Governor, prison officer, disciplinary officer, Regional Manager, community corrections officer or escort officer, as the case requires; and

S. 9C(2)(a)
amended by
No. 45/2001
ss 9, 26.

(b) is not subject to the **Public Administration Act 2004**.

S. 9C(2)(b)
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 45.2).

9CA Staff—police goals

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 police officer 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,
amended by
No. 37/2014
s. 10(Sch.
item 32.2).

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

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

S. 9CAA(1)
amended by
No. 37/2014
s. 10(Sch.
item 32.2).

instrument under an Act which requires or authorises (either expressly or by necessary implication) a police officer (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 police officer in accordance with that authorisation.

S. 9CAA(2)
amended by
No. 37/2014
s. 10(Sch.
item 32.2).

- (2) Nothing in subsection (1) prevents a police officer from exercising any function referred to in that subsection 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.

S. 9CAA(4)
repealed by
No. 45/2001
s. 10.

* * * * *

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 gaols

S. 9CB(1)
amended by
No. 45/2001
s. 11.

- (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 Part 1A 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 subsection (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 or damage caused by that use of force.

S. 9CB(3)
amended by
No. 38/2003
s. 3.

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 Administration Act 2004** such monitors as are necessary for the purposes of this Part.

S. 9D(1)
substituted by
No. 46/1998
s. 7(Sch. 1),
amended by
No. 108/2004
s. 117(1)
(Sch. 3
item 45.2).

- (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).

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

- (3) A monitor referred to in subsection (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(3A)
inserted by
No. 26/1997
s. 15(1).

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

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

- (a) the contractor or sub-contractor (as the case requires) were an agency within the meaning of that Act; and **S. 9F(a) amended by No. 94/1994 s. 17(b).**
- (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 **S. 9F(b) amended by No. 94/1994 s. 17(c).**
- (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(d) amended by No. 94/1994 s. 17(b).**

Corrections Act 1986
No. 117 of 1986
Part 2A—Engagement of contractors

S. 9G
inserted by
No. 11/1993
s. 4(1),
amended by
No. 94/1994
s. 18,
repealed by
No. 82/2012
s. 285(1).

* * * * *

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 subsection (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 subsection (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 subsection (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 subsection (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.

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

S. 11(7)
repealed by
No. 45/2001
s. 12.

S. 11(7A)
inserted by
No. 38/1988
s. 7(1)(a),
amended by
Nos 35/2002
s. 7(2),
37/2014
s. 10(Sch.
item 32.2).

S. 11(8)(9)
repealed by
No. 45/2001
s. 12.

* * * * *

- (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 police officer may take the person's fingerprints.

* * * * *

11A Establishment of transition centres

S. 11A
inserted by
No. 2/2005
s. 5.

- (1) The Governor in Council may, by Order, appoint any premises or place to be a transition centre.
- (2) The name of a transition centre is the name given to it in the Order establishing it.
- (3) An Order under subsection (1) may state the maximum number of people that may reside in the transition centre at any one time.
- (4) The Governor in Council may, by Order, revoke the appointment of any premises or place as a transition centre.
- (5) An Order under subsection (1) or (4) comes into operation on its making, or on any later date stated in the Order.
- (6) The Minister must, within 7 days after the making of an Order under subsection (1) or (4), publish a copy of the Order in the Government Gazette.
- (7) On the name of a transition centre being changed, a reference in an Act other than this Act, a subordinate instrument or a document to the transition centre by its old name is deemed to be a reference to the transition centre by its new name.

PART 4—OFFICERS

12 Employment under the Public Administration Act

S. 12
(Heading)
inserted by
No. 108/2004
s. 117(1)
(Sch. 3
item 45.3).

- (1) There may be employed under Part 3 of the **Public Administration Act 2004** a Secretary to the Adult Parole Board and such Governors, prison officers, escort 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(1)
amended by
Nos 46/1998
s. 7(Sch. 1),
45/2001 s. 13,
108/2004
s. 117(1)
(Sch. 3
item 45.4).

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.

- (2) The Secretary must not under subsection (1) authorize a person to do work which is part of the duties of a prison officer. S. 13(2)
amended by
No. 45/1996
s. 17(Sch. 1
item 14).
- (3) The period for which and the other terms and conditions under which, a person is authorized to work under subsection (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 subsection (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 subsection (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)).
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**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),
24/2006
s. 6.1.2(Sch. 7
item 10.1),
13/2010
s. 51(Sch.
item 16.2),
76/2013 s. 23.

officer means a person who is—

- (a) a Governor; or
- (b) a prison officer; or
- (c) a volunteer; or
- (d) working in a prison or with prisoners and who is—
 - (i) an employee in the public service; or
 - (ii) an employee in the teaching service; or
 - (iii) a member of staff of a TAFE institute within the meaning of the **Education and Training Reform Act 2006**; or
 - (iv) a member of staff of a dual sector university within the meaning of the **Education and Training Reform Act 2006**; or

* * * * *

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

Division 2—Work

15 Authorized persons may act as prison officers

- (1) The Secretary may by instrument authorize a police officer or a class of police officers 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.

S. 15(1)
amended by
Nos 45/1996
s. 17(Sch. 1
item 15),
37/2014
s. 10(Sch.
item 32.3).

16 Secretary may authorize medical practitioner to act as principal medical officer or medical officer

- (1) If there is no principal medical officer or medical officer appointed for a prison or the principal medical officer or medical officer for the prison is absent, the Secretary may by instrument authorize a registered medical practitioner to act as principal medical officer or medical officer (as the case may be) for that prison while the relevant position is vacant or until the return of the relevant officer.
- (2) Before authorizing a person to act as medical officer the Secretary must consult with the Secretary to the Department of Health.

S. 16
(Heading)
inserted by
No. 10/2013
s. 9(1).

S. 16(1)
amended by
Nos 23/1994
s. 118(Sch. 1
item 14.2),
45/1996
s. 17(Sch. 1
item 16),
97/2005
s. 182(Sch. 4
item 13.1),
13/2010
s. 51(Sch.
item 16.3),
substituted by
No. 10/2013
s. 9(2).

S. 16(2)
amended by
Nos 45/1996
s. 17(Sch. 1
item 16),
46/1998
s. 7(Sch. 1),
29/2010
s. 52(2).

S. 16(4)
substituted by
No. 10/2013
s. 9(3).

(3) An authority under subsection (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 principal medical officer or as medical officer as if the person were a principal medical officer or medical officer (as the case may be).

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

17 Powers of Secretary

S. 17(1)
amended by
Nos 45/1996
s. 17(Sch. 1
item 17),
45/2001 s. 14.

(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 or escort officer under this Act.

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

(2) The Secretary may exercise the powers and functions under subsection (1) in relation to a particular prison or class of prisons or in relation to all prisons in Victoria.

S. 17(3)
amended by
Nos 45/1996
s. 17(Sch. 1
item 17),
45/2001 s. 14.

(3) An exercise by the Secretary of any power or function under subsection (1) in relation to a matter, prevails over the exercise by a Governor or prison officer or escort 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.
- (5) An officer must keep records in accordance with the regulations and other records required by the Secretary.

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

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

S. 20(5A)
inserted by
No. 10/2013
s. 10(1).

(5A) An officer, when required by the Secretary, must provide oral or written information to the Secretary in relation to the security and good order of a prison or the safe custody and welfare of prisoners.

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

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

S. 20(6)(b)
substituted by
No. 10/2013
s. 10(2).

(b) subsections (4), (5) and (5A) apply as if they referred to returns, reports, records and oral or written information concerning prison security only.

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

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

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.

22A Powers of Governor

- (1) A Governor has and may exercise all or any of the powers or functions of a prison officer or escort officer under this Act.
- (2) An exercise by a Governor of any power or function under subsection (1) in relation to a matter prevails over the exercise by a prison officer or escort officer of that power or function in relation to that matter.

**S. 22A
inserted by
No. 45/2001
s. 27.**

23 Control of prisoners

- (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.

Corrections Act 1986

No. 117 of 1986

Part 5—Prison officers and other officers working in prisons

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

- (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.
-

**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

- (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.

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

26 Management of prisons in Governor's temporary absence

- (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.

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

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

- (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.

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 may take photographs of the prisoner and may take the prisoner's fingerprints. **S. 28(1) amended by No. 35/2002 s. 7(3).**
- (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 or take the prisoner's fingerprints or both. **S. 28(2) amended by No. 35/2002 s. 17(4).**
- (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.

29A Prisoners may be tested for drug or alcohol use

S. 29A
(Heading)
inserted by
No. 38/2003
s. 4(1).

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

S. 29A(1)
substituted by
No. 38/2003
s. 4(2).

- (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 has used or consumed—
- (a) any alcohol; or
 - (b) any drug of dependence within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**; or
 - (c) any Schedule 8 poison or Schedule 9 poison within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**.

S. 29A(1)(c)
substituted by
No. 74/2004
s. 21.

- (2) Tests under subsection (1)—

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

- (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(3)
inserted by
No. 38/2003
s. 4(3).

- (3) The following are deemed to be, and to have always been, valid—
- (a) any direction given, or purportedly given, under this Act before the date of commencement of section 4 of the **Corrections (Amendment) Act 2003** requiring a prisoner to submit to any test to

assess whether the prisoner was using alcohol; and

- (b) any test conducted on a urine sample, taken under this section before the date of commencement of section 4 of the **Corrections (Amendment) Act 2003**, to assess whether the prisoner who provided the sample was using alcohol.

* * * * *

S. 30 amended by Nos 16/1991 s. 5, 11/1993 ss 4(3), 7(1)(d), 94/1994 s. 20, 45/1996 s. 17(Sch. 1 item 23), 45/2001 s. 28, 35/2002 s. 8(1)(2), 14/2004 s. 5, 5/2006 s. 14(8), 50/2008 s. 5, 64/2010 s. 15, repealed by No. 10/2013 s. 11.

30A Victim may be given certain copies of orders and information about a prisoner

S. 30A (Heading) amended by No. 10/2013 s. 12(1).

S. 30A inserted by No. 45/2001 s. 29.

(1) In this section—

S. 30A(1) substituted by No. 14/2004 s. 6.

criminal act of violence means—

S. 30A(1) def. of *criminal act of violence* amended by No. 53/2007 s. 15.

- (a) an offence that involves an assault on, or injury or a threat of injury to, a person which is punishable by imprisonment;

- (b) an offence against Subdivision (8A), (8B), (8C), (8D) or (8E) of Division 1 of Part I of the **Crimes Act 1958** or any corresponding previous enactment (sexual offences);
- (c) an offence at common law of rape or assault with intent to rape;
- (d) an offence against section 21A(1) of the **Crimes Act 1958** (stalking) or any corresponding previous enactment;
- (e) an offence against section 63 of the **Crimes Act 1958** (child stealing) or any corresponding previous enactment;
- (f) an offence against section 63A of the **Crimes Act 1958** (kidnapping) or any corresponding previous enactment;
- (g) an offence against section 77 of the **Crimes Act 1958** (aggravated burglary) or any corresponding previous enactment;
- (ga) an offence against section 318(1) of the **Crimes Act 1958** (culpable driving causing death) or any corresponding previous enactment;
- (gb) an offence against section 319(1) of the **Crimes Act 1958** (dangerous driving causing death or serious injury) or any corresponding previous enactment;
- (gc) an offence against section 61(3) of the **Road Safety Act 1986** (failing to stop and render assistance after a motor vehicle accident causing death or serious injury) or any corresponding previous enactment;

- (h) an offence of conspiracy to commit, incitement to commit or attempting to commit an offence referred to in paragraphs (a) to (gc);
- (i) an offence against the law of another jurisdiction in Australia which substantially corresponds to an offence referred to in paragraphs (a) to (h);

detention order means a detention order within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009** or an interim detention order under that Act;

S. 30A(1)
def. of
detention order
inserted by
No. 91/2009
s. 202(1)(a).

extended supervision order means an extended supervision order within the meaning of the **Serious Sex Offenders Monitoring Act 2005** or an interim extended supervision order within the meaning of that Act;

S. 30A(1)
def. of
extended supervision order
inserted by
No. 49/2006
s. 5(1)(c),
amended by
No. 21/2008
s. 6(a).

family member, in relation to a person, means that person's—

- (a) spouse or domestic partner;
- (b) child or step-child aged 18 years or more;
- (c) parent, step-father, step-mother or legal guardian;
- (d) brother, sister, step-brother or step-sister aged 18 years or more;
- (e) grandparent;
- (f) grandchild aged 18 years or more;
- (g) uncle or aunt;

- (h) niece or nephew aged 18 years or more;
- (i) father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law or sister-in-law aged 18 years or more;

S. 30A(1)
def. of
relevant offence
inserted by
No. 49/2006
s. 5(1)(c),
amended by
No. 91/2009
s. 202(1)(b).

relevant offence means a relevant offence within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009**;

S. 30A(1)
def. of
supervision order
inserted by
No. 91/2009
s. 202(1)(a).

supervision order means a supervision order within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009** or an interim supervision order under that Act;

S. 30A(1)
def. of
victim
amended by
Nos 49/2006
s. 5(1)(a)(b),
52/2008 s. 238,
91/2009
s. 202(1)(c),
30/2010 s. 46.

victim means—

- (a) a person who has had a criminal act of violence committed against him or her;
- (b) a family member of a person who has died as a direct result of a criminal act of violence committed against that person;
- (c) a family member of a person who—
 - (i) has had a criminal act of violence committed against that person;
and
 - (ii) is under 18 years of age or is incapable of managing his or her own affairs because of mental impairment;

- (d) a person who—
- (i) is or has been the spouse or domestic partner of a prisoner or of an offender who is or was subject to an extended supervision order, a supervision order or a detention order, or an application for an extended supervision order, a supervision order or a detention order; and
 - (ii) is a protected person under a family violence intervention order under the **Family Violence Protection Act 2008**, for which the prisoner or offender (as the case may be) is the respondent.
- (1A) Subject to subsection (3) and section 30G, the Secretary must notify a person included on the victims register in respect of an offence for which a prisoner is serving a sentence of imprisonment of the release of the prisoner on parole. S. 30A(1A)
inserted by
No. 62/2013
s. 3(1).
- (1B) A notification under subsection (1A) must be made at least 14 days before the release of the prisoner on parole, unless the Adult Parole Board has waived the notice period in making the parole order. S. 30A(1B)
inserted by
No. 62/2013
s. 3(1).
- (2) Subject to section 30G, the Secretary may give a person included on the victims register in respect of an offence for which a prisoner is serving a sentence of imprisonment some or all of the following information— S. 30A(2)
amended by
No. 14/2004
s. 7(1).
- (a) details about the length of the prisoner's sentence for the offence and of any other sentences of imprisonment that the prisoner is liable to serve;

Corrections Act 1986
No. 117 of 1986
Part 6—Management and administration of prisons

S. 30A(2)(b)
amended by
Nos 53/2003
s. 13, 48/2011
s. 5.

- (b) the date on which, and the circumstances in which, the prisoner was, is to be or is likely to be released for any reason (including release on bail, custodial community permit or parole);
- (c) details of any escape by the prisoner from the legal custody of the Secretary or any other person.

S. 30A(2AA)
inserted by
No. 49/2006
s. 5(2),
amended by
No. 91/2009
s. 202(2)(a).

(2AA) Subject to subsection (2AB) and section 30G, the Secretary may give a person included on the victims register in respect of a relevant offence for which an offender is or was subject to an extended supervision order, a supervision order or a detention order, or an application for an extended supervision order, a supervision order or a detention order, some or all of the following information in respect of the offender—

S. 30A
(2AA)(a)
amended by
No. 91/2009
s. 202(2)(a).

- (a) the making of an application for an extended supervision order, a supervision order or a detention order and whether such an order was made, whether on appeal or otherwise;

S. 30A
(2AA)(b)
amended by
No. 91/2009
s. 202(2)(a)(b).

- (b) if an extended supervision order, a supervision order or a detention order is made—
 - (i) the date on which it commences, the period of the order and any instructions or directions, or any variation of the instructions or directions, given to the offender by the Adult Parole Board under section 16(2) of the **Serious Sex Offenders Monitoring Act 2005** that are relevant to the person;
 - (ii) details of any changes affecting the operation of the order;

- (iii) a copy of the order; S. 30A
(2AA)(b)(iii)
inserted by
No. 10/2013
s. 12(2).
- (ba) if a supervision order or detention order is made, varied or renewed— S. 30A
(2AA)(ba)
inserted by
No. 91/2009
s. 202(2)(c),
amended by
No. 10/2013
s. 12(3).
- (i) the date on which it commences, the period of the order and any instructions or directions, or any variation of the instructions or directions, given to the offender by the Adult Parole Board under section 119, 120(2) or 121 the **Serious Sex Offenders (Detention and Supervision) Act 2009**;
- (ii) details of any changes affecting the operation of the order;
- (iii) a copy of the order; S. 30A
(2AA)(ba)(iii)
inserted by
No. 10/2013
s. 12(4).
- (c) if the extended supervision order, supervision order or detention order is suspended or revoked, the date of suspension or revocation, and the date on which a suspended order recommences operation. S. 30A
(2AA)(c)
amended by
No. 91/2009
s. 202(2)(d).
- (2AB) Subsection (2AA) applies— S. 30A(2AB)
inserted by
No. 49/2006
s. 5(2).
- (a) despite an order made under section 42 of the **Serious Sex Offenders Monitoring Act 2005** unless the order expressly prohibits publication to a victim; and
- (b) despite sections 43 and 44 of the **Serious Sex Offenders Monitoring Act 2005**.

S. 30A(2AC)
inserted by
No. 91/2009
s. 202(3).

(2AC) Subsection (2AA) applies—

S. 30A
(2AC)(a)
amended by
No. 10/2013
s. 12(5).

(a) despite an order made under section 184 of the **Serious Sex Offenders (Detention and Supervision) Act 2009**; and

S. 30A
(2AC)(b)
amended by
No. 10/2013
s. 12(6).

(b) despite sections 182 and 186 of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

S. 30A(2A)
inserted by
No. 14/2004
s. 7(2),
amended by
Nos 49/2006
s. 5(3),
62/2013
s. 3(2).

(2A) If a person included on the victims register has a nominee whose details have been included under section 30D in respect of the person included on the victims register, the Secretary may give information under subsection (1A), (2) or (2AA) to the nominee on behalf of that person.

S. 30A(3)
amended by
No. 49/2006
s. 5(4).

(3) The Secretary must not disclose the information if the Secretary reasonably believes the disclosure of the information might endanger the security of any prison or the safe custody and welfare of the prisoner or any other prisoner or the safety or welfare of the offender or the safety or welfare of any other person.

S. 30B
inserted by
No. 14/2004
s. 8.

30B Application to be included on victims register

- (1) A person may apply to the Secretary for inclusion on the victims register.
- (2) An application under subsection (1)—
 - (a) must be in writing; and
 - (b) may include details of a nominee to whom the applicant wishes information to be disclosed under section 30A instead of being disclosed directly to the applicant.

- (3) If an applicant includes details of a nominee in accordance with subsection (2)(b), the application must include the following—
- (a) details of the nominee's relationship to the applicant; and
 - (b) the reason that the applicant wishes information under section 30A to be disclosed to the nominee rather than directly to the applicant; and
 - (c) an undertaking completed by the nominee that the nominee will not disclose the information disclosed under section 30A by the Secretary, other than in accordance with the Act.
- (4) An undertaking referred to in subsection (3)(c) must be in the prescribed form.

30C Inclusion on the victims register

S. 30C
inserted by
No. 14/2004
s. 8.

- (1) Subject to subsection (4), a person who makes an application under section 30B who is a victim within the meaning of section 30A(1) must be included on the victims register.
- (2) Subject to subsection (4), a person who makes an application under section 30B who is not a victim within the meaning of section 30A(1) may be included on the victims register if the Secretary, in writing, approves the inclusion of that person on the register.
- (3) For the purposes of subsection (2), the Secretary may approve the inclusion of a person on the register if that person—

S. 30C(1)
amended by
No. 49/2006
s. 5(5).

S. 30C(2)
amended by
No. 49/2006
s. 5(6).

S. 30C(3)(a)
amended by
Nos 49/2006
s. 5(7)(a),
52/2008 s. 239.

(a) is not a victim within the meaning of paragraph (d) of the definition of *victim* in section 30A(1) but can demonstrate, to the satisfaction of the Secretary, a documented history of family violence (within the meaning of the **Family Violence Protection Act 2008**) being committed by—

S. 30C(3)(a)(i)
inserted by
No. 49/2006
s. 5(7)(a).

(i) a prisoner; or

S. 30C(3)(a)(ii)
inserted by
No. 49/2006
s. 5(7)(a),
amended by
No. 91/2009
s. 203(1).

(ii) an offender who is or was subject to an extended supervision order, a supervision order or a detention order, or an application for an extended supervision order, a supervision order or a detention order—

against that person; or

S. 30C(3)(b)
amended by
No. 49/2006
s. 5(7)(b).

(b) can demonstrate, to the satisfaction of the Secretary, a substantial connection to the offence for which the prisoner is serving a sentence of imprisonment; or

S. 30C(3)(c)
inserted by
No. 49/2006
s. 5(7)(c),
amended by
No. 91/2009
s. 203(1).

(c) can demonstrate, to the satisfaction of the Secretary, a substantial connection to the relevant offence for which the offender is or was subject to an extended supervision order, a supervision order or a detention order, or an application for an extended supervision order, a supervision order or a detention order.

S. 30C(4)
inserted by
No. 49/2006
s. 5(8),
amended by
No. 91/2009
s. 203(2).

(4) If a person makes an application under section 30B after the expiry of the relevant sentence of imprisonment or the relevant extended supervision order, supervision order or detention order, the Secretary is not required to include the person on the victims register.

30D Secretary may refuse to include nominee details for person included on victims register

S. 30D
inserted by
No. 14/2004
s. 8.

- (1) If an applicant under section 30B includes details of a nominee to whom the applicant wishes information under section 30A to be disclosed, the Secretary may include those details in respect of the applicant as part of the inclusion of the applicant as a person on the victims register if satisfied that it is appropriate to do so.
- (2) If an applicant under section 30B is included on the victims register, the Secretary may refuse to include details of an applicant's nominee if the Secretary believes on reasonable grounds that the disclosure of information under section 30A to the nominee—
 - (a) may endanger—
 - (i) the security of any prison; or
 - (ii) the safe custody and welfare of the prisoner or any other prisoner; or
 - (ia) the safety or welfare of the offender; or
 - (iii) the safety or welfare of any other person; or
 - (b) may result in a contravention of section 30I.

S. 30D
(2)(a)(ia)
inserted by
No. 49/2006
s. 5(9).

30E Annual report

S. 30E
inserted by
No. 14/2004
s. 8.

- (1) The Secretary must provide an annual written report to the Minister and to the Attorney-General on the inclusion by the Secretary of persons on the victims register under section 30C(3).

- (2) A report under subsection (1) must include—
- (a) the number of applications for inclusion on the victims register received under section 30C(2); and
 - (b) the number of such applications approved by the Secretary under section 30C(3); and
 - (c) the categories of person which the Secretary has approved for inclusion on the victims register.

S. 30F
inserted by
No. 14/2004
s. 8.

30F Secretary may prepare guidelines

- (1) The Secretary may prepare guidelines in relation to the exercise of powers under section 30C.
- (2) The Minister and the Attorney-General must both approve any guidelines prepared under subsection (1).
- (3) Guidelines prepared under subsection (1) and approved under subsection (2)—
 - (a) must be published in the Government Gazette as soon as practicable after their preparation; and
 - (b) take effect on the date of publication in the Government Gazette.

S. 30G
inserted by
No. 14/2004
s. 8,
amended by
No. 49/2006
s. 5(10).

30G Release of information to "family members"

The Secretary must not disclose information under section 30A to a person included on the victims register who is a family member within the meaning of section 30A(1) unless that person can show, to the satisfaction of the Secretary, that he or she is or was the primary care giver or next of kin of—

- (a) the person against whom the offence for which the prisoner is serving a sentence of imprisonment was committed; or

S. 30G(a)
inserted by
No. 49/2006
s. 5(10).

(b) the person against whom the relevant offence was committed for which the offender is or was subject to an extended supervision order, a supervision order or detention order, or an application for an extended supervision order, a supervision order or detention order.

S. 30G(b)
inserted by
No. 49/2006
s. 5(10),
amended by
No. 91/2009
s. 204.

30H Confidentiality of information

A person included on the victims register and that person's nominee (if any) to whom information is disclosed under section 30A by the Secretary must treat that information in an appropriate manner that respects the confidential nature of the information.

S. 30H
inserted by
No. 14/2004
s. 8.

30I Offence to publish information disclosed under section 30A in electronic or print media

S. 30I
inserted by
No. 14/2004
s. 8.

(1) A person must not publish in the electronic or print media or cause to be published in the electronic or print media any information relating to the personal affairs of a prisoner or offender if that person knows that the information has been disclosed under section 30A.

S. 30I(1)
amended by
No. 49/2006
s. 5(11)(a).

Penalty: 60 penalty units, in the case of a natural person;
1200 penalty units, in the case of a body corporate.

(2) A person must not, for the purposes of publication in the electronic or print media, solicit or obtain any information relating to the personal affairs of a prisoner or offender, being information which has been disclosed under section 30A from—

S. 30I(2)
amended by
No. 49/2006
s. 5(11)(a).

(a) a person included on the victims register or that person's nominee (if any); or

(b) a person who has previously been included on the victims register or that person's nominee (if any).

Penalty: 60 penalty units, in the case of a natural person;

1200 penalty units, in the case of a body corporate.

S. 30(3)
amended by
No. 49/2006
s. 5(11)(a).

(3) A person included on the victims register, a person who has previously been included on the victims register or the nominee of either of those persons must not disclose any information relating to the personal affairs of a prisoner or offender which has been disclosed to that person under section 30A if that person reasonably believes that the information is likely to be or will be published in the electronic or print media or caused to be published in the electronic or print media.

Penalty: 60 penalty units.

(4) Nothing in this section prevents—

(a) a nominee of a person included on the victims register disclosing information to the person on whose behalf information has been disclosed under section 30A by the Secretary to the nominee; or

(b) a person included on the victims register or a nominee of a person included on the victims register from disclosing information disclosed under section 30A by the Secretary to an authorised person.

(5) In this section—

authorised person means—

- (a) in the case of a person included on the victims register, a family member within the meaning of section 30A(1);
- (b) a police officer, the DPP or a person employed in the Office of Public Prosecutions established under the **Public Prosecutions Act 1994** if that police officer or person is investigating an offence;
- (c) a registered medical practitioner in the course of treatment of a person included on the victims register in relation to a condition or issues arising from that person being a victim of a criminal act of violence;
- (d) a person registered as a psychologist under the Health Practitioner Regulation National Law in the course of treatment of a person included on the victims register in relation to a condition or issues arising from that person being a victim of a criminal act of violence;
- (e) a lawyer in the course of consulting that lawyer for legal advice;

S. 30(5)
def. of
*authorised
person*
amended by
Nos 18/2005
s. 18(Sch. 1
item 22.2),
97/2005
s. 182(Sch. 4
item 13.2),
13/2010
s. 51(Sch.
item 16.4),
37/2014
s. 10(Sch.
item 32.4).

Director of Public Prosecutions means the
Director of Public Prosecutions appointed
under section 87AB of the **Constitution Act
1975**;

S. 30(5)
def. of
information relating to the personal affairs of a prisoner
substituted as
information relating to the personal affairs of a prisoner or an offender by
No. 49/2006
s. 5(11)(b).

information relating to the personal affairs of a prisoner or an offender includes information, including photographs, fingerprints, samples and results of tests—

- (a) that identifies the prisoner or offender or discloses his or her address or location; or
- (b) from which any other person's identity, address or location can reasonably be determined—

but does not include information that is in the public domain.

31 Children

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.

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
 - (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.

S. 32(4A)
inserted by
No. 16/1991
s. 8,
amended by
No. 37/2014
s. 10(Sch.
item 32.5).

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

(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 Act¹.

Division 2—Access to prisons

33 Definitions

In this Division—

S. 33 def. of
*independent
prison visitor*
inserted by
No. 10/2013
s. 13(b).

independent prison visitor means an independent prison visitor appointed under this Division;

S. 33 def. of
official visitor
repealed by
No. 10/2013
s. 13(a).

* * * * *

S. 33 def. of
visitor
amended by
Nos 45/1996
ss 7(b),
17(Sch. 1
item 25),
82/2012
s. 285(2),
10/2013
s. 13(c),
37/2014
s. 10(Sch.
item 32.6).

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 independent prison visitor;
 - (f) an Ombudsman officer (within the meaning of the **Ombudsman Act 1973**);

- (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 police officer;
- (l) a person authorized to visit a prison under a contact visiting programme or a residential visiting programme.

34 Visits by judges or magistrates

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

- (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.
- (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 independent prison visitors

S. 35
substituted by
No. 10/2013
s. 14.

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

* * * * *

S. 36
repealed by
No. 10/2013
s. 15.

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.
- (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.

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

- (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

- (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

- (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 subsection (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.

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

41 Visits by the police

- (1) A police officer may at the times fixed by the regulations enter a prison and visit a prisoner.
- (2) As well as visits authorized by subsection (1), a police officer 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 police officer under this section.
- (4) A prisoner is not required to answer questions asked by a police officer during a visit authorized by this section.

S. 41(1)
amended by
No. 37/2014
s. 10(Sch.
item 32.7).

S. 41(2)
amended by
Nos 45/1996
s. 17(Sch. 1
item 28),
37/2014
s. 10(Sch.
item 32.7).

S. 41(3)
amended by
No. 37/2014
s. 10(Sch.
item 32.7).

S. 41(4)
amended by
No. 37/2014
s. 10(Sch.
item 32.7).

- (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 police officer visiting the prison. **S. 41(5) amended by No. 37/2014 s. 10(Sch. item 32.7).**
- (6) Nothing in this section applies to any questioning or investigation by a police officer in accordance with an order made under section 464B(5), or any questioning conducted by consent under section 464B(11), of the **Crimes Act 1958**. **S. 41(6) inserted by No. 86/2000 s. 8(3), amended by Nos 72/2013 s. 19, 37/2014 s. 10(Sch. item 32.7).**

42 Visitors to give prescribed information

- (1) A prison officer may require any person who wishes to enter, or who has entered, a prison as a visitor to give the prison officer information as to— **S. 42(1) substituted by No. 45/2001 s. 30(1).**
- (a) the purpose of the visit or intended visit;
 - (b) the person's identity, address, occupation and age;
 - (c) the person's relationship (if any) to any prisoner the person wishes to 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 required information to a prison officer or gives information to a prison officer that is false or misleading the prison officer may— **S. 42(3) amended by No. 45/2001 s. 30(2).**
- (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.

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

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

(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 subsection (1A) in relation to a matter prevails over any order under subsection (1) or section 39 in relation to that matter.

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

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

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

- (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 any person in the prison other than a judge of the Supreme Court or County Court, or a magistrate; or
- (c) search and examine any thing in the prison;
or

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

S. 45(1)(b)
substituted by
No. 45/2001
s. 31.

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

- (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.
- (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 subsection (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—

S. 45(8)
amended by
No. 16/1991
s. 15(4).

metropolitan area means an area within the radius of 30 kilometres of the intersection of Elizabeth Street and Bourke Street; and

S. 45(8) def. of
metropolitan area
amended by
No. 10/2013
s. 16.

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—

(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;

(ab) any tobacco product or tobacco smoking accessory found on a person or in a person's possession, other than a tobacco product or a tobacco smoking accessory which a person is authorised to possess under the regulations or a direction of the Governor;

S. 46(1)(ab)
inserted by
No. 45/2015
s. 4(1).

(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;

(ba) any tobacco product or tobacco smoking accessory found on a prisoner or in a prisoner's possession, other than a tobacco product or a smoking accessory which a prisoner is authorised to possess under the regulations or a direction of the Governor;

S. 46(1)(ba)
inserted by
No. 45/2015
s. 4(2).

- (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;
 - (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, dentist, 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 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 Commissioner, the Governor, an independent prison visitor, the Ombudsman, the Health Services Commissioner and the Human Rights Commissioner;

S. 47(1)(f)
amended by
Nos 23/1994
s. 118(Sch. 1
item 14.4),
10/2013
s. 17(1).

S. 47(1)(j)
amended by
No. 45/1996
s. 17(Sch. 1
item 31),
substituted by
No. 45/2001
s. 32(a),
amended by
No. 10/2013
s. 17(2).

- (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;
- S. 47(1)(m) substituted by No. 45/2001 s. 32(b).**
- (m) subject to sections 47A and 47B, the right to send letters to, and receive letters from, the following people without those letters being opened by prison staff—
- S. 47(1)(m)(i) amended by No. 10/2013 s. 17(3).**
- (i) the Minister, the Secretary, the Commissioner or an independent prison visitor;
- (ii) a member of Parliament;
- S. 47(1)(m)(iii) amended by No. 18/2005 s. 18(Sch. 1 item 22.3).**
- (iii) a lawyer representing the prisoner, or from whom the prisoner is seeking legal advice;
- (iv) the Ombudsman;
- (v) the Health Services Commissioner;
- (vi) the Human Rights Commissioner;
- (vii) any person authorised to act on behalf of a person listed in subparagraph (iv), (v) or (vi);
- S. 47(1)(n) amended by No. 16/1991 s. 10(1), substituted by No. 45/2001 s. 32(b).**
- (n) subject to section 47D, 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) Subsection (1)(m) does not prevent the opening of letters in accordance with section 28(3) of the **Ombudsman Act 1973**.

S. 47(3)
inserted by
No. 15/1989
s. 29,
amended by
No. 37/2014
s. 10(Sch.
item 32.8).

* * * * *

S. 47(4)
inserted by
No. 16/1991
s. 10(2),
repealed by
No. 45/2001
s. 32(c).

Division 4A—Letters to and from prisoners

Pt 6 Div. 4A
(Heading)
inserted by
No. 53/2007
s. 16.

47AA Definitions

S. 47AA
inserted by
No. 53/2007
s. 16.

In this Division—

family member, in relation to a person, means—

- (a) a partner of the person; or
- (b) a parent, step-parent, legal guardian or grandparent of the person or of a partner of the person; or
- (c) a child or grandchild (of any age) of the person or of a partner of the person or a child of whom that person or the person's partner is a guardian; or
- (d) a sibling or a step-sibling of the person or of a partner of the person; or

- (e) a child (of any age) of a sibling of the person or of a sibling of a partner of the person; or
- (f) a child (of any age) of a sibling of a parent of the person or of a sibling of a parent of a partner of the person; or
- (g) a person who has or has had an intimate personal relationship with that person; or
- (h) a child who normally or regularly resides with that person; or
- (i) another person who is or has been ordinarily a member of the household of that person;

victim means—

- (a) a natural person who has suffered injury, loss or damage (including grief, distress, trauma or other significant adverse effect) as a direct result of an offence, whether or not that injury, loss or damage was reasonably foreseeable by the offender; or
- (b) a family member of a person to whom paragraph (a) applies.

S. 47A
inserted by
No. 45/2001
s. 33.

47A Suspected dangerous letters may be disposed of

If the Governor reasonably suspects that any letter to, or from, a prisoner contains an unauthorised article or substance that could pose an immediate danger to any person, the Governor may dispose of the letter in any manner he or she considers to be appropriate.

47B Certain confidential letters may be inspected

(1) This section applies if the Governor reasonably suspects that a letter to, or from, a prisoner contains any unauthorised article or substance, but section 47A does not apply.

S. 47B
inserted by
No. 45/2001
s. 33.

(2) If the letter is to, or from, a lawyer, the Health Services Commissioner or the Human Rights Commissioner or any person authorised to act on behalf of either of those Commissioners, the Governor—

S. 47B(2)
amended by
Nos 18/2005
s. 18(Sch. 1
item 22.3),
28/2007
s. 3(Sch.
item 14).

(a) may hold the letter and notify the prisoner and the lawyer, or the relevant Commissioner, of his or her suspicions; and

S. 47B(2)(a)
amended by
No. 18/2005
s. 18(Sch. 1
item 22.3).

(b) may open and inspect the letter—

(i) in the presence of the prisoner and a representative of the lawyer or relevant Commissioner; or

S. 47B(2)(b)(i)
amended by
No. 18/2005
s. 18(Sch. 1
item 22.3).

(ii) in accordance with any alternative arrangement agreed with the lawyer or relevant Commissioner—

S. 47B(2)(b)(ii)
amended by
No. 18/2005
s. 18(Sch. 1
item 22.3).

but must not read or censor the letter.

(3) If the Governor has not received a response from the relevant Commissioner or lawyer within 7 days after notice is given under subsection (2), the Governor may require the prisoner to open the letter to enable the Governor to inspect it.

S. 47B(3)
amended by
No. 18/2005
s. 18(Sch. 1
item 22.3).

(4) If the letter is to, or from, the Minister, a member of Parliament, the Secretary, the Commissioner or an independent prison visitor, the Governor may

S. 47B(4)
amended by
No. 10/2013
s. 18.

require the prisoner to open the letter to enable the Governor to inspect it.

- (5) If a prisoner refuses a request to open a letter under subsection (3) or (4), the Governor may open the letter.
- (6) In opening or inspecting a letter under this section, the Governor—
 - (a) may inspect the envelope, and any associated packet, parcel, container or wrapper; but
 - (b) must not read or censor the letter.

S. 47C
inserted by
No. 45/2001
s. 33.

47C All other letters may be opened and read

A prison officer may open, inspect and read a letter sent to, or received by, a prisoner by or from any person who is not listed in section 47(1)(m) to determine whether or not the contents of the letter may jeopardise the safety and security of the prison, the safe custody and welfare of any prisoner or the safety of the community.

S. 47D
(Heading)
substituted by
No. 97/2004
s. 3(1).

47D When letters may be stopped and censored

S. 47D
inserted by
No. 45/2001
s. 33.

S. 47D(1)
amended by
No. 97/2004
s. 3(2).

- (1) This section applies if the Governor reasonably believes that any letter to be sent by a prisoner to, or sent to a prisoner by, any person who is not listed in section 47(1)(m)—
 - (a) is a threat to prison security; or
 - (ab) in the case of a letter sent by a prisoner to another prisoner or a former prisoner, may be a threat to the good order, management or security of a prison or prisoner; or

S. 47D(1)(ab)
inserted by
No. 12/2014
s. 6.

- (ac) in the case of a letter sent to a prisoner by another prisoner or a former prisoner, may be a threat to the good order, management or security of a prison or prisoner; or
- (b) may be of a threatening or harassing nature; or
- (c) may be being used to further an unlawful activity or purpose; or
- (d) contains indecent, abusive, threatening or offensive written or pictorial matter, or written or pictorial matter that may be regarded by a victim as distressing or traumatic, or an indecent, obscene or offensive article or substance; or
- (e) contravenes or would contravene section 47H.

S. 47D(1)(ac)
inserted by
No. 12/2014
s. 6.

S. 47D(1)(d)
amended by
Nos 97/2004
s. 3(3),
53/2007 s. 17.

S. 47D(1)(e)
inserted by
No. 97/2004
s. 3(4).

(2) 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.

47DA Offence for prisoner to send distressing or traumatic letters

S. 47DA
inserted by
No. 53/2007
s. 18.

A prisoner must not send or cause to be sent, or attempt to send or cause to be sent, a letter to a victim who is not listed in section 47(1)(m) if the prisoner knows, or ought reasonably to know, that the letter contains written or pictorial matter that may be regarded as distressing or traumatic by the victim or any other victim who might reasonably receive it.

Penalty: 6 months imprisonment.

47E Letter register

S. 47E
inserted by
No. 45/2001
s. 33.

The Governor must establish and maintain a register containing—

S. 47E(ab)
inserted by
No. 5/2006
s. 14(9),
amended by
No. 37/2014
s. 10(Sch.
item 32.9(a)).

(a) details of every letter disposed of under section 47A; and

(ab) details of every letter given by a prison officer to a police officer under section 13ZC of the **Terrorism (Community Protection) Act 2003**; and

(b) details of every letter opened under—

(i) section 47B(2), (3), (4) or (5); or

(ii) section 28(3) of the **Ombudsman Act 1973**; and

S. 47E(b)(ii)
amended by
No. 37/2014
s. 10(Sch.
item
32.9(b)(i)).

S. 47E(b)(iii)
repealed by
No. 37/2014
s. 10(Sch.
item
32.9(b)(ii)).

* * * * *

(c) the reasons for opening any letter referred to in paragraph (b); and

(d) details of any unauthorised article or substance found in conducting an inspection in relation to a letter; and

(e) details of any other action taken in relation to a letter or anything found in or with a letter.

Division 5—Change of name applications by prisoners

Pt 6 Div. 5
(Heading and
ss 47F–47L)
inserted by
No. 97/2004
s. 4.

47F Application

This Division applies despite anything to the contrary in the **Births, Deaths and Marriages Registration Act 1996**.

S. 47F
inserted by
No. 97/2004
s. 4.

47G Definitions

In this Division—

S. 47G
inserted by
No. 97/2004
s. 4.

change of name application means an application by or on behalf of a prisoner for registration of—

- (a) a change of the prisoner's name; or
- (b) a change of the name of a child of the prisoner;

Victorian Registrar means Registrar of Births, Deaths and Marriages under the **Births, Deaths and Marriages Registration Act 1996**.

47H Applications for change of name by or on behalf of a prisoner

S. 47H
inserted by
No. 97/2004
s. 4.

- (1) A prisoner must not make a change of name application to a Registrar without having first obtained the written approval of the Secretary.

Penalty: 5 penalty units.

- (2) A person must not make a change of name application to a Registrar on behalf of a prisoner unless the written approval of the Secretary is first obtained.

Penalty: 5 penalty units.

- (3) In this section, *Registrar* means—
- (a) the Victorian Registrar; or
 - (b) an authority responsible under a law of another State or a Territory for the registration of births, deaths and marriages.

S. 47I
inserted by
No. 97/2004
s. 4.

47I Approval by Secretary

- (1) Subject to subsection (2), the Secretary may only approve a change of name application if he or she is satisfied that the change of name is in all the circumstances necessary or reasonable.
- (2) The Secretary must not approve a change of name application if he or she is satisfied that the change of name would, if registered, be reasonably likely—
 - (a) to be a threat to prison security; or
 - (b) to jeopardise the safe custody or welfare of any prisoner; or
 - (c) to be used to further an unlawful activity or purpose; or
 - (d) to be regarded as offensive by a victim of crime or an appreciable sector of the community.

S. 47J
inserted by
No. 97/2004
s. 4.

47J Approval to be notified in writing

If the Secretary approves a change of name application, the Secretary must—

- (a) as soon as practicable, give written notice of the approval to the person who made the application; and
- (b) if the prisoner consents, give a copy of the written notice of approval to the Victorian Registrar.

47K Registration of change of name

S. 47K
inserted by
No. 97/2004
s. 4.

The Victorian Registrar must not register a change of name under the **Births, Deaths and Marriages Registration Act 1996** if—

- (a) the Victorian Registrar knows that—
 - (i) the application for the change of name is made by or on behalf of a prisoner; and
 - (ii) the change of name relates to the name of the prisoner or a child of the prisoner; and
- (b) the Victorian Registrar has not received a copy of the notice of approval of the Secretary to the application under section 47J.

47L Registrar may correct Register

S. 47L
inserted by
No. 97/2004
s. 4.

Without limiting section 43 of the **Births, Deaths and Marriages Registration Act 1996**, the Victorian Registrar may correct the Register under that section if—

- (a) the name of a prisoner or a child of a prisoner on the Register was changed because of a change of name application; and
- (b) the Secretary had not approved that change of name application under section 47I.

47M Information-sharing between the Secretary and the Victorian Registrar

S. 47M
inserted by
No. 10/2013
s. 19.

- (1) Despite any other law to the contrary, the Secretary must notify the Victorian Registrar of the following details in relation to each prisoner—
 - (a) the prisoner's name (including any other name by which he or she is or has previously been known);

- (b) the prisoner's date of birth;
 - (c) the prisoner's residential address immediately before being taken into custody.
- (2) If the Secretary has given notification under subsection (1) in respect of a prisoner, the Secretary must notify the Victorian Registrar as soon as practicable of that prisoner's release, whether on parole or at the end of his or her sentence.
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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—

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

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).

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
Nos 16/1991
s. 11(3),
45/2001
s. 34(1).

(1) If an officer within the meaning of Part 5 or an escort 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 subsection (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).

* * * * *

S. 50(5)(d)
amended by
No. 45/2001
s. 34(2)(a).

(d) charge the prisoner with the prison offence.

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|------|---|---|---|---|--|
| * | * | * | * | * | |
| | | | | | S. 50(5)(e)
amended by
No. 16/1991
s. 12(a)(iii),
repealed by
No. 45/2001
s. 34(2)(b). |
| (5A) | In addition to any action the disciplinary officer may take under subsection (5)(a), (b) or (d), the disciplinary officer may also take steps to have the matter dealt with under the criminal law. | | | | S. 50(5A)
inserted by
No. 45/2001
s. 34(3). |
| (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; | |

S. 51(d)
amended by
No. 16/1991
s. 12(b).

(d) take steps to have the matter dealt with under the criminal law.

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 subsection (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 subsection (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 subsection (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 subsection (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;

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

* * * * *

- (5) The payment of fines imposed under subsection (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 subsection (4) impose more than one of the penalties listed in that subsection.

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.

- (2) The Secretary may only withdraw a prisoner's privileges under subsection (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 subsection (1) does not affect the imposition of any other penalties under this Part or under the criminal law in respect of the prison offence.
-

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
*presiding
deputy
chairperson*
inserted by
No. 12/2014
s. 7.

presiding deputy chairperson means—

- (a) if only one member of the Board is appointed as a deputy chairperson, that deputy chairperson; or
- (b) if more than one member of the Board is appointed as a deputy chairperson—
 - (i) the deputy chairperson nominated by the chairperson of the Board;or

- (ii) if no deputy chairperson has been nominated or the nominated deputy chairperson is absent or unable to act—
 - (A) the deputy chairperson chosen by the procedure determined by the chairperson; or
 - (B) if no procedure has been determined or the deputy chairperson chosen is absent or unable to act, the deputy chairperson nominated by the Secretary;

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—

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

- (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.

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

* * * * *

Pt 8 Div. 1A
(Heading and
ss 55A–55J)
inserted by
No. 45/2001
s. 15.

Division 1A—Escort officers

S. 55A
inserted by
No. 45/2001
s. 15.

55A Powers of Secretary in relation to escort officers

- (1) The Secretary may direct an escort officer to transport or supervise a prisoner.
- (2) An escort officer must comply with a direction of the Secretary.

S. 55B
inserted by
No. 45/2001
s. 15.

55B Escort officers subject to direction of court or tribunal

- (1) An escort officer must, if directed by the court, supervise a person who has surrendered himself or herself into the custody of the court in answer to his or her bail.
- (2) An escort officer must comply with any lawful direction of the court or tribunal when supervising—
 - (a) a prisoner attending before the court or tribunal; or
 - (b) a person who has surrendered himself or herself into the custody of a court in answer to his or her bail.

S. 55B(2)(a)
amended by
No. 68/2009
s. 97(Sch.
item 33.1).

55C Functions and powers of escort officers in relation to prisoners

S. 55C
inserted by
No. 45/2001
s. 15.

- (1) An escort officer has the following functions in relation to a prisoner he or she is transporting or supervising—
- (a) to take all reasonable steps to prevent the escape or attempted escape of the prisoner from the physical custody of the escort officer;
 - (b) to take all reasonable steps to ensure that the prisoner's safety and welfare are maintained;
 - (c) to take all reasonable steps to prevent and detect the commission by the prisoner of any unlawful act or any attempt to commit an unlawful act;
 - (d) to take all reasonable steps to ensure the good order and discipline of the prisoner;
 - (e) to take all reasonable steps to ensure the security of any property that is in the prisoner's possession;
 - (f) to take all reasonable steps to ensure that the prisoner is transported to or from the appropriate place as required by the Secretary;
 - (g) to take all reasonable steps to ensure that the prisoner is transferred—
 - (i) into the physical custody of another person acting on behalf of the Secretary; or
 - (ii) if legal custody of the prisoner is authorised to be transferred to a person other than the Secretary, into the physical custody of a person acting on behalf of the person to whom legal custody is to be transferred.

- (2) An escort officer has the following powers in relation to a prisoner he or she is transporting or supervising—
- (a) to order the prisoner to do or not to do anything which the escort officer believes on reasonable grounds is necessary for the safety of the escort officer, the prisoner or any other person;
 - (b) to search and examine the prisoner or any thing in the prisoner's possession or under the prisoner's control if the escort officer believes on reasonable grounds that this is necessary for the safety of the escort officer, the prisoner or any other person;
 - (c) to seize any thing found on the prisoner or in the prisoner's possession or under the prisoner's control if the escort officer believes on reasonable grounds that this is necessary for the safety of the escort officer, the prisoner or any other person;
 - (d) to apply an authorised instrument of restraint to the prisoner for the duration of the transport or supervision of the prisoner if the Secretary believes on reasonable grounds that the application of the instrument of restraint is necessary to prevent the escape of the prisoner or the assault of, or injury to, any person;
 - (e) to apply an authorised instrument of restraint to the prisoner during the transport or supervision of a prisoner if the conduct of the prisoner during that transport or supervision has been such that it is reasonable to believe that the application of the instrument of restraint is necessary to prevent the escape of the prisoner or the assault of, or injury to, any person.

55D Authorisation of instruments of restraint

An escort officer may apply an instrument of restraint to a person being transported only if—

- (a) the instrument, or type of instrument, is approved by the Secretary; and
- (b) the instrument is used in the manner determined by the Secretary.

S. 55D
inserted by
No. 45/2001
s. 15.

55E Use of reasonable force

- (1) An escort officer may, where necessary, use reasonable force to compel a prisoner to obey an order given by the escort officer in the exercise of a function or power.
- (2) An escort officer who uses force in accordance with this section is not liable for injury or damage caused by that use of force.

S. 55E
inserted by
No. 45/2001
s. 15.

55EA Issue of firearms to escort officers

A Governor or the Secretary may authorise the issue of a firearm to an escort officer—

- (a) if the escort officer is undertaking duties as an armed escort for high security prisoners or maximum security prisoners; or
- (b) if the escort officer is undertaking patrols outside a prison where high security or maximum security prisoners are kept; or
- (c) if the escort officer is undertaking duties at a post specified by the Governor—
 - (i) at a prison where high security or maximum security prisoners are kept; and
 - (ii) at the times when prisoners are locked in cells; or

S. 55EA
inserted by
No. 12/2014
s. 8.

- (d) if the escort officer is undertaking firearms training under the direction of an approved instructor; or
- (e) in a case of emergency; or
- (f) if the Governor or Secretary reasonably believes that a firearm is necessary for the security or good order of the prison or for the safety of a prisoner, escort officer or other person.

S. 55EB
inserted by
No. 12/2014
s. 8.

55EB Discharge of firearms

- (1) An escort officer may discharge a firearm at a prisoner if—
 - (a) the prisoner escapes or attempts to escape from custody; and
 - (b) the escort officer reasonably believes that discharging the firearm is the only practicable way to prevent the escape of the prisoner from custody.
- (2) An escort officer may discharge a firearm at a person if the escort officer reasonably believes that—
 - (a) the person is aiding a prisoner in escaping or attempting to escape from custody; and
 - (b) discharging the firearm is the only practicable way to prevent the escape of the prisoner from custody.
- (3) An escort officer may discharge a firearm at a person if—
 - (a) that person is using force or threatening force against—
 - (i) a person in a prison; or

- (ii) an officer within the meaning of Part 5 (including the escort officer carrying the firearm) acting in the execution of his or her duties outside a prison; or
 - (iii) a prisoner outside a prison; and
 - (b) the escort officer reasonably believes that discharging the firearm is the only practicable way to prevent that person causing death or serious injury.
- (4) Before discharging a firearm at a person under this section, an escort officer must—
- (a) if it is practicable to do so, give an oral warning to that person to the effect that the person will be shot at if that person does not stop escaping, attempting to escape, aiding an escape or attempted escape or using or threatening force (as the case may be); and
 - (b) satisfy himself or herself that discharging a firearm at the person does not create an unnecessary risk to any other person.

55EC Discharge of non-lethal firearm

An escort officer may discharge a firearm that is a prescribed non-lethal firearm at a person if the escort officer reasonably believes that discharging the firearm is the only practicable way to—

- (a) prevent, control or stop a riot in a prison; or
- (b) prevent a serious threat to the security or good order of the prison.

55F Report to Secretary

- (1) An escort officer must immediately report to the Secretary the escape or suspected escape of a prisoner—
- (a) from the physical custody of the escort officer; or

S. 55EC
inserted by
No. 12/2014
s. 8.

S. 55F
inserted by
No. 45/2001
s. 15.

- (b) from the physical custody of another person who is transporting or supervising the prisoner, if the escape or suspected escape comes to the escort officer's notice.
- (2) An escort officer must report to the Secretary without delay—
- (a) anything which might reasonably be thought to jeopardise the welfare of a prisoner the escort officer is transporting or supervising;
 - (b) the exercise of any of the powers the escort officer has under sections 55C(2)(b) to 55C(2)(e) in relation to the prisoner;
 - (c) on the commission by the prisoner of an act that is, in the opinion of the escort officer, an unlawful act or an attempt to commit an unlawful act;
 - (d) on an omission by a prisoner that is, in the opinion of the escort officer, an unlawful omission;
 - (e) if the escort officer uses force to compel a prisoner to obey an order.

S. 55G
inserted by
No. 45/2001
s. 15.

55G Functions and powers of escort officers in relation to persons surrendering to court

- (1) This section applies if an escort officer is directed by a court to supervise a person who—
- (a) has surrendered himself or herself into the custody of the court in answer to his or her bail; or
 - (b) has been ordered by the court to be detained in custody on the court premises.
- (2) The escort officer, in relation to the supervision of the person, has the functions set out in sections 55C(1) and 55F, and may exercise the powers set out in sections 55C(2) and 55E.

- (3) For the purposes of subsection (2), sections 55C, 55E and 55F apply as if—
 - (a) any reference to a prisoner were a reference to the person being supervised; and
 - (b) any reference to the Secretary were a reference to the court.
- (4) The court may direct the escort officer to exercise one or more of the powers set out in sections 55C(2) and 55E.
- (5) For the purposes of subsection (4), if the escort officer is directed by the court to exercise a power under section 55C(2), that section applies as if it did not require the escort officer to form a belief on reasonable grounds before exercising the power.

55H How are things seized by an escort officer to be dealt with?

S. 55H
inserted by
No. 45/2001
s. 15.

- (1) An escort officer who is transporting or supervising a prisoner and who seizes a thing under section 55C(2), must, as soon as is practicable, give the thing to the Secretary.
- (2) The Secretary must deal with or dispose of the seized thing in accordance with the regulations.
- (3) An escort officer who is supervising a person at the direction of a court under section 55B and who seizes a thing under section 55C(2), must, as soon as is practicable, give the thing to the court to be dealt with or disposed of as the court thinks appropriate.

S. 55I
(Heading)
substituted by
No. 37/2014
s. 10(Sch.
item 32.10).

55I Powers of police officers

S. 55I
inserted by
No. 45/2001
s. 15.

S. 55I(1)
amended by
No. 37/2014
s. 10(Sch.
item 32.11(a)).

- (1) If an escort officer is authorised to transport a person to or from a prison or police gaol or other place, then, unless the court otherwise determines, a police officer may, at the request of the Secretary, transport the person to or from that place in place of the escort officer, or may assist the escort officer to transport the person.

S. 55I(2)
amended by
No. 37/2014
s. 10(Sch.
item 32.11(a)).

- (2) A police officer who is transporting, or assisting in the transport of, a person under this section may do anything in relation to that person that an escort officer transporting the person may do.

S. 55I(3)
amended by
No. 37/2014
s. 10(Sch.
item 32.11(b)).

- (3) A person who is being transported only by police officers under subsection (1) is deemed to be in the legal custody of the Chief Commissioner of Police while being so transported.

S. 55I(4)
amended by
No. 37/2014
s. 10(Sch.
item 32.11(b)).

- (4) If one or more police officers assist an escort officer to transport a person under this section, the person is deemed to be in the legal custody of the Secretary while being so transported.

S. 55J
inserted by
No. 45/2001
s. 15.

55J Additional powers of escort officers

- (1) An escort officer may execute a warrant to imprison, or a remand warrant, as if the escort officer was a prison officer.
- (2) A warrant to imprison or a remand warrant may be directed to an escort officer.

Division 2—Transfer of prisoners

Pt 8 Div. 2
(Heading and
s. 56)
amended by
Nos 16/1987
s. 4(3)(Sch. 1
item 7(e)),
16/1991
s. 3(2)-(5),
45/1996
s. 17(Sch. 1
item 37(a)(b)),
substituted as
Pt 8 Div. 2
(Heading and
ss 56–56AB)
by No.
45/2001 s. 16.

56 Transfers between prisons

The Secretary may, by instrument, direct the transfer of a prisoner or a class of prisoner from one prison to another or from one part of a prison to another part of a prison.

S. 56
substituted by
No. 45/2001
s. 16.

56AA Transfers to and from police gaols

- (1) The Secretary may, by instrument, direct the transfer of a prisoner from a prison to a police gaol.
- (2) The Secretary may, by instrument, authorise the transfer from a police gaol to a prison of a person who is in the legal custody of the Chief Commissioner of Police under Part 1A.

S. 56AA
inserted by
No. 45/2001
s. 16.

56AB Legal custody of prisoners and detainees transferred to institutions and designated mental health services

- (1) This section applies if a prisoner in a prison or a person detained in a police gaol is transferred from the prison or police gaol to—

S. 56AB
(Heading)
amended by
No. 26/2014
s. 455(Sch.
item 6.3).
S. 56AB
inserted by
No. 45/2001
s. 16.

Corrections Act 1986
No. 117 of 1986
Part 8—Temporary absence from prison

- S. 56AB(1)(a)
substituted by
No. 26/2014
s. 455(Sch.
item 6.4).
- (a) a designated mental health service within the meaning of the **Mental Health Act 2014** in accordance with that Act;
- S. 56AB(1)(b)
amended by
No. 23/2006
s. 235(a).
- (b) a residential institution within the meaning of the **Disability Act 2006** in accordance with that Act;
- S. 56AB(1)(c)
substituted by
No. 23/2006
s. 235(b).
- (c) a residential treatment facility within the meaning of the **Disability Act 2006** in accordance with that Act.
- (2) On a transfer referred to in subsection (1) of a prisoner or person, the prisoner or person is deemed to be in the legal custody of—
- S. 56AB(2)(a)
amended by
Nos 23/2006
s. 235(c),
26/2014
s. 455(Sch.
item 6.5(a)).
- (a) the person specified as the person who is to have the custody of the prisoner or person under the **Mental Health Act 2014**, the **Disability Act 2006** or the **Crimes (Mental Impairment and Unfitness to be Tried) Act 1997**;
- S. 56AB(2)(b)
amended by
No. 26/2014
s. 455(Sch.
item 6.5).
- (b) in the case of a transfer referred to in subsection (1)(a), if no person is specified under the **Mental Health Act 2014**, the authorised psychiatrist of the designated mental health service;
- S. 56AB(2)(c)
amended by
No. 23/2006
s. 235(c).
- (c) in the case of a transfer referred to in subsection (1)(b) or (1)(c), if no person is specified under the **Disability Act 2006**, the chief executive of the place to which the prisoner or person is transferred.
- (3) A transfer referred to in subsection (1) of a prisoner or person occurs when the person who is to have legal custody of the prisoner or person, or a person acting under lawful authority on behalf of the person who is to have legal custody, accepts physical custody of the prisoner or person.

Note

Specific provision for the transfer or return of prisoners and other people can be found in sections 270, 291, 292, 306, 307 and Division 3 of Part 15 of the **Mental Health Act 2014**, in sections 161, 166, 177 and 178 of the **Disability Act 2006** and in Part 5.6 of the **Children, Youth and Families Act 2005** (this list is not exhaustive).

Note to s. 56AB amended by Nos 23/2006 s. 235(d), 48/2006 s. 42(Sch. item 8.3), 26/2014 s. 455(Sch. item 6.6).

56AC Transfers to and from transition centres

S. 56AC inserted by No. 2/2005 s. 6.

- (1) The Secretary may, by instrument, direct the transfer of a prisoner from a prison to a transition centre, or from a transition centre to a prison.
- (2) The Secretary may only direct the transfer of a prisoner to a transition centre if—
 - (a) the Secretary is satisfied that adequate consideration has been given to the security and good order of the transition centre and the safety and welfare of the prisoner and members of the public; and
 - (b) the transfer is to occur not less than 3 months, and not more than 12 months, before the earliest possible release date of the prisoner; and
 - (c) a transitional activity plan has been developed for the prisoner that identifies the prisoner's rehabilitation or re-integration needs, and that proposes work, community work, education or other programs to address those needs.
- (3) Without limiting the factors the Secretary may consider, for the purposes of subsection (2)(a) the Secretary must have regard to whether the prisoner—
 - (a) has a significant risk of self-harm;
 - (b) is an active drug user;

- (c) has a history of violence;
- (d) has a history of sexual offences or other offences that may make his or her presence at a transition centre inappropriate;
- (e) has a history of escape, or presents a significant escape risk;
- (f) has outstanding criminal charges or other legal or disciplinary matters pending.

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

Division 2A—Absence to give evidence at foreign proceedings

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

56A Arrangements with Commonwealth

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

- (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.

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

- (2) An authority given by the Secretary under subsection (1) may be subject to any conditions the Secretary thinks fit.

Division 2B—Police custody transfer orders

Pt. 8 Div. 2B
(Heading and
ss 56B–56F)
inserted by
No. 10/2013
s. 20.

56B Application for police custody transfer order

S. 56B
inserted by
No. 10/2013
s. 20.

- (1) A police officer of or above the rank of Assistant Commissioner of Police may apply to the Supreme Court for a police custody transfer order in relation to a prisoner if he or she believes on reasonable grounds that the prisoner will voluntarily provide information to a police officer provided that any interview between the prisoner and a police officer occurs outside a prison.
- (2) An application must not be made under subsection (1) for a purpose relating to the investigation of an offence that the prisoner committed or is reasonably suspected of having committed unless the prisoner has been convicted or found guilty of that offence.
- (3) An application under subsection (1) must not be made in relation to a prisoner in circumstances in which the prisoner may be removed from prison by or under this Act and delivered in to the custody of another person.
- (4) An application under subsection (1) must—
 - (a) be in writing; and
 - (b) state the grounds on which the application is made; and
 - (ba) be supported by an affidavit setting out the grounds on which the application is made; and

S. 56B(1)
amended by
No. 37/2014
s. 10(Sch.
item 32.12).

S. 56B(4)(ba)
inserted by
No. 12/2014
s. 9.

S. 56B(4)(c)(ii)
amended by
No. 37/2014
s. 10(Sch.
item 32.12).

- (c) include the following documents—
- (i) the prisoner's written consent to the making of the proposed order; and
 - (ii) an assessment made by a police officer as to the risks, (if the order is made) to the security and good order of the prison in which the prisoner is detained and to the safety and welfare of the prisoner or any other person before the making of the order, while the order is in force and after the order ceases to be in force; and
 - (iii) an assessment made by the Secretary (taking into account the assessment referred to in subparagraph (ii)) as to the risks (if the order is made) to the security and good order of the prison in which the prisoner is detained and to the safety and welfare of the prisoner or any other person before the making of the order, while the order is in force and after the order ceases to be in force; and
 - (iv) a statement made by the Secretary as to the conditions (if any) the Secretary seeks to be imposed on the order.
- (5) An applicant for a police custody transfer order must serve a copy of the application on the Secretary.
- (6) An application under subsection (1) is not to be heard in open court.

S. 56C
inserted by
No. 10/2013
s. 20.

56C Application to be determined on the papers and information to be in custody of the Court

- (1) The Supreme Court, after considering an application made under section 56B, is to determine the matter on the papers.

- (2) A person is not entitled to search any document in the custody of the Supreme Court that forms part of an application made under section 56B or an order made under section 56D unless the Court otherwise orders in the interests of justice.

56D Court may make police custody transfer order

S. 56D
inserted by
No. 10/2013
s. 20.

- (1) The Supreme Court may make a police custody transfer order in relation to a prisoner if the Court is satisfied—
- (a) as to the grounds on which the application for the order was made; and
 - (b) that adequate consideration has been given to the security and good order of the prison and the safety and welfare of the prisoner and other persons.
- (2) A police custody transfer order authorises the prisoner to whom it applies to be absent from a prison for the period or periods (not exceeding a total of 3 days) specified in the order.
- (3) A police custody transfer order must not authorise a prisoner to be absent from a prison overnight unless the Supreme Court is satisfied that exceptional circumstances exist.
- (4) A police custody transfer order is subject to any conditions that the Supreme Court considers appropriate.

56E Information to be provided on return of person to legal custody of Secretary

S. 56E
inserted by
No. 10/2013
s. 20.

The Chief Commissioner of Police must ensure that, on the return of a prisoner subject to a police custody transfer order to the legal custody of the Secretary, the Secretary is informed in writing as to any change to the risks to—

- (a) the security and good order of the prison in which the prisoner is detained while the order is in force and after the order ceases to be force;
- (b) the safety and welfare of the prisoner or any other person while the order is in force and after the order ceases to be in force.

S. 56F
inserted by
No. 10/2013
s. 20.

56F Revocation of police custody transfer order

S. 56F(1)
amended by
No. 37/2014
s. 10(Sch.
item 32.12).

- (1) The Secretary or a police officer of or above the rank of Assistant Commissioner of Police may apply to the Supreme Court at any time for the revocation of a police custody transfer order.
- (2) On an application under subsection (1), the Supreme Court may revoke the police custody transfer order if it considers it reasonable in the circumstances to do so.

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).

Division 3—Custodial community permits

S. 57
substituted by
No. 16/1991
s. 15(1),
amended by
Nos 45/1996
s. 17(Sch. 1
item 39),
45/2001 s. 17,
substituted by
No. 2/2005
s. 7.

57 Custodial community permits

- (1) The Secretary may issue, in accordance with this Division, the following custodial community permits to prisoners—
 - (a) a corrections administration permit;
 - (b) a rehabilitation and transition permit;
 - (c) a fine default permit.

- (2) The Secretary may issue, in accordance with this Division, a fine default permit to a person in the custody of the Chief Commissioner of Police.

57A Corrections administration permit

S. 57A
inserted by
No. 2/2005
s. 7.

- (1) Subject to subsection (1A), the Secretary may issue a corrections administration permit to a prisoner for any of the following purposes—

S. 57A(1)
amended by
No. 10/2013
s. 21(1).

- (a) a purpose related to the health 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 (Miscellaneous Provisions) Act 1958**;
- (c) 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;
- (d) to attend the funeral of a person with whom the prisoner had a long-standing personal relationship;
- (e) to visit another prison.

S. 57A(1)(b)
amended by
No. 69/2009
s. 54(Sch. Pt 2
item 14).

- (1A) The Secretary must not issue a corrections administration permit to a prisoner under subsection (1) in circumstances in which the prisoner may be removed from prison in accordance with a police custody transfer order.

S. 57A(1A)
inserted by
No. 10/2013
s. 21(2).

- (2) The Secretary may issue the permit for a period of up to 3 days.

- (3) Despite subsection (2), the Secretary may issue the permit for a longer period if the permit is to be issued—
- (a) under subsection (1)(b) and the prisoner will be under police protection while the permit is in force; or
 - (b) for a purpose related to the health of the prisoner.
- (4) Subject to section 6B, a prisoner who is authorised to be absent from prison under the permit continues in the legal custody of the Secretary while absent.

S. 57B
inserted by
No. 2/2005
s. 7.

57B Rehabilitation and transition permit

- (1) The Secretary may issue a rehabilitation and transition permit to a prisoner for any of the following purposes—
- (a) a purpose related to the physical fitness or education of the prisoner;
 - (b) to take part in a program approved by the Secretary that is designed to facilitate the maintenance of the prisoner's family ties;
 - (c) in the case of a prisoner residing at a transition centre, to undertake activities provided for in the prisoner's transitional activity plan;
 - (d) to look for or carry out work, including (but not limited to) unpaid community work;
 - (e) to take part in a program approved by the Secretary that is designed to facilitate—
 - (i) the rehabilitation of the prisoner; or
 - (ii) the prisoner's re-integration into the community; or

- (iii) the preparation of the prisoner for release.
- (2) The Secretary may issue the permit for a period of up to 30 days.
- (3) Subject to section 6B, a prisoner who is authorised to be absent from prison under the permit continues in the legal custody of the Secretary while absent.

57C Fine default permit

- (1) This section only applies to a person—

S. 57C
inserted by
No. 2/2005
s. 7.

- (a) who is a prisoner who is in the legal custody of the Secretary solely because he or she failed to pay a monetary penalty or an instalment under an instalment order; or

S. 57C(1)(a)
substituted by
No. 32/2006
s. 90(2)(a).

- (b) who is in the legal custody of the Chief Commissioner solely for a reason described in paragraph (a).

S. 57C(1)(b)
amended by
No. 32/2006
s. 90(2)(b).

- (2) The Secretary may issue a fine default permit to the person requiring the person to carry out community work as specified in the permit.
- (3) The Secretary may issue the permit for a period of up to the whole, or the remaining part, of the term for which the person may be imprisoned.

Note

Section 6C(1)(bc) provides that a person who is absent from a prison under a fine default permit is not in the legal custody of the Secretary.

57D Provisions applying to all custodial community permits

- (1) The Secretary may only issue a custodial community permit to a prisoner if the Secretary is satisfied that—

S. 57D
inserted by
No. 2/2005
s. 7.

- (a) adequate consideration has been given to the safety and welfare of the prisoner and members of the public; and
 - (b) facilities exist for the provision of adequate and suitable escort and transport where necessary; and
 - (c) in addition to the requirements of this Division, the issuing of the permit complies with any requirements set out in the regulations.
- (2) In issuing a custodial community permit, the Secretary—
- (a) must comply with any requirements set out in the regulations; and
 - (b) may impose any conditions on the permit that he or she thinks are appropriate.
- (3) 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 any relevant conditions set out in the regulations and any other conditions set out in the permit.
- (4) The Secretary may issue a custodial community permit in accordance with this section to a prisoner who is not in a prison.
- (5) If the Secretary issues a custodial community permit to a prisoner who is not in a prison, the Secretary must nominate a prison as the prison from which the prisoner is authorised to be absent.
- (6) Nothing in this Division is intended to prevent the Secretary from re-issuing a permit that has expired.

- (7) In the case of a person referred to in section 57C(1)(b), a reference to a prisoner in this section is to be read as a reference to the person.

58 Breach of custodial community permit

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

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.

58A Powers of Secretary with respect to custodial community permits

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

- (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—

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

- (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.

58B Visitors to give prescribed information

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

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

prisoner means a prisoner who is authorised to be absent from a prison under a corrections administration permit or a rehabilitation and transition permit.

S. 58B(1)
def. of
prisoner
amended by
No. 2/2005
s. 8(3).

- (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 subsection (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 prison 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 corrections administration permit or a rehabilitation and transition permit believes on reasonable grounds

S. 58B(5)
amended by
No. 45/2001
s. 35.

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

S. 58C(1)
amended by
No. 2/2005
s. 8(3).

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.

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.

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

Division 3A—Emergency management days

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

58E Emergency management days

S. 58E
inserted by
No. 44/1991
s. 4(1).

- (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—

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

Corrections Act 1986
No. 117 of 1986
Part 8—Temporary absence from prison

- (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) Subsection (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.

Pt 8 Div. 4
(Heading and
ss 59, 60)
repealed by
No. 44/1991
s. 3(1), new
Pt 8 Div. 4
(Heading and
ss 59–60X)
inserted by
No. 53/2003
s. 14,
amended by
Nos 97/2005
s. 182(Sch. 4
item 13.3),
49/2006
s. 6(1),
52/2008
ss 240, 241,
68/2008 ss 67,
68, 13/2010
s. 51(Sch.
item 16.5),
30/2010
ss 47–49(1),
50–52,
53/2010
ss 221(Sch.
items 3.2–3.6),
222,
repealed by
No. 48/2011
s. 6.

* * * * *

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—
- (a) such number of Judges of the Supreme Court as are appointed by the Governor in Council on the recommendation of the Chief Justice of the Supreme Court; and; S. 61(2) amended by No. 11/1993 s. 7(1)(e).
 - (a) such number of Judges of the Supreme Court as are appointed by the Governor in Council on the recommendation of the Chief Justice of the Supreme Court; and; S. 61(2)(a) substituted by Nos 16/1991 s. 16(1)(a), 62/2013 s. 4(1)(a).
 - (ab) such number of Associate Judges of the Supreme Court as are appointed by the Governor in Council on the recommendation of the Chief Justice of the Supreme Court; and S. 61(2)(ab) inserted by No. 10/2013 s. 22(1).
 - (b) such number of Judges of the County Court as are 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), amended by No. 62/2013 s. 4(1)(b).
 - (c) such number of Magistrates as are appointed by the Governor in Council on the recommendation of the Chief Magistrate; and S. 61(2)(c) substituted by No. 16/1991 s. 16(1)(b), amended by No. 62/2013 s. 4(1)(c).
 - (d) one or more persons appointed by the Governor in Council as full-time members; and S. 61(2)(d) substituted by No. 91/2009 s. 205.
 - (da) one or more retired Judges of the Supreme Court or the County Court or a superior court or an intermediate court or retired Magistrates, appointed by the Governor in Council; and S. 61(2)(da) inserted by No. 16/1991 s. 16(1)(c), amended by No. 62/2013 s. 4(1)(d).

Corrections Act 1986
No. 117 of 1986
Part 8—Temporary absence from prison

S. 61(2)(e)
substituted by
No. 10/2013
s. 22(2).

(e) one or more persons 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.

S. 61(6)
amended by
No. 16/1987
s. 4(3)(Sch. 1
item 7(f)).

(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.

S. 61(7)
inserted by
No. 16/1991
s. 16(1)(d).

(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.

(8) In this section—

intermediate court means a court of another State or a Territory of equivalent status to the County Court;

superior court means—

- (a) the High Court; or
- (b) the Federal Court; or
- (c) the Family Court; or
- (d) the Supreme Court of another State or a Territory.

S. 61(8)
inserted by
No. 62/2013
s. 4(2).

61A Chairperson and deputy chairpersons

(1) The Governor in Council must appoint a member of the Board appointed under section 61(2)(a), (b) or (da) (other than a retired Magistrate) to be chairperson of the Board.

(2) The Governor in Council may appoint one or more members of the Board appointed under section 61(2)(a), (b) or (da) (other than a retired Magistrate) to be deputy chairperson of the Board.

(3) If the chairperson is unable to perform the duties of office, is absent or the office of the chairperson is vacant, the presiding deputy chairperson must act as chairperson and while acting has the functions, powers and duties of the chairperson.

S. 61A
(Heading)
amended by
No. 12/2014
s. 10(1).

S. 61A
inserted by
No. 62/2013
s. 5.

S. 61A(2)
amended by
No. 12/2014
s. 10(2).

S. 61A(3)
amended by
No. 12/2014
s. 10(3).

62 Deputy members

(1) The Governor in Council may appoint a member of the Board appointed under section 61(2)(a), (b) or (da) (other than a retired Magistrate) to act as chairperson while—

S. 62(1)
amended by
No. 16/1991
s. 16(2),
substituted by
No. 62/2013
s. 6(1).

Corrections Act 1986
No. 117 of 1986
Part 8—Temporary absence from prison

S. 62(1)(b)
amended by
No. 12/2014
s. 11.

- (a) the chairperson is unable to perform the duties of office, is absent or the office of the chairperson is vacant; and
- (b) there is no deputy chairperson who is able to perform the duties of office or who is not absent or the office of the deputy chairperson is vacant.

S. 62(2)
amended by
Nos 45/1996
s. 17(Sch. 1
item 43(a)),
62/2013
s. 6(2).

- (2) If a member (other than the chairperson, deputy chairperson or 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.

S. 62(3)
amended by
No. 45/1996
s. 17(Sch. 1
item 43(a)(b)).

- (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.

S. 62(4)
amended by
No. 45/1996
s. 17(Sch. 1
item 43(a)).

- (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 subsections (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) While acting in the chairperson's place a deputy member appointed under subsection (1) has the functions, powers and duties of the chairperson.

S. 62(7)
substituted by
No. 62/2013
s. 6(3).

63 Terms of office

- (1) Subject to subsections (1A) and (1B), 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.

S. 63(1)
amended by
No. 62/2013
s. 7(1).

- (1A) A member of the Board may hold office for a maximum of 9 years, whether appointed for one or more terms, and whether or not those terms are consecutive.

S. 63(1A)
inserted by
No. 62/2013
s. 7(2).

- (1B) A retired Judge of the Supreme Court or the County Court who has held office as a member of the Board for more than 9 years may be appointed to the Board for a term not exceeding 3 years if the retired Judge—

S. 63(1B)
inserted by
No. 62/2013
s. 7(2).

(a) has not held office as a member of the Board within the previous 12 months; and

(b) on that appointment, is also appointed as the chairperson.

- (2) The Secretary ceases to hold office as a member of the Board upon ceasing to hold the office of Secretary.

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

- (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

(c) the member's term of office expires.

Corrections Act 1986
No. 117 of 1986
Part 8—Temporary absence from prison

S. 63(6AA)
inserted by
No. 10/2013
s. 23(1).

S. 63(6A)
inserted by
No. 16/1991
s. 16(3).

S. 63(7)
amended by
No. 46/1998
s. 7(Sch. 1),
substituted by
Nos 108/2004
s. 117(1)
(Sch. 3
item 45.5),
80/2006
s. 26(Sch.
item 20.1).

S. 63(8A)
inserted by
No. 10/2013
s. 23(2).

- (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.
- (6AA) If a member who is an Associate Judge of the Supreme Court ceases to be an Associate 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.
- (7) The **Public Administration Act 2004** (other than Part 3 of that Act) applies to a member in respect of the office of member.
- (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.
- (8A) The appointment as a member of the Board of an Associate Judge of the Supreme Court does not affect the tenure of office, rank, status or the remuneration rights or privileges of the Associate Judge as the holder of office as an Associate Judge, and for all purposes, service as a member of the Board by an Associate Judge is to be regarded as service as an Associate Judge.

- (9) A member of the Board (other than a Judge of the Supreme Court or County Court, an Associate Judge of the Supreme Court or a Magistrate) is entitled to receive—
- (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, an Associate Judge of the Supreme Court or a Magistrate is entitled to receive such travelling and other allowances and expenses as are fixed by the Governor in Council.
- (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.

S. 63(9)
amended by
Nos 16/1991
s. 16(4),
10/2013
s. 23(3).

S. 63(10)
amended by
Nos 16/1991
s. 16(4),
10/2013
s. 23(4).

S. 63(12)
amended by
No. 50/1988
s. 93(2)(Sch. 2
Pt 2 item 7).

64 Divisions

- (1) The Board may exercise its powers and functions in divisions of the Board.
- (2) Subject to sections 64A and 74AAB, a division of the Board consists of at least 3 members of whom at least one must be a Judge, retired Judge, Associate Judge, Magistrate or retired Magistrate and that Judge, retired Judge, Associate Judge, Magistrate or retired Magistrate is to be chairperson of that division.

S. 64(2)
amended by
Nos 16/1991
s. 16(5),
91/2009
s. 206(1),
10/2013 s. 24,
31/2014
s. 3(1).

S. 64(3)
amended by
Nos 91/2009
s. 206(2),
31/2014
s. 3(2).

- (3) Subject to sections 64A and 74AAB, 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. 64A
inserted by
No. 91/2009
s. 207.

64A Detention and Supervision Order division

- (1) There is to be a Detention and Supervision Order division (*DSO division*) of the Adult Parole Board.
- (2) The chairperson may determine a number of members of the Board (the *DSO panel*) who are eligible to sit as members of the DSO division.
- (3) The Secretary is not eligible to sit as a member of the DSO division.
- (4) The chairperson may select members of the DSO panel to constitute the DSO division from time to time.
- (5) At least one of the members of the DSO division must be a Judge, retired Judge, Associate Judge, Magistrate or retired Magistrate.
- (6) The chairperson may select a member of the DSO division to be the chairperson or acting chairperson of the division.
- (7) The chairperson or acting chairperson of the DSO division may determine the times and places that the division is to meet.

S. 64A(4)
amended by
No. 31/2014
s. 4(1).

S. 64A(5)
amended by
No. 10/2013
s. 25.

- (8) A question is not to be decided at a meeting of the DSO division unless the chairperson, or acting chairperson, and at least 2 other members of the division are present.

S. 64A(8)
amended by
No. 31/2014
s. 4(2).

Note

Section 6 of the **Serious Sex Offenders (Detention and Supervision) Act 2009** provides that the DSO division is to exercise the powers and carry out the functions of the Adult Parole Board under that Act.

65 Chairing of meetings

- (1) The chairperson is to preside at meetings of the Board at which the chairperson is present, except where the Board meets as a Division of the Board.
- (2) In absence of the chairperson, the presiding deputy chairperson is to preside at meetings of the Board at which the deputy chairperson is present, except where the Board meets as a Division of the Board.
- (3) In the absence of the chairperson and the presiding deputy chairperson, the acting chairperson is to preside at meetings of the Board at which the acting chairperson is present, except where the Board meets as a Division of the Board.
- (4) In the absence of the chairperson, the presiding deputy chairperson and acting chairperson, a member appointed under section 61(2)(a), (ab), (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.

S. 65
amended by
Nos 16/1991
s. 16(6),
10/2013 s. 26,
substituted by
No. 62/2013
s. 8.

S. 65(2)
amended by
No. 12/2014
s. 12(1).

S. 65(3)
amended by
No. 12/2014
s. 12(2).

S. 65(4)
amended by
No. 12/2014
s. 12(2).

66 Meetings

S. 66(1)
amended by
Nos 91/2009
s. 208(1),
62/2013 s. 9,
12/2014 s. 13,
31/2014
s. 5(1).

(1) Subject to sections 64A and 74AAB, 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 the presiding deputy 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.

S. 66(3)
amended by
No. 31/2014
s. 5(2).

(3) The decision of a majority of the members present at a meeting of the Board, including a meeting of a division of the Board, on a question arising at the meeting (other than a question which under subsection (2) is to be decided by the person presiding at the meeting alone) is the decision of the Board on that matter.

S. 66(4)
amended by
No. 31/2014
s. 5(3).

(4) If there is an equality of votes on a question arising at a meeting of the Board, including a meeting of a division of the Board, the person presiding at the meeting has a second or casting vote.

S. 66(5)
amended by
Nos 91/2009
s. 208(2),
62/2013 s. 9,
12/2014 s. 13,
31/2014
s. 5(4).

(5) Subject to sections 64, 64A and 74AAB, a question is not to be decided at a meeting of the Board unless the chairperson or the presiding deputy 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

- (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 subsection (1) has effect as if signed by all the members of the Board.

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

68 Evidentiary

- (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.
- (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.

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

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

69 Functions of Board

- (1) The Board has the functions conferred on it by—
- (a) this Act and the regulations; and

S. 69(1)
amended by
Nos 16/1987
s. 4(3)(Sch. 1
item 7(g)),
41/1993 s. 18,
44/1996 s. 11,
substituted by
No. 53/2003
s. 15.

Corrections Act 1986
No. 117 of 1986
Part 8—Temporary absence from prison

- S. 69(1)(ab)
inserted by
No. 1/2005
s. 47(1).
- (ab) the **Serious Sex Offenders Monitoring Act 2005**; and
- S. 69(1)(ac)
inserted by
No. 91/2009
s. 209.
- (ac) the **Serious Sex Offenders (Detention and Supervision) Act 2009**; and
- S. 69(1)(b)
substituted by
No. 48/2006
s. 42(Sch.
item 8.4).
- (b) Part 5.6 of the **Children, Youth and Families Act 2005** and regulations made under that Part; and
- S. 69(1)(c)
amended by
No. 30/2010
s. 53(1).
- (c) Subdivision (1A) of Division 2 of Part 3 of the **Sentencing Act 1991** and the regulations made under that Subdivision.
- S. 69(1)(d)
repealed by
No. 30/2010
s. 53(2).
- * * * * *
- (2) In exercising its functions, the Board is not bound by the rules of natural justice.
- S. 69(3)
substituted by
No. 81/2005
s. 6.
- (3) A member of the Board is not personally liable for anything done or omitted to be done in good faith—
- (a) in relation to any function referred to in subsection (1), or in exercising any power in relation to such a function; or
- (b) in the reasonable belief that the act or omission related to the function, or was in the exercise of the power.
- S. 69(4)
inserted by
No. 81/2005
s. 6.
- (4) Any liability resulting from an act or omission that would, but for subsection (3), attach to the member of the Board attaches instead to the Board.

(5) Subsections (3) and (4) are deemed to apply in respect of anything done, or not done, in good faith before the commencement of section 6 of the **Prisoners (Interstate Transfer) (Amendment) Act 2005** by a member, or former member, of the Board, in his or her capacity as a member of the Board, in respect of any of his or her functions under—

S. 69(5)
inserted by
No. 81/2005
s. 6.

(a) the **Community Welfare Services Act 1970** or the **Community Services Act 1970**; and

(b) Division 10 of Part 4 of the **Children and Young Persons Act 1989**; and

(c) Subdivision (1A) of Division 2 of Part 3 of the **Sentencing Act 1991**; and

S. 69(5)(c)
amended by
No. 30/2010
s. 53(3).

(d) the **Serious Sex Offenders Monitoring Act 2005**.

70 Secretary to supply assistance to Board

(1) The Secretary must provide such employees of the Department of Justice and such other assistance to the Board as is necessary to assist the Board—

S. 70
amended by
No. 44/1991
s. 6(1),
substituted by
No. 45/2001
s. 36,
amended by
No. 91/2009
s. 210 (ILA
s. 39B(1)).

(a) in supervising persons released on parole;
and

* * * * *

S. 70(1)(aa)
inserted by
No. 53/2003
s. 16,
repealed by
No. 48/2011
s. 7.

(ab) in supervising persons subject to an extended supervision order or interim extended supervision order under the **Serious Sex Offenders Monitoring Act 2005**; and

S. 70(1)(ab)
inserted by
No. 1/2005
s. 47(2),
amended by
No. 21/2008
s. 6(b).

(b) to perform any other of the Board's functions.

S. 70(2)
inserted by
No. 91/2009
s. 210.

- (2) Without limiting subsection (1), the Secretary must provide such employees of the Department of Justice and such other assistance to the Board as is necessary to assist the Board in carrying out its functions under the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

S. 71
amended by
Nos 69/2009
s. 54(Sch. Pt 2
item 14),
67/2014
s. 147(Sch. 2
item 11).

71 Powers to take evidence etc.

Sections 17, 18, 19, 20, 20A, 21 and 21A of the **Evidence (Miscellaneous Provisions) Act 1958**, as in force immediately before their repeal, 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
- (ba) the purposes of parole and the general principles and factors taken into account by the Board when making decisions in relation to parole; and

S. 72(1)(ba)
inserted by
No. 53/2003
s. 17(1),
repealed by
No. 48/2011
s. 8, new
s. 72(1)(ba)
inserted by
No. 10/2013
s. 27.

Corrections Act 1986
No. 117 of 1986
Part 8—Temporary absence from prison

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| (bb) the number of requests made for a review of a Board decision relating to parole; and | S. 72(1)(bb) inserted by No. 53/2003 s. 17(1), repealed by No. 48/2011 s. 8, new s. 72(1)(bb) inserted by No. 10/2013 s. 27. |
| (bc) the number of rejections of a request made for a review of a Board decision relating to parole and the reason for each rejection; and | S. 72(1)(bc) inserted by No. 53/2003 s. 17(1), repealed by No. 48/2011 s. 8, new s. 72(1)(bc) inserted by No. 10/2013 s. 27. |
| (bca) the number of requests made for a review of a Board decision relating to parole that are accepted and the outcome of each review completed; and | S. 72(1)(bca) inserted by No. 10/2013 s. 27. |
| (bcb) the number of persons convicted during that period of a serious offence committed while on parole; and | S. 72(1)(bcb) inserted by No. 62/2013 s. 10(1). |
| (bd) details of the number of persons in respect of whom an extended supervision order or interim extended supervision order was made under the Serious Sex Offenders Monitoring Act 2005 during that period; and | S. 72(1)(bd) inserted by No. 1/2005 s. 47(3), amended by No. 21/2008 s. 6(b). |
| (be) the operation of the Serious Sex Offenders Monitoring Act 2005 during that period; and | S. 72(1)(be) inserted by No. 1/2005 s. 47(3). |
| (bf) the operation of the Serious Sex Offenders (Detention and Supervision) Act 2009 during that period, including— | S. 72(1)(bf) inserted by No. 91/2009 s. 211(1). |

- (i) details of the number of persons in respect of whom a detention order or interim detention order was made during that period; and
- (ii) details of the number of persons in respect of whom a supervision order or interim supervision order was made during that period; and
- (iii) details of the number of persons directed during that period to reside in a residential facility; and
- (iv) details of the number of persons in respect of whom an emergency power was exercised under Part 10 of that Act during that period; and
- (v) details of the number of offenders who were required to comply with electronic monitoring under a supervision order or an interim supervision order; and
- (vi) details of any breaches of conditions of a supervision order or interim supervision order by offenders and the actions taken by the Adult Parole Board in respect of those breaches; and
- (vii) details of the number of detention orders or supervision orders completed during the period; and
- (viii) the activities of the Adult Parole Board during that period; and

(c) the operation of this Division and Division 4, the activities of the Board and the activities of officers assisting the Board during that period.

S. 72(1)(c)
amended by
No. 53/2003
s. 17(2).

(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 or is the subject of an extended supervision order or interim extended supervision order, or of an application for an extended supervision order or interim extended supervision order, made under the **Serious Sex Offenders Monitoring Act 2005**.

S. 72(4)
amended by
Nos 1/2005
s. 47(4),
21/2008
s. 6(c).

(4A) When required by the Minister, the Board must give to the Minister a report and recommendations concerning a person who at the time of the report—

S. 72(4A)
inserted by
No. 91/2009
s. 211(2).

(a) is serving a sentence of imprisonment; or

(b) is the subject of a detention order or interim detention order or supervision order or interim supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

S. 72(5)
amended by
Nos 53/2003
s. 17(3),
1/2005
s. 47(5),
91/2009
s. 211(3).

- (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 Division 4 or the **Serious Sex Offenders Monitoring Act 2005** or the **Serious Sex Offenders (Detention and Supervision) Act 2009** or the activities of the Board.

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

* * * * *

S. 72(7)
amended by
No. 45/2001
s. 37.

- (7) At the request of the Attorney-General for the Commonwealth the Minister may authorize the Board or the Secretary—
- (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.

S. 72(8)
inserted by
No. 62/2013
s. 10(2).

- (8) In this section—
serious offence means a sexual offence or a serious violent offence, both within the meaning of section 77(9).

73 Officers subject to Board's directions

S. 73
(Heading)
inserted by
No. 1/2005
s. 47(6).
S. 73
amended by
Nos 44/1991
s. 6(m),
53/2003 s. 18,
1/2005 s. 47(7)
(ILA s. 39B(1)).

- (1) In relation to a parole order community corrections officers are subject to the directions of the Board.
- (2) In relation to an extended supervision order or interim extended supervision order under the **Serious Sex Offenders Monitoring Act 2005**, employees of the Department of Justice provided to the Board under section 70 are subject to the directions of the Board.
- (3) The employees provided under section 70 to assist the Adult Parole Board in carrying out functions under the **Serious Sex Offenders (Detention and Supervision) Act 2009** are subject to the directions of the Board in carrying out those functions.

S. 73(1)
amended by
No. 48/2011
s. 9.

S. 73(2)
inserted by
No. 1/2005
s. 47(7),
amended by
No. 21/2008
s. 6(d).

S. 73(3)
inserted by
No. 91/2009
s. 212.

73A Safety and protection of the community paramount in parole decisions

S. 73A
inserted by
No. 62/2013
s. 11.

The Board must give paramount consideration to the safety and protection of the community in determining whether to make or vary a parole order, cancel a prisoner's parole or revoke the cancellation of parole.

74 Release on parole after service of non-parole period

S. 74(1)
amended by
Nos 49/1991
s. 119(7)
(Sch. 4
item 3.5),
31/2014 s. 6.

(1) Subject to section 74AAB and 78(3), 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.

S. 74(1A)
inserted by
No. 62/2013
s. 12.

(1A) The time fixed for release stated in the parole order must be at least 14 days after the day of making the order, unless the Board determines that the notice period under section 30A(1B) should be waived in the circumstances.

(2) The Board may revoke a parole order before the prisoner is released under the order.

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

(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).

S. 74(4)
substituted by
No. 12/2014
s. 20(1),
amended by
No. 12/2014
s. 14(1).

(4) Subject to subsections (5) and (5A), the terms and conditions of a parole order are—

- (a) the mandatory terms and conditions set out in the regulations; and
- (b) any other terms and conditions set out in the regulations that the Board imposes on the parole order.

(5) The Board may—

(a) impose additional terms and conditions on the parole order; and

S. 74(5)
amended by
No. 49/1991
s. 119(4),
substituted by
No. 15/2013
s. 7.

(b) attach to a term or condition to which the parole order is subject a requirement for electronic monitoring of the prisoner to monitor compliance with the condition; and

S. 74(5)(b)
amended by
No. 12/2014
s. 14(2).

(c) vary the terms and conditions to which the parole order is subject.

(5A) If, under subsection (5)(b), the Board attaches an electronic monitoring requirement to a term or condition of a parole order, that parole order is subject to the following conditions—

S. 74(5A)
inserted by
No. 12/2014
s. 14(3).

(a) the prisoner must comply with any direction given by the Board or the Secretary under subsection (5B);

(b) the prisoner must for 24 hours of each day be electronically monitored and wear an electronic monitoring device fitted to him or her at the direction of the Board or the Secretary;

(c) the prisoner must not tamper with, damage or disable any electronic monitoring device or equipment used for the electronic monitoring of the term or condition;

(d) the prisoner must accept any visit by the Secretary to the place where the prisoner resides, at any time that it is reasonably necessary and for any purpose including to install, repair, fit or remove any electronic monitoring device or equipment used for the electronic monitoring of the term or condition.

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S. 74(5B)
inserted by
No. 12/2014
s. 14(3).

(5B) If an electronic monitoring requirement is attached to a term or condition of a parole order, the Board or Secretary may give the prisoner such directions as the Board or Secretary considers necessary for the electronic monitoring of the compliance of the term or condition.

S. 74(5C)
inserted by
No. 12/2014
s. 14(3).

(5C) A prisoner on parole must comply with a condition to which the parole order is subject under subsection (5A) unless the prisoner has a reasonable excuse.

Penalty: 3 months imprisonment or 30 penalty units or both.

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.

S. 74(8A)
inserted by
No. 69/2005
s. 26(2),
substituted by
No. 26/2014
s. 455(Sch.
item 6.7).

(8A) The Board may make a parole order for a person who is detained in a designated mental health service under a Court Secure Treatment Order or Secure Treatment Order, but the parole order does not take effect until the person is discharged as a security patient under the **Mental Health Act 2014**.

- (9) In this and the succeeding sections of this Division *prisoner* includes a person serving a sentence of imprisonment and a person who is subject to a Court Secure Treatment Order or Secure Treatment Order.

S. 74(9)
amended by
Nos 69/2005
s. 26(3),
26/2014
s. 455(Sch.
item 6.8).

74AA Conditions for making a parole order for Julian Knight

S. 74AA
inserted by
No. 18/2014
s. 3.

- (1) The Board must not make a parole order under section 74 in respect of the prisoner Julian Knight unless an application for the order is made to the Board by or on behalf of the prisoner.
- (2) The application must be lodged with the Secretary of the Board.
- (3) After considering the application, the Board may make an order under section 74 in respect of the prisoner Julian Knight if, and only if, the Board—
- (a) is satisfied (on the basis of a report prepared by the Secretary to the Department of Justice) that the prisoner—
 - (i) is in imminent danger of dying, or is seriously incapacitated, and as a result he no longer has the physical ability to do harm to any person; and
 - (ii) has demonstrated that he does not pose a risk to the community; and
 - (b) is further satisfied that, because of those circumstances, the making of the order is justified.
- (4) The **Charter of Human Rights and Responsibilities Act 2006** has no application to this section.
- (5) Without limiting subsection (4), section 31(7) of the **Charter of Human Rights and Responsibilities Act 2006** does not apply to this section.

- (6) In this section a reference to the prisoner Julian Knight is a reference to the Julian Knight who was sentenced by the Supreme Court in November 1988 to life imprisonment for each of 7 counts of murder.

S. 74AAB
inserted by
No. 31/2014
s. 7.

74AAB Release on parole of person imprisoned for sexual offence or serious violent offence

- (1) There is to be a Serious Violent Offender or Sexual Offender Parole division (*SVOSO division*) of the Board consisting of—
- (a) the chairperson of the Board; and
 - (b) one full-time member or one part-time member of the Board selected by the chairperson; and
 - (c) any other members of the Board selected by the chairperson from time to time.
- (2) The sole function of the SVOSO division is to decide whether or not to release a prisoner on parole in respect of a sexual offence or a serious violent offence.
- (3) An order under section 74 that a prisoner be released on parole in respect of a sexual offence or a serious violent offence may only be made by the SVOSO division.
- (4) Subsection (3) applies whether the prisoner was sentenced to imprisonment in respect of the offence before or after this section comes into operation.
- (5) The SVOSO division may only make an order that a prisoner be released on parole in respect of a sexual offence or a serious violent offence if—
- (a) another division of the Board has recommended that parole be granted; and

- (b) the SVOSO division has considered the recommendation.
- (6) For the purposes of subsection (5), a member of the SVOSO division must not have sat as a member of the division making the recommendation.
- (7) After considering the recommendation of another division of the Board, the SVOSO division may refuse to make an order that a prisoner be released on parole in respect of a sexual offence or a serious violent offence even if the recommendation is that the prisoner be released on parole.
- (8) In this section, *serious violent offence* and *sexual offence* have the same meaning as in section 77(9).

74A Victim submissions

- (1) A person included on the victims register may make a submission to the Board for consideration by the Board in determining to make a parole order under section 74.
- (2) A victim submission—
 - (a) must be in writing; and
 - (b) must address matters relating to the person's views about the effect of the potential release of the prisoner on parole on that person; and
 - (c) may include comments from the person as to any terms and conditions to which the parole order may be subject; and
 - (d) must include any other prescribed matters.
- (3) On receiving notification under section 30A(2) of the release or likely release of a prisoner on parole, a person included on the victims register who wishes to make a victim submission must

S. 74A
inserted by
No. 14/2004
s. 9.

make that submission within the time specified in the notification.

S. 74B
inserted by
No. 14/2004
s. 9.

74B How does the Board deal with victim submissions?

- (1) Before making a parole order under section 74, the Board—
 - (a) must consider any victim submission it receives in relation to the matter being determined; and
 - (b) may, in its absolute discretion, give that submission such weight as the Board sees fit in determining to make a parole order.
- (2) The Board must not release a victim submission to the prisoner in relation to whom the parole order is being determined unless—
 - (a) the release of the submission is, in the opinion of the Board, essential in the interests of fairness and justice; and
 - (b) before releasing the victim submission, the Board has asked the person who made the victim submission whether he or she—
 - (i) consents to the submission being released to the prisoner; or
 - (ii) wishes to amend the submission so that it can be released to the prisoner; or
 - (iii) wishes to withdraw the submission.
- (3) If a person who made a victim submission does not consent to the submission being released to the prisoner, amend the submission so that it can be released to the prisoner or withdraw the submission when asked to do so by the Board under subsection (2)(b), the Board—
 - (a) must not release the victim submission to the prisoner; and

- (b) in considering the victim submission when determining to make a parole order, may reduce the weight it would otherwise have given to the submission if the person who made it had complied with subsection (2)(b).

75 Young offenders—sentence and non-parole period

If, under the **Children, Youth and Families Act 2005**, a person is removed from a remand centre or youth justice 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—

- (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.

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),
48/2006
s. 42(Sch.
item 8.5).

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

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 (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.

S. 76
amended by
No. 10/2013
s. 28.

S. 76A
inserted by
No. 12/2014
s. 15.

76A Secretary may direct that prisoner be tested for alcohol or drug use

- (1) If a prisoner is released under a parole order that contains an abstinence, treatment or testing condition, the Secretary may at any time direct the prisoner to submit to tests to assess whether the prisoner has consumed or used alcohol, any drug of dependence or a Schedule 8 poison or Schedule 9 poison.
- (2) Tests under subsection (1)—
 - (a) must be of a kind approved by the Secretary; and
 - (b) may include the taking of samples of urine.
- (3) In this section—

abstinence, treatment or testing condition means a term or condition of a parole order that requires a prisoner to do one or more of the following—

- (a) abstain from consuming alcohol;
- (b) undergo assessment and treatment for abuse of or dependency on alcohol or any drug of dependence, Schedule 8 poison or Schedule 9 poison;
- (c) submit to tests to assess whether the prisoner has consumed alcohol or used any drug of dependence, Schedule 8 poison or Schedule 9 poison while released on parole;

drug of dependence has the same meaning as in the **Drugs, Poisons and Controlled Substances Act 1981**;

Schedule 8 poison has the same meaning as in the **Drugs, Poisons and Controlled Substances Act 1981**;

Schedule 9 poison has the same meaning as in the
**Drugs, Poisons and Controlled Substances
Act 1981.**

77 Cancellation of parole

- (1) Subject to this section, 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) Subject to subsection (3), the Board must consider whether to cancel the parole or to vary the terms and conditions of the parole of a prisoner who is charged, while on parole, with an offence that—
 - (a) is punishable by imprisonment; and
 - (b) is alleged to have been committed during the parole period.
- (3) If—
 - (a) the prisoner referred to in subsection (2) was released on parole in respect of a sexual offence or a serious violent offence; and
 - (b) the offence with which the prisoner was charged, while on parole, was a sexual offence or a violent offence—

the Board must determine under subsection (2) to cancel the parole of the prisoner unless the Board is satisfied that circumstances exist that justify the continuation of the parole.

- (4) Subject to subsections (5) and (6), the Board must consider whether to cancel the parole or to vary the terms and conditions of the parole of a prisoner who is convicted, while on parole, of an offence that—
 - (a) is punishable by imprisonment; and
 - (b) was committed during the parole period.

S. 77
amended by
Nos 57/1989
s. 3(Sch.
items 35.2,
35.3), 23/1994
s. 118(Sch. 1
item 14.5),
81/2005 s. 7,
97/2005
s. 182(Sch. 4
item 13.4),
49/2006
s. 6(2)(3),
13/2010
s. 51(Sch.
item 16.5),
10/2013 s. 29,
substituted by
No. 15/2013
s. 3.

- (5) Subject to subsection (6), the Board must determine under subsection (4) to cancel the parole of the prisoner unless the Board is satisfied that circumstances exist that justify the continuation of the parole.
- (6) If a prisoner—
- (a) is released on parole in respect of a sexual offence or a serious violent offence; and
 - (b) is convicted, while on parole, of a sexual offence or a violent offence that was committed during the parole period—
- the prisoner's parole is taken to have been cancelled on that conviction.
- (6A) If a prisoner is sentenced to another prison sentence while on parole, the prisoner's parole is taken to have been cancelled on the sentence being imposed.
- (7) If the prisoner is sentenced to another prison sentence in respect of one or more offences committed during the parole period, whether in Victoria or elsewhere, the Board may by order cancel the prisoner's parole, even though the parole period may already have elapsed.
- (8) For the purposes of this section, an offence is taken to have been committed during the parole period if—
- (a) the offence is committed between 2 dates, one of which is within the parole period; or
 - (b) the parole period is between the 2 dates referred to in paragraph (a).

S. 77(6A)
inserted by
No. 31/2014
s. 8.

(9) In this section—

conviction includes a finding of guilt by a court, whether or not a conviction is recorded;

serious violent offence means any of the following offences—

- (a) an offence to which clause 2 of Schedule 1 to the **Sentencing Act 1991** applies;
- (b) an offence against any of the following provisions of the **Crimes Act 1958**—
 - (i) section 75A (armed robbery);
 - (ii) section 77 (aggravated burglary);
 - (iii) section 197A (arson causing death);
- (c) false imprisonment;
- (d) an offence of conspiracy to commit, incitement to commit or attempting to commit an offence referred to in paragraphs (b) and (c);
- (e) any other offence, whether committed in Victoria or elsewhere, the necessary elements of which consist of elements that constitute any of the offences referred to in paragraphs (b) to (d);

sexual offence means an offence listed in Schedule 1 to the **Serious Sex Offenders (Detention and Supervision) Act 2009**;

violent offence means an offence listed in Schedule 3.

77A Revocation of cancellation

- (1) If the Board has cancelled a prisoner's parole it may at any time by a further order revoke the cancellation.

S. 77A
inserted by
No. 15/2013
s. 3.

- (2) The Board may by order revoke the cancellation of a prisoner's parole under section 77(6) if it is satisfied that exceptional circumstances exist.
- (3) A parole order revives on the making of the order revoking the cancellation of 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 section 77B unless the Board is satisfied that the warrant will not be executed.

S. 77B
inserted by
No. 15/2013
s. 3.

77B Return of prisoner to prison on cancellation of parole

- (1) If a prisoner's parole is cancelled or taken to be cancelled, the Board may—
 - (a) authorise any police officer, by warrant signed by the Secretary or a member of the Board, to break, enter and search any place where the prisoner is reasonably believed to be and to arrest the prisoner and return the prisoner to prison; or
 - (b) whether or not a warrant is issued under paragraph (a), authorise the making of an application to a magistrate for a warrant—
 - (i) authorising any police officer to break, enter and search any place where the prisoner is reasonably believed to be and to arrest the prisoner and return the prisoner to prison; or
 - (ii) authorising any other officer to arrest the prisoner and return the prisoner to prison.

S. 77B(1)(a)
amended by
No. 37/2014
s. 10(Sch.
item 32.12).

S. 77B(1)(b)(i)
amended by
No. 37/2014
s. 10(Sch.
item 32.12).

- (2) If a prisoner's parole is cancelled or taken to be cancelled—
- (a) the original warrant to imprison or other authority for the person's imprisonment is to be regarded as again in force; and
 - (b) any period during which the parole order was in force is not to be regarded as time served in respect of the prison sentence unless a direction under section 77C applies.

77C Power to direct that time on parole is time served

The Board may direct that some or all of the period during which a parole order that is cancelled or taken to be cancelled was in force is to be regarded as time served in respect of the prison sentence.

S. 77C
inserted by
No. 15/2013
s. 3.

77D Board may arrange for examination of prisoner

The Board, in determining whether to make or vary a parole order, cancel a prisoner's parole or revoke the cancellation of parole, may—

- (a) arrange for the examination of the prisoner by a registered medical practitioner, psychiatrist or psychologist; and
- (b) 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.

S. 77D
inserted by
No. 15/2013
s. 3.

78 Prisoners may be released on parole more than once

- (1) 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

S. 78
amended by
Nos 49/1991
s. 119(7)
(Sch. 4
item 3.7),
31/2014 s. 9
(ILA s. 39B(1)).

non-parole period or, if no non-parole period is fixed, the prison sentence.

S. 78(2)
inserted by
No. 31/2014
s. 9.

- (2) Subsection (3) applies to a prisoner—
- (a) whose parole has or is taken to have been cancelled under section 77; and
 - (b) who is convicted of an offence that—
 - (i) is punishable by imprisonment; and
 - (ii) was committed during the parole period.

S. 78(3)
inserted by
No. 31/2014
s. 9.

- (3) The Board must not make a parole order under section 74 in respect of the prisoner unless the prisoner has served—
- (a) a further term of imprisonment equal to half of the parole period remaining at the time the prisoner's parole was cancelled; or
 - (b) in the case of a prisoner sentenced to be imprisoned for the term of his or her natural life—3 years imprisonment from the time the prisoner's parole was cancelled.

S. 78(4)
inserted by
No. 31/2014
s. 9.

- (4) The Board may make a parole order before the time referred to in subsection (3) if the Board is satisfied that circumstances exist which justify doing so.

S.78A
inserted by
No. 46/2013
s. 3 (as
amended by
No. 25/2014
s. 13).

78A Offence to breach a term or condition of parole

A prisoner while released under a parole order must not, without reasonable excuse, breach a prescribed term or condition of that parole order.

Penalty: 3 months imprisonment, 30 penalty units or both.

Note

See sections 16 and 33 of the **Sentencing Act 1991**.

78B Arrest and detention for breach of parole order

S.78B
inserted by
No. 46/2013
s. 3 (as
amended by
No. 25/2014
s. 13).

(1) A police officer may, without warrant, arrest a prisoner released under a parole order if he or she suspects on reasonable grounds that the prisoner has committed an offence against section 78A.

S. 78B(1)
amended by
No. 37/2014
s. 10(Sch.
item 32.13).

(2) A prisoner who is arrested under subsection (1), or under any power of arrest that a police officer has under any Act or law if the prisoner is suspected on reasonable grounds of committing an offence against section 78A, may be detained in custody if the police officer who arrested the prisoner is satisfied that—

S. 78B(2)
amended by
No. 37/2014
s. 10(Sch.
item 32.13).

(a) the breach of a term or condition of the parole order that constitutes the offence is not trivial or minor; and

(b) the detention is necessary to prevent the prisoner continuing the breach or committing a further breach of a term or condition of the parole order.

(3) A prisoner who is arrested under subsection (1), or under any power of arrest that a police officer has under any Act or law if the prisoner is suspected on reasonable grounds of committing an offence against section 78A, must be detained in custody if the alleged breach of a term or condition of the parole order is—

S. 78B(3)
amended by
No. 37/2014
s. 10(Sch.
item 32.13).

(a) the commission of an offence punishable by imprisonment, other than an offence against section 78A; or

(b) a breach of a term or condition of the parole order that is prescribed for the purposes of this section.

S. 78B(4)
amended by
No. 37/2014
s. 10(Sch.
item 32.13).

- (4) If a prisoner is detained under subsection (2) or (3), the police officer who arrested the prisoner must cause the Board to be notified of the detention not more than 12 hours after the arrest of the prisoner.
- (5) If a person was arrested under any Act or law, nothing in this section prevents the continuation of the person's detention in relation to the offences for which the person was arrested.

S. 78C
inserted by
No. 46/2013
s. 3 (as
amended by
No. 25/2014
s. 13).

78C Consideration by Board of breach of terms and conditions of parole

- (1) As soon as reasonably practicable after being notified under section 78B(4) of the detention of a prisoner, the Board must by instrument order that—
 - (a) the prisoner be detained in a prison or a police gaol pending consideration by the Board of the breach of the term or condition of the prisoner's parole order; or
 - (b) the prisoner cease to be detained under section 78B(2) or (3).
- (2) The function of the Board referred to in subsection (1) may be exercised on behalf of the Board by a member of the Board appointed under section 61(2)(a), (ab), (b), (c), (d) or (da).
- (3) If an order has been made under subsection (1)(a), the Board must consider the breach of the term or condition of the prisoner's parole order under this Division as soon as practicable after it is notified of the detention of the prisoner.

Note

Subdivision (30A) of Division 1 of Part III of the **Crimes Act 1986** contains further provisions that apply to prisoners taken into custody, including prisoners detained under section 78B or 78C.

78D Application of certain provisions of the Crimes Act 1958 and the Bail Act 1977

S. 78D
inserted by
No. 46/2013
s. 3 (as
amended by
No. 25/2014
s. 13).

(1) If—

- (a) a prisoner is detained under section 78B(2) or (3) or an order made under section 78C(1)(a); and
- (b) a decision or order is made for the purposes of section 464A(1)(a) or (b) of the **Crimes Act 1958** to release the prisoner—

the decision or order is subject to the condition that the prisoner must not be released before the relevant day and section 464A of the **Crimes Act 1958** applies accordingly.

(2) If—

- (a) a prisoner is detained under section 78B(2) or (3) or an order made under section 78C(1)(a); and
- (b) after the prisoner is brought before a bail justice or the Magistrates' Court under section 464A(1)(c) of the **Crimes Act 1958**, a decision or order is made to release the prisoner—

the decision or order is subject to the condition that the prisoner must not be released before the relevant day and section 464A of the **Crimes Act 1958** applies accordingly.

(3) If—

- (a) a prisoner is detained under section 78B(2) or (3) or an order made under section 78C(1)(a); and

(b) the prisoner is granted bail under section 4 of the **Bail Act 1977**—

the order granting bail is subject to the condition that the prisoner must not be released on bail before the relevant day and the **Bail Act 1977** applies accordingly.

S. 78D(4)
amended by
No. 55/2014
s. 186.

- (4) An investigation or questioning by a police officer under section 464A of the **Crimes Act 1958** of a prisoner detained under section 78B(2) or (3) or an order made under section 78C(1)(a) may continue for a reasonable time after the prisoner is detained even if the Board cancels the prisoner's parole during that time.
- (5) Section 464B of the **Crimes Act 1958** does not apply in relation to the prisoner until the reasonable time referred to in subsection (4) has elapsed.
- (6) In this section, *the relevant day* means—
- (a) the day on which the Board, after considering the breach of the term or condition of the prisoner's parole under section 78C(3), decides not to cancel the prisoner's parole; or
 - (b) the day on which the Board makes an order under section 78C(1)(b).
- (7) In determining what constitutes a reasonable time for the purposes of subsections (4) and (5), the matters set out in section 464A(4) of the **Crimes Act 1958** may be considered.

S. 78E
inserted by
No. 46/2013
s. 3 (as
amended by
No. 25/2014
s. 13).

78E Time in detention is time served

- (1) If a prisoner is detained under section 78B(2) or (3), the period during which the prisoner is so detained is to be regarded as time served in respect of the prison sentence for which the prisoner was released on parole.

(2) If the Board makes an order under section 78C(1)(a), the period during which a prisoner is detained under that order is to be regarded as time served in respect of the prison sentence for which the prisoner was released on parole.

* * * * *

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).

Division 6—Change of name applications by prisoners released on parole

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), new
Pt 8 Div. 6
(Heading and
ss 79–79H)
inserted by
No. 49/2006
s. 7.

79 Application of Division

This Division applies despite anything to the contrary in the **Births, Deaths and Marriages Registration Act 1996**.

New s. 79
inserted by
No. 49/2006
s. 7.

79A Definitions

In this Division—

change of name application means an application by or on behalf of a prisoner on parole for registration of a change of the prisoner's name;

S. 79A
inserted by
No. 49/2006
s. 7.

prisoner on parole means a prisoner released on parole that is not subsequently cancelled or deemed to have been cancelled;

Victorian Registrar means Registrar of Births, Deaths and Marriages under the **Births, Deaths and Marriages Registration Act 1996**.

S. 79B
inserted by
No. 49/2006
s. 7.

79B Applications for change of name by or on behalf of a prisoner on parole

- (1) In this section, *Registrar* means—
 - (a) the Victorian Registrar; or
 - (b) an authority responsible under a law of another State or a Territory for the registration of births, deaths and marriages.
- (2) A prisoner on parole must not make a change of name application to a Registrar without having first obtained the written approval of the Board.

Penalty: 5 penalty units.

- (3) A person must not make a change of name application to a Registrar on behalf of a prisoner on parole unless the written approval of the Board is first obtained.

Penalty: 5 penalty units.

S. 79C
inserted by
No. 49/2006
s. 7.

79C Approval by Board

- (1) Subject to subsection (2), the Board may only approve a change of name application if the Board is satisfied that the change of name is in all the circumstances necessary or reasonable.
- (2) The Board must not approve a change of name application if the Board is satisfied that the change of name would, if registered, be reasonably likely—

- (a) to be regarded as offensive by a victim of crime or an appreciable sector of the community; or
- (b) to be used to evade or hinder supervision of the prisoner on parole during the parole period.

79D Approval to be notified in writing

S. 79D
inserted by
No. 49/2006
s. 7.

If the Board approves a change of name application, the Board must—

- (a) as soon as practicable, give written notice of the approval to the person who made the application; and
- (b) if the prisoner on parole consents, give a copy of the written notice of approval to the Victorian Registrar.

79E Registration of change of name

S. 79E
inserted by
No. 49/2006
s. 7.

- (1) The Victorian Registrar must not register a change of name under the **Births, Deaths and Marriages Registration Act 1996** if—
 - (a) the Victorian Registrar knows that—
 - (i) the application for the change of name is made by or on behalf of a prisoner on parole; and
 - (ii) the change of name relates to the name of the prisoner on parole; and
 - (b) the Victorian Registrar has not received a copy of the notice of approval of the Board to the application under section 79D.
- (2) If the Victorian Registrar does not register a change of name because of the operation of subsection (1), the Victorian Registrar must give written notice of the application to the Secretary of the Board.

S. 79F
inserted by
No. 49/2006
s. 7.

79F Registrar may correct Register

Without limiting section 43 of the **Births, Deaths and Marriages Registration Act 1996**, the Victorian Registrar may correct the Register under that section if—

- (a) the name of a prisoner on parole on the Register was changed because of a change of name application; and
- (b) the Board had not approved that change of name application under section 79C.

S. 79G
inserted by
No. 49/2006
s. 7.

79G Lapse of application on cancellation of parole

A change of name application under this Division by or on behalf of a prisoner on parole lapses if—

- (a) the prisoner's parole is cancelled or taken to be cancelled under section 77; and
- (b) the Victorian Registrar has not registered the change of name before that cancellation.

S. 79G(a)
amended by
No. 15/2013
s. 6(a).

S. 79H
inserted by
No. 49/2006
s. 7.

79H Information-sharing between the Secretary and the Victorian Registrar

Despite any other law to the contrary—

- (a) the Secretary must notify the Victorian Registrar of the name (including any other name by which he or she is or has previously been known), date of birth and residential address or addresses of any prisoner on parole; and
- (b) if the Secretary has given notification under paragraph (a) in respect of a prisoner on parole, the Secretary must notify the Victorian Registrar as soon as practicable of any cancellation or deemed cancellation of that prisoner's parole.

Division 7—Warrants

Pt 8 Div. 7
(Heading and
ss 79I–79K)
inserted by
No. 49/2006
s. 7.

79I Execution of warrants

A warrant issued under this Part must be executed by the use of the original warrant or by the use of a copy of the original warrant, including a copy transmitted by facsimile machine.

S. 79I
inserted by
No. 49/2006
s. 7.

79J Recall and cancellation of warrants

S. 79J
inserted by
No. 49/2006
s. 7.

- (1) A warrant issued under section 60M(10), 60R(2)(b) or 77B(1)(a) by the Board may be recalled and cancelled by the Board.
- (2) A warrant issued under section 77B(1)(b) by a magistrate may be recalled and cancelled by that magistrate or any other magistrate.
- (3) If a warrant has been recalled and cancelled, a fresh warrant may be issued for the same purpose as that for which the recalled warrant was issued.

S. 79J(1)
amended by
No. 15/2013
s. 6(b).

S. 79J(2)
amended by
No. 15/2013
s. 6(c).

79K Duplicate warrants

S. 79K
inserted by
No. 49/2006
s. 7.

- (1) If a warrant issued under section 60M(10), 60R(2)(b) or 77B(1)(a) by the Board or a warrant issued under section 77B(1)(b) by a magistrate is lost or destroyed before it is executed, the Board or a magistrate, as the case may be, may issue a duplicate warrant if satisfied by evidence on oath or by affidavit of the loss or destruction of the original warrant.

S. 79K(1)
amended by
No. 15/2013
s. 6(b)(c).

- (2) A duplicate warrant must bear on its face the word "Duplicate" and may be executed in all respects as if it were the original warrant.
 - (3) When a duplicate warrant is issued, the original warrant becomes null and void and must, if located, be returned—
 - (a) in the case of a warrant issued by the Board, to the Secretary of the Board;
 - (b) in the case of a warrant issued by a magistrate, to the principal registrar of the Magistrates' Court.
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PART 8A—INTERSTATE LEAVE OF ABSENCE FOR PRISONERS

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

80 Definitions

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

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 interstate community permit issued under this Part;

S. 80 def. of
permit
amended by
No. 2/2005
s. 8(4).

State includes the Australian Capital Territory and the Northern Territory.

81 Interstate laws

New s. 81
inserted by
No. 94/1994
s. 22,
substituted by
No. 38/2003
s. 5.

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.

S. 82
(Heading)
inserted by
No. 2/2005
s. 8(5)(a).
New s. 82
inserted by
No. 94/1994
s. 22,
amended by
Nos 45/1996
s. 17(Sch. 1
item 50),
2/2005
s. 8(5)(b).

82 Custodial interstate community permit

The Secretary may issue a custodial interstate 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 (including, in the case of an Aboriginal prisoner, to enable the prisoner to be present at an occasion of special significance to the prisoner's immediate or extended family).

S. 82(c)
amended by
No. 38/2003
s. 6.

83 Effect of permit

(1) A permit issued to a prisoner—

S. 83(1)(a)
amended by
Nos 45/2001
s. 18(a),
38/2003
s. 7(a).

- (a) authorises the prisoner to be absent from the prison for the purpose and for the period stated in the permit; and

S. 83(1)(b)
amended by
Nos 45/2001
s. 18(a),
38/2003
s. 7(b).

- (b) if the Secretary requires the prisoner to be escorted while absent from the prison, authorises the escort officer appointed to escort the prisoner to take and keep physical 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.

(2) The period stated in a permit must not exceed 7 days. **S. 83(2) amended by No. 38/2003 s. 7(c).**

(3) Subject to section 6B, a prisoner who is authorised to be absent from prison under a permit continues in the legal custody of the Secretary while absent. **S. 83(3) amended by Nos 45/1996 s. 17(Sch. 1 item 51), 45/2001 s. 18(b)(i)(ii).**

* * * * *

S. 83(4) amended by No. 45/1996 s. 17(Sch. 1 item 51), repealed by No. 38/2003 s. 7(d).

84 Variation or revocation of permit

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

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

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.

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

84B Notice to participating State and transit States

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

(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.

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

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

84C Effect of permit issued under interstate law

(1) If—

S. 84C(1)(a)
amended by
No. 38/2003
s. 8.

- (a) under an interstate law a permit is issued permitting a person imprisoned in a participating State to travel to Victoria; 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.

84D Apprehension of prisoner who escapes or fails to return etc.

S. 84D
(Heading)
inserted by
No. 38/2003
s. 9(1).

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

(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 police officer or any other person.

S. 84D(1)
amended by
No. 37/2014
s. 10(Sch.
item 32.14).

(1A) A person who enters Victoria under a permit issued by a participating State permitting the person to travel without an escort to, or through, Victoria may be apprehended without warrant in Victoria by any police officer or anyone else if the person fails—

S. 84D(1A)
inserted by
No. 38/2003
s. 9(2),
amended by
No. 37/2014
s. 10(Sch.
item 32.14).

- (a) to return to the participating State as required by the terms of the permit; or
- (b) to comply with any other term of the permit.

Corrections Act 1986
No. 117 of 1986
Part 8A—Interstate leave of absence for prisoners

S. 84D(2)
substituted by
No. 38/2003
s. 9(3).

- (2) If—
- (a) a person is apprehended under subsection (1) or (1A); or
 - (b) a person in custody under section 84C has attempted to escape—

the person may be taken before the Magistrates' Court.

S. 84D(2A)
inserted by
No. 38/2003
s. 9(3).

- (2A) The Magistrates' Court may, despite the terms of any permit issued under an interstate law, by warrant—
- (a) order the person to be returned to the participating State in which the permit was issued; and
 - (b) for that purpose, order the person to be delivered to an escort.

S. 84D(3)
amended by
No. 38/2003
s. 9(4).

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

S. 84D(4)
amended by
No. 38/2003
s. 9(5).

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

S. 84D(5)
amended by
Nos 45/1996
s. 17(Sch. 1
item 54),
38/2003
s. 9(5).

- (5) A person who is the subject of a warrant issued under subsection (2A) 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 accordance with the warrant or until the expiration of a period of 7 days from the issuing of the warrant, whichever first occurs.

S. 84D(6)
amended by
No. 38/2003
s. 9(5).

- (6) If a person who is the subject of a warrant issued under subsection (2A) 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 subsection (2A), (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—

S. 84D(7)
amended by
No. 38/2003
s. 9(5).

- (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

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

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

S. 84EA
inserted by
No. 38/2003
s. 10.

84EA Liability for prisoners on leave

- (1) The State of Victoria is liable for any loss or damage sustained by any person in a participating State that is caused by an act or omission of a prisoner or an escort officer while in the participating State under, or for the purposes of, a permit.
 - (2) Nothing in this section affects any right of action the State of Victoria may have against the prisoner or escort officer for the damage or loss.
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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.

- (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 subsection (1).

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

84H Secretary may direct prisoners and offenders to work

S. 84H(1)
substituted by
No. 91/2009
s. 213.

- (1) The Secretary may direct any prisoner or offender other than—
- (a) a prisoner on remand; or
 - (b) a prisoner who is a person in respect of whom a detention order or an interim detention order within the meaning of the **Serious Sex Offenders (Detention and Supervision) Act 2009** has been made—
- 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.

Pt 8B Div. 2
(Heading and
ss 84I–84P)
inserted by
No. 45/1996
s. 3,
amended by
Nos 46/1998
s. 7(Sch. 1),
108/2004
s. 117(1)
(Sch. 3
item 45.6),
80/2006
s. 26(Sch.
item 20.2),
repealed by
No. 21/2008
s. 5.

* * * * *

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—

- (a) a Regional Manager; or
- (b) a community corrections officer; or
- (c) a volunteer who is working at a location; or
- (d) working at a location and who is—
 - (i) an employee in the public service; or
 - (ii) an employee in the teaching service; or
 - (iii) a member of staff of a TAFE institute within the meaning of the **Education and Training Reform Act 2006**; or

S. 85 def. of *officer* amended by Nos 11/1993 s. 7(1)(f), 23/1994 s. 118(Sch. 1 item 14.6), 24/2006 s. 6.1.2(Sch. 7 item 10.2), 13/2010 s. 51(Sch. item 16.6), 76/2013 s. 24.

(iv) a member of staff of a dual sector university within the meaning of the **Education and Training Reform Act 2006**; or

(e) a member of a prescribed class of persons who works at a location as a psychiatrist, registered medical practitioner, dentist, nurse, midwife or health worker;

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 subsection (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.

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

88 Regional centres

- (1) The Governor in Council may by order appoint a community corrections centre to be a regional centre.
- (2) An order under subsection (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 subsection (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

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

(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.

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

(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 sentencing or where the court is considering giving a person a bond; and

(b) report to the Adult Parole Board concerning an offender.

S. 90(2A)
inserted by
No. 10/2013
s. 30(1).

(2A) An officer, when required by the Secretary, must provide oral or written information to the Secretary in relation to the management, security or good order of a location or the safety and welfare of offenders at a location.

(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—

S. 90(4)(a)
substituted by
No. 10/2013
s. 30(2).

(a) subsections (1), (2) and (2A) apply as if they referred to reports, returns, records and oral or written information concerning the security of locations only; and

- (b) subsection (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 Regional Manager or a community corrections officer may use reasonable force to compel an offender to obey a direction, if he or she 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(7)
amended by
No. 81/2005
s. 8(a)(b).

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

S. 91
amended by
Nos 45/1996
s. 17(Sch. 1
item 58),
35/2002
s. 8(3),
repealed by
No. 10/2013
s. 31.

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92 Additional duties of Regional Manager

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

- (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(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 subsection (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—

**S. 94(4)
substituted by
No. 65/2011
s. 107(Sch.
item 2.4).**

- (a) breach of an old community-based order, within the meaning of clause 1 of Schedule 3 to the **Sentencing Act 1991**; or
- (b) contravention of a community correction order, within the meaning of the **Sentencing Act 1991**—

the Regional Manager may caution or reprimand the offender and need take no further action.

- (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 subsection (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;

S. 95(1)
amended by
No. 45/1996
s. 17(Sch. 1
item 60).

- (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;
 - (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

S. 97(1)
amended by
No. 45/1996
s. 17(Sch. 1
item 61).

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.

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 may take photographs of the offender and may take the offender's fingerprints.
- (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 or take the offender's fingerprints or both.

S. 99(1)
amended by
No. 35/2002
s. 7(5).

S. 99(2)
amended by
No. 35/2002
s. 7(6).

- (3) An officer may give to an offender all necessary directions to ensure the taking of accurate photographs and fingerprints.

S. 99(3)
amended by
No. 35/2002
s. 7(7).

99A Offenders may be tested to assess whether under the influence of alcohol or any drug

S. 99A
inserted by
No. 10/2013
s. 32.

- (1) Subject to subsection (2), if the Secretary considers it necessary to do so for the management, good order or security of a location or for the safety and welfare of offenders at a location or in order for an offender to perform unpaid community work at a location, the Secretary may at any time direct an offender to submit to tests to assess whether the offender is under the influence of—
- (a) alcohol; or
 - (b) any drug of dependence within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**; or
 - (c) any Schedule 8 poison or Schedule 9 poison within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**.
- (2) The Secretary may give a direction under subsection (1) only if the Secretary believes on reasonable grounds that the offender is under the influence of alcohol, a drug of dependence, a Schedule 8 poison or a Schedule 9 poison.
- (3) Tests under subsection (1)—
- (a) must be of a kind approved by the Secretary; and
 - (b) may include the taking of samples of urine.

- (4) For the purposes of this section, *location* means—
- (a) a community corrections centre; or
 - (b) a place which an offender is, by a correctional order or Part 9, required to attend for educational recreation or for any other purpose.

100 Search

- (1) A Regional Manager may at any time, order a community corrections officer to—
- (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.

- (1A) A Regional Manager may, at any time, order a community corrections officer to search and examine an offender at a place that the offender, by a correctional order or Part 9, is required to attend for educational recreation or for any other purpose, if the Regional Manager believes that the search is necessary for the security or good order of the place or the offenders at the place.

S. 100(1A)
inserted by
No. 10/2013
s. 33(1).

(1B) Before a Regional Manager orders a community corrections officer to search a person, the Regional Manager or the officer about to conduct the search must—

S. 100(1B)
inserted by
No. 10/2013
s. 33(1).

- (a) inform the person of the authority of the Regional Manager to order the search; and
- (b) inform the person of the reason for the search in that particular case; and
- (c) ask the person whether he or she has in his or her possession any article or substance which may jeopardise the good order or security of the community corrections centre or the place referred to in subsection (1A); and
- (d) ask the person to produce any article referred to in paragraph (c); and
- (e) provide the person with an opportunity to respond to the requests made under paragraphs (c) and (d); and
- (f) record the person's responses to the requests referred to in paragraphs (c) and (d).

(1C) The Regional Manager must ensure, to the extent practicable, that a search under this section is conducted—

S. 100(1C)
inserted by
No. 10/2013
s. 33(1).

- (a) in a private place or area that provides reasonable privacy for the person being searched; and
- (b) in the presence of a witness; and
- (c) as expeditiously as possible to minimise the impact on the person's dignity and self-respect; and
- (d) by a person of the same sex as the person being searched.

S. 100(1D)
inserted by
No. 10/2013
s. 33(1).

- (1D) A Regional Manager must establish and maintain a register of searches conducted under this section.
- (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 subsection (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.
- (7) In this section, *search* means any or all of the following—
- (a) a garment search;
 - (b) a pat-down search;
 - (c) a scanning search.

S. 100(7)
inserted by
No. 10/2013
s. 33(2).

101 Seizure

S. 101(1)
amended by
No. 10/2013
s. 34.

- (1) In carrying out searches under section 100 a community corrections officer may seize anything found in a community corrections centre or in a place referred to in section 100(1A), 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 that place or the safety of persons in the centre or that place.

- (2) A community corrections officer who seizes anything under subsection (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 subsection (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

S. 104(1)
amended by
No. 45/1996
s. 17(Sch. 1
item 63(b)).

(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.

S. 104(2)
amended by
No. 45/1996
s. 17(Sch. 1
item 63(a)).

(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.

S. 104(3)
amended by
No. 45/1996
s. 17(Sch. 1
item 63(a)).

(3) An offender who disobeys a direction given by the Secretary under this section is guilty of an offence.

Penalty: 5 penalty units.

PART 9A—SEARCH AND SEIZURE IN POLICE GAOLS

Pt 9A
(Heading and
ss 104A–
104D)
inserted by
No. 45/1996
s. 11.

104A Definitions

S. 104A
inserted by
No. 45/1996
s. 11.

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 police officer for the time being in charge of a police gaol.

S. 104A def. of
*officer in
charge*
amended by
No. 37/2014
s. 10(Sch.
item 32.15(a)).

* * * * *

S. 104A def. of
police officer
repealed by
No. 37/2014
s. 10(Sch.
item 32.15(b)).

104B Formal searches in police gaols

S. 104B
inserted by
No. 45/1996
s. 11.

- (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 person is in the police gaol, order the person to leave the police gaol immediately.

S. 104C
inserted by
No. 45/1996
s. 11.

104C Search powers

- (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) Subsections (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, Youth and Families Act 2005**.

S. 104C(2)(d)
amended by
No. 48/2006
s. 42(Sch.
item 8.6).

- (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 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.

Corrections Act 1986
No. 117 of 1986
Part 9A—Search and seizure in police gaols

- (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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Pt 9B
(Heading and
ss 104E–
104N)
inserted by
No. 81/2005
s. 9.

PART 9B—PROVISIONS CONCERNING MONITORED SERIOUS SEX OFFENDERS

Division 1—Preliminary matters

S. 104E
inserted by
No. 81/2005
s. 9.

104E Definitions

In this Part—

S. 104E def. of
*monitored
person*
amended by
No. 21/2008
s. 6(e),
substituted by
No. 91/2009
s. 214.

monitored person means a person who is subject
to—

- (a) an extended supervision order or
interim extended supervision order
under the **Serious Sex Offenders
Monitoring Act 2005**; or
- (b) a supervision order or interim
supervision order under the **Serious
Sex Offenders (Detention and
Supervision) Act 2009**;

officer has the same meaning as in section 85.

Division 2—Monitored people at community corrections centres

S. 104F
inserted by
No. 81/2005
s. 9,
substituted by
No. 91/2009
s. 215.

104F Application of this Division

- (1) This Division applies if a relevant person or body
instructs or directs a monitored person to attend a
community corrections centre for the purposes of
that Act.
- (2) In this section, *relevant person or body* means—
 - (a) in the case of a person who is subject to an
extended supervision order or interim
extended supervision order under the
**Serious Sex Offenders Monitoring Act
2005**, the Secretary, acting under

section 16(1) of the **Serious Sex Offenders Monitoring Act 2005**; or

- (b) in the case of a person who is subject to a supervision order or interim supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**, the Adult Parole Board, acting under a condition of that order imposed under section 16(2)(b) of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

104G Obligations of the officer in charge of the centre

The officer in charge of the community corrections centre must take all reasonable steps for the security and management of, and the safety and welfare of, the monitored person at the centre.

S. 104G
inserted by
No. 81/2005
s. 9.

104H Monitored person must comply with certain directions

While at the community corrections centre, the monitored person must comply with any direction given by an officer that is necessary for the management, good order or security of the centre.

Penalty: 5 penalty units.

S. 104H
inserted by
No. 81/2005
s. 9.

104I Officers may use force to enforce directions in certain circumstances

- (1) The Regional Manager or a community corrections officer may use reasonable force to compel the monitored person, while at the community corrections centre, to obey a direction if he or she believes on reasonable grounds that the use of force is necessary—
- (a) to prevent the person or another person being killed or seriously injured; or
- (b) to prevent serious damage to property.

S. 104I
inserted by
No. 81/2005
s. 9.

- (2) If a community corrections officer uses force to compel the person to obey a direction, he or she must report that fact to his or her Regional Manager as soon as possible.
- (3) The Regional Manager must as soon as possible report to the Secretary—
 - (a) the use of force by the Regional Manager to compel the monitored person to obey a direction; and
 - (b) any use of force by a community corrections officer to compel the monitored person to obey a direction that has been reported to the Regional Manager.

S. 104J
inserted by
No. 81/2005
s. 9.

104J Officers to give reports if required

- (1) An officer must, when required by the Secretary—
 - (a) report to a court concerning the monitored person; and
 - (b) report to the Adult Parole Board concerning the person.
- (2) In relation to officers within the meaning of paragraph (e) of the definition of *officer* in section 85, subsection (1) applies as if it only referred to reports concerning the monitored person that relate to the security of the centre.

S. 104K
inserted by
No. 81/2005
s. 9.

104K Photographing

- (1) While the monitored person is at a community corrections centre, an officer may at any time take photographs of the person for the purposes of identifying the person, or of completing records concerning the person.

- (2) An officer may give to the person all necessary directions to ensure the taking of accurate photographs.
- (3) Any direction given under subsection (2) is deemed to be—
 - (a) in the case of a person who is subject to an extended supervision order or interim extended supervision order under the **Serious Sex Offenders Monitoring Act 2005**, a lawful direction of the Secretary under section 16(1) of that Act for the purposes of section 15(3) of that Act; or
 - (b) in the case of a person who is subject to a supervision order or interim supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**, a lawful direction of the Adult Parole Board given under section 119 of that Act.

S. 104K(3)
substituted by
No. 91/2009
s. 216.

Division 3—Provisions applying to monitored people receiving visits from officers

104L Application of this Division

- (1) This Division applies if a relevant person or body instructs or directs a monitored person to receive visits from an officer for the purposes of that Act.
- (2) In this section, *relevant person or body* means—
 - (a) in the case of a person who is subject to an extended supervision order or interim extended supervision order under the **Serious Sex Offenders Monitoring Act 2005**, the Secretary, acting under section 16(1) of the **Serious Sex Offenders Monitoring Act 2005**; or

S. 104L
inserted by
No. 81/2005
s. 9,
substituted by
No. 91/2009
s. 217.

- (b) in the case of a person who is subject to a supervision order or interim supervision order under the **Serious Sex Offenders (Detention and Supervision) Act 2009**, the Adult Parole Board, acting under a condition imposed under section 16(2)(d) of the **Serious Sex Offenders (Detention and Supervision) Act 2009**.

S. 104M
inserted by
No. 81/2005
s. 9.

104M Officers to give reports if required

- (1) The officer must, when required by the Secretary—
- (a) report to a court concerning the monitored person; and
 - (b) report to the Adult Parole Board concerning the person.
- (2) Subsection (1) does not apply to officers within the meaning of paragraph (e) of the definition of *officer* in section 85.

Division 4—Obligations of regional managers

S. 104N
inserted by
No. 81/2005
s. 9.

104N Regional Manager to ensure that officers have access to certain information

S. 104N(1)
amended by
No. 91/2009
s. 218(1).

- (1) 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 under, and as to what provision is made by or under, this Act, the **Serious Sex Offenders (Detention and Supervision) Act 2009** and the **Serious Sex Offenders Monitoring Act 2005** concerning monitored people to whom this Part applies.

- (2) The Regional Manager of a region must give all necessary directions to ensure that officers working in, or assigned to, the region comply with this Act, the regulations, the **Serious Sex Offenders (Detention and Supervision) Act 2009** and the **Serious Sex Offenders Monitoring Act 2005** in relation to the monitored people to whom this Part applies.
- (3) In this section, *region* means an area, or several areas, designated under Part 9 as a region.
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S. 104N(2)
amended by
No. 91/2009
s. 218(2).

Pt 9C
(Heading and
ss 104O–
104ZN)
inserted by
No. 50/2008
s. 3.

PART 9C—PRISONER COMPENSATION QUARANTINE FUNDS

Division 1—Introductory

S. 104O
inserted by
No. 50/2008
s. 3.

104O Definitions

In this Part—

agreement includes compromise and acceptance of an offer of compromise;

award of damages means damages—

- (a) awarded pursuant to a judgment of a court; or
- (b) paid or payable in accordance with an agreement between the parties to the agreement;

civil wrong means an act or omission of the State—

- (a) that gives rise to a claim by a prisoner against the State; and
- (b) that occurred while the claimant was a prisoner detained in custody in a prison; and
- (c) that arose out of and in connection with his or her detention in custody in a prison;

claim means a claim brought in tort, in contract or under statute or otherwise;

court includes tribunal;

criminal act has the meaning given in section 104Q;

damages includes any form of monetary compensation;

family member has the same meaning as in section 30A;

initial quarantine period, in relation to a prisoner compensation quarantine fund, means the period of 12 months following the publication in the Government Gazette of the notice in respect of the fund under section 104Y;

prisoner includes former prisoner;

prisoner compensation quarantine fund has the meaning given in section 104V;

quarantine period, in relation to a prisoner compensation quarantine fund relating to a prisoner, means—

- (a) the initial quarantine period; and
- (b) the period ending on the final determination of all legal proceedings by victims against the prisoner which are commenced within the initial quarantine period and which are notified to the Secretary under section 104ZE(1);

State includes—

- (a) the Secretary; and
- (b) a contractor responsible for the management or operation of a prison; and
- (c) any employee of the Crown or of a person referred to in paragraph (a) or (b);

victim has the meaning given in section 104R.

S. 104P
inserted by
No. 50/2008
s. 3.

104P Application

- (1) This Part applies in respect of an award of damages to a prisoner in respect of a claim made by or on behalf of the prisoner against the State for a civil wrong.
- (2) This Part does not apply to a claim by or on behalf of a prisoner arising from and in connection with the prisoner's detention while on remand.
- (3) This Part does not apply to an award of damages to a prisoner in respect of a claim of false imprisonment.
- (4) This Part does not affect (and is subject to) any obligation imposed on the State or the Secretary by or under an enactment of the State or the Commonwealth to pay some other person money owed or due to or held on account of the prisoner.

S. 104Q
inserted by
No. 50/2008
s. 3.

104Q Meaning of *criminal act*

- (1) In this Part, *criminal act* means conduct that, on the balance of probabilities, would constitute an offence.
- (2) The definition of criminal act applies whether or not a prisoner whose conduct is alleged to constitute an offence has been, will be or is capable of being proceeded against or convicted of the offence.

S. 104R
inserted by
No. 50/2008
s. 3.

104R Meaning of *victim*

In this Part *victim* means—

- (a) a person who has had a criminal act committed against him or her;
- (b) a family member of a person who has had a criminal act committed against that person.

Division 2—Awards of damages to prisoners

104S Agreements must be approved by court

An agreement between the State and a prisoner for the payment of damages for a civil wrong is of no effect until it has been approved by a court.

S. 104S
inserted by
No. 50/2008
s. 3.

104T Determination of amounts for medical and legal costs

- (1) An award of damages for a civil wrong must specify the amounts, if any, awarded or agreed in respect of—
 - (a) existing and future medical costs; and
 - (b) legal costs.
- (2) If the parties to an agreement between the State and a prisoner for the payment of damages for a civil wrong are unable to agree on any amount to be specified under subsection (1), the court must specify the amounts to be specified in the agreement for the purposes of that subsection and the agreement is varied accordingly.

S. 104T
inserted by
No. 50/2008
s. 3.

104U Matters to be considered by court

- (1) This section applies to—
 - (a) an award of damages by a court for a civil wrong; and
 - (b) an agreement between the State and a prisoner for the payment of damages for a civil wrong.
- (2) The court must not make the award or approve the agreement unless the court is satisfied—
 - (a) that section 104T(1) has been complied with; and

S. 104U
inserted by
No. 50/2008
s. 3.

- (b) that, in all the circumstances, the amounts specified for the purposes of section 104T(1) are appropriate portions of the total amount payable under the award or agreement having regard to—
- (i) the claim; and
 - (ii) the loss or damage suffered by the prisoner; and
 - (iii) the need to ensure as far as possible that victims are not deprived of an opportunity to enforce a successful claim for damages against a prisoner.
- (3) If legal costs are to be assessed and paid under an order made on taxation, the legal costs are taken under this Part to be specified in the award of damages.

Division 3—Payment of money to prisoner compensation quarantine fund

104V Damages awarded to prisoner to be paid to prisoner compensation quarantine fund

S. 104V
inserted by
No. 50/2008
s. 3.

- (1) The amount of any award of damages to a prisoner in respect of a civil wrong must be paid by the State to the Secretary immediately after the damages are awarded.
- (2) The amount to be paid under subsection (1) does not include any amount specified in the award of damages made or approved by the court as attributable to—
- (a) existing and future medical costs; and
 - (b) legal costs.

- (3) An amount paid to the Secretary under subsection (1)—
 - (a) must be held in trust for the prisoner by the Secretary during the quarantine period and until the final payment is made out of the prisoner compensation quarantine fund in accordance with this Part; and
 - (b) may be paid out of the prisoner compensation quarantine fund only as authorised by this Part.
- (4) Money held by the Secretary in trust for a prisoner under this Part constitutes a *prisoner compensation quarantine fund*.
- (5) This section does not apply if the amount that would, but for this subsection, be required to be paid to the Secretary under subsection (1) does not exceed \$10 000.

104W Prisoner compensation quarantine funds

S. 104W
inserted by
No. 50/2008
s. 3.

- (1) A prisoner compensation quarantine fund consists of—
 - (a) any amount held by the Secretary in trust for a prisoner under this Part; and
 - (b) any interest earned on that money.
- (2) The Secretary must deposit all money in a prisoner compensation quarantine fund into an interest-bearing account with an ADI.
- (3) The following may be paid out of the prisoner compensation quarantine fund—
 - (a) amounts required to be paid out to any person in accordance with section 104ZG or 104ZH;
 - (b) amounts required to be paid out in accordance with section 104ZJ in respect of the prisoner;

- (c) the costs of administration of the fund (including any taxes payable in respect of the fund).
- (4) The Secretary may only pay out of a prisoner compensation quarantine fund the costs of administration of the fund if that payment would not decrease the level of the fund below the amount of damages paid into the fund.
- (5) The Secretary is responsible for the administration of the prisoner compensation quarantine fund.

Division 4—Notice of prisoner compensation quarantine fund

S. 104X
inserted by
No. 50/2008
s. 3.

104X Victim may ask to be notified of award of damages to prisoner

- (1) A victim in relation to a criminal act by a prisoner may apply to the Secretary to be notified of an award of damages to the prisoner.
- (2) An application must be in writing.

S. 104Y
inserted by
No. 50/2008
s. 3.

104Y Notice to victims published

- (1) The Secretary must publish a notice advising of an award of damages to a prisoner as soon as practicable after the amount of damages is paid to the Secretary under section 104V.
- (2) The notice must—
 - (a) state that the award of damages has been made to the prisoner in a claim against the State but must not state the amount of the award of damages;
 - (b) state the name of the prisoner and any other names by which the prisoner is known;
 - (c) state that money in that award has been paid to a prisoner compensation quarantine fund;

- (d) state the initial quarantine period for that fund;
 - (e) invite victims in relation to criminal acts of the prisoner to seek further information from the Secretary about the fund;
 - (f) contain contact details for seeking that further information.
- (3) The notice must be published—
- (a) in the Government Gazette; and
 - (b) in a daily newspaper circulating generally in Victoria; and
 - (c) a daily newspaper circulating generally in Australia.
- (4) The Secretary may also publish the notice on the Internet.

104Z Notice to victims directly

The Secretary may forward a copy of the notice under section 104Y in respect of an award of damages to a prisoner to any victim who has applied to the Secretary under section 104X to be notified of an award of damages in respect of the prisoner.

S. 104Z
inserted by
No. 50/2008
s. 3.

104ZA Applications for information

- (1) A victim in relation to a criminal act by a prisoner may apply to the Secretary for information about a prisoner compensation quarantine fund with respect to that prisoner within the initial quarantine period in respect of that fund.
- (2) The Secretary by written notice may disclose the following information to the applicant if the Secretary is satisfied that the applicant is a victim in relation to a criminal act of a prisoner—

S. 104ZA
inserted by
No. 50/2008
s. 3.

- (a) the amount of the award paid into the prisoner compensation quarantine fund in respect of the prisoner;
 - (b) the start of the initial quarantine period;
 - (c) the end of the initial quarantine period if no legal proceedings are notified under section 104ZE(1);
 - (d) any other information that the Secretary from time to time believes will assist the victim to make an informed decision as to whether to bring proceedings against the prisoner.
- (3) The notice must include a statement advising the victim—
- (a) that the information is disclosed solely for use by the victim in deciding whether or not to bring legal proceedings; and
 - (b) that the victim should consider seeking independent legal advice; and
 - (c) that the information provided by the Secretary does not constitute legal advice or a recommendation to bring or not to bring legal proceedings; and
 - (d) of the effect of sections 104ZC and 104ZD.

S. 104ZB
inserted by
No. 50/2008
s. 3.

104ZB Disclosure of information by Secretary authorised

The provision of information by the Secretary under section 104Y, 104Z or 104ZA—

- (a) is authorised despite any agreement to which the Secretary or the State is a party that would otherwise prohibit or restrict the disclosure of information concerning an award of damages; and
- (b) does not constitute a contravention of such an agreement.

104ZC Confidentiality of information

A person to whom information is provided under section 104Y, 104Z or 104ZA by the Secretary must treat that information in an appropriate manner that respects the confidentiality of that information.

S. 104ZC
inserted by
No. 50/2008
s. 3.

104ZD Offence to disclose information

- (1) A person to whom information is disclosed under section 104Y, 104Z or 104ZA must not disclose that information to any other person except for the purposes of, or in connection with, the taking and determination of legal proceedings by the person against the prisoner concerned.

Penalty: 60 penalty units.

- (2) A person (other than a person to whom information is disclosed under section 104Y, 104Z or 104ZA) who becomes aware of any information disclosed to a person under section 104Y, 104Z or 104ZA must not use that information or disclose it to any person.

Penalty: 60 penalty units, in the case of a natural person;

1200 penalty units, in the case of a body corporate.

- (3) Nothing in subsection (1) prevents a person from disclosing information to a lawyer in the course of consulting that lawyer for legal advice.
- (4) Subsections (1) and (2) do not apply to information that is in the public domain.

S. 104ZD
inserted by
No. 50/2008
s. 3.

S. 104ZE
inserted by
No. 50/2008
s. 3.

104ZE Notice to Secretary by victim

- (1) A victim who within the initial quarantine period for a prisoner compensation quarantine fund relating to a prisoner commences legal proceedings for the recovery of damages against the prisoner in respect of a criminal act by the prisoner against the victim may give written notice to the Secretary of that fact.
- (2) A victim may give written notice to the Secretary of the final determination of the legal proceedings notified by the victim under subsection (1) and of any amount awarded to the victim in those proceedings within 14 days after the final determination of the proceedings.

S. 104ZF
inserted by
No. 50/2008
s. 3.

104ZF Notice to Secretary by creditors

- (1) Any person who has a judgment debt against the prisoner or who is entitled under any enactment to payment of an amount by the prisoner and who has not recovered that judgment debt or been paid that amount may give notice to the Secretary of that fact.
- (2) A notice under subsection (1) must—
 - (a) be in writing; and
 - (b) be accompanied by a copy of any relevant document that substantiates the facts set out in the notice; and
 - (c) be given during the quarantine period.
- (3) The Secretary may require a person who has given a notice under this section to provide any further information that the Secretary reasonably requires to substantiate the facts set out in the notice.

**Division 5—Payments out of prisoner compensation
quarantine fund**

**104ZG Payments out of fund where legal proceedings
notified**

S. 104ZG
inserted by
No. 50/2008
s. 3.

- (1) This section applies if the Secretary has received a notice under section 104ZE(1) in respect of legal proceedings against a prisoner to whom a prisoner compensation quarantine fund relates.
- (2) The Secretary must not pay any money out of the prisoner compensation quarantine fund to any person until the end of the quarantine period for the fund.
- (3) The Secretary must, within 45 days after the end of the quarantine period, pay out of the prisoner compensation quarantine fund to the persons entitled to payment any amounts required to satisfy—
 - (a) any award against the prisoner that was notified to the Secretary under section 104ZE(2); and
 - (b) any judgment debt against, or entitlement to be paid by, the prisoner that was notified to the Secretary under section 104ZF—

that the Secretary is satisfied is a valid claim on the prisoner.
- (4) If the amount in the prisoner compensation quarantine fund is not sufficient to pay the amounts required to be paid out under subsection (3), the Secretary must make payments from the fund under that subsection on a pro rata basis having regard to any priority of payment required by law.

- (5) If any amount remains in the prisoner compensation quarantine fund after all amounts are paid out under subsection (3), the Secretary must pay the remaining amount to or at the direction of the prisoner within, or as soon as practicable after the end of, the period of 45 days after the end of the quarantine period.

S. 104ZH
inserted by
No. 50/2008
s. 3.

104ZH Payments out of fund where notice from creditor received

- (1) This section applies if the Secretary has been given notice by a person under section 104ZF in respect of a prisoner and has not been notified under section 104ZE(1) of legal proceedings against that prisoner.
- (2) The Secretary must not pay any money out of the prisoner compensation quarantine fund to any person until the end of the initial quarantine period for the fund.
- (3) The Secretary must, within 45 days after the end of the initial quarantine period, pay out of the prisoner compensation quarantine fund to the persons entitled to payment any amounts required to satisfy any judgment debt against, or entitlement to be paid by, the prisoner—
- (a) that was notified to the Secretary under section 104ZF during the initial quarantine period; and
 - (b) that the Secretary is satisfied is a valid claim on the prisoner.
- (4) If the amount in the prisoner compensation quarantine fund is not sufficient to pay the amounts required to be paid out under subsection (3), the Secretary must make payments from the fund under that subsection on a pro rata basis having regard to any priority of payment required by law.

- (5) If any amount remains in the prisoner compensation quarantine fund after all amounts are paid out under subsection (3), the Secretary must pay the remaining amount to or at the direction of the prisoner within, or as soon as practicable after the end of, the period of 45 days after the end of the initial quarantine period.

104ZI Restriction not to affect payment of administration costs

S. 104ZI
inserted by
No. 50/2008
s. 3.

Sections 104ZG and 104ZH do not prevent the payment out of a prisoner compensation quarantine fund of any amount for the costs of administration of the fund (including payment of taxes in respect of the fund) authorised under section 104W and those costs are payable out of the fund before payment of any other amounts under sections 104ZG and 104ZH.

104ZJ Payments out of fund where no notice given

S. 104ZJ
inserted by
No. 50/2008
s. 3.

- (1) This section applies if no notice is given to the Secretary under section 104ZE(1) or section 104ZF in relation to the prisoner to whom a prisoner compensation quarantine fund relates within the initial quarantine period.
- (2) The Secretary must pay all money in the prisoner compensation quarantine fund to or at the direction of the prisoner within 45 days after the end of the initial quarantine period.

104ZK Payments taken to be payments at direction of prisoner

S. 104ZK
inserted by
No. 50/2008
s. 3.

The payment by the Secretary of an amount out of a prisoner compensation quarantine fund in accordance with this Part is taken to be a payment at the direction of the prisoner and operates as a discharge, to the extent of the payment, of any liability of the State or the Secretary to pay the amount to the prisoner as damages.

S. 104ZL
inserted by
No. 50/2008
s. 3.

104ZL When are legal proceedings finally determined

- (1) Subject to subsection (2), in this Part legal proceedings are not finally determined if—
 - (a) any period for bringing an appeal in respect of the proceedings has not expired (ignoring any period that may be available by way of extension of time to appeal); or
 - (b) any appeal in respect of the legal proceedings is pending.
- (2) In this Part, legal proceedings are taken to be finally determined if the legal proceedings are settled or discontinued.

Division 6—General

S. 104ZM
inserted by
No. 50/2008
s. 3.

104ZM Offence to provide false or misleading information

A person must not give information to the Secretary under this Part that the person believes to be false or misleading in any material particular.

Penalty: 60 penalty units.

S. 104ZN
inserted by
No. 50/2008
s. 3.

104ZN Annual report

The Secretary must provide an annual written report on the operation of this Part to the Minister and the Attorney-General.

PART 9D—ACCIDENT COMPENSATION

Pt 9D
(Heading and
ss 104ZO–
104ZW)
inserted by
No. 55/2009
s. 4.

104ZO Definition

In this Part, *Authority* means the Victorian WorkCover Authority within the meaning of the **Workplace Injury Rehabilitation and Compensation Act 2013**.

S. 104ZO
inserted by
No. 55/2009
s. 4,
amended by
No. 67/2013
s. 649(Sch. 9
item 6(1)).

104ZP Application of Part

This Part applies to 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 program of activities; or
- (b) a volunteer who is working in a prison or at a location; or
- (c) a person who is required or directed by or under a diversion program under section 59 of the **Criminal Procedure Act 2009** to work or to take part in a program of activities.

S. 104ZP
inserted by
No. 55/2009
s. 4.

S. 104ZP(c)
amended by
No. 30/2010
s. 55.

104ZQ When is compensation payable?

Compensation is payable under this Part if a person suffers personal injury (including death) or loss of or damage to property belonging to the person or in the person's possession or control while the person is engaged—

- (a) in working or taking part in a program of activities referred to in section 104ZP(a) or (c); or

S. 104ZQ
inserted by
No. 55/2009
s. 4.

- (b) if the person is a volunteer, in working in a prison or at a location.

S. 104ZR
inserted by
No. 55/2009
s. 4.

104ZR Compensation for personal injuries

S. 104ZR(1)
amended by
No. 67/2013
s. 649(Sch. 9
item 6(2)).

- (1) Compensation for personal injury (including death) is to be paid in accordance with and subject to the **Accident Compensation Act 1985** or the **Workplace Injury Rehabilitation and Compensation Act 2013**, as the case requires, to those persons to whom, or for whose benefit, compensation would be payable under that Act if—

- (a) the injured person were a worker employed by the Crown; and
(b) the personal injury had arisen out of or in the course of the employment—

within the meaning of that Act.

S. 104ZR(2)
amended by
No. 67/2013
s. 649(Sch. 9
item 6(2)).

- (2) For the purpose of assessing the amount of compensation, the average weekly earnings of the injured person is to be computed on the following basis but so that any relevant maximum limits imposed by the **Accident Compensation Act 1985** or the **Workplace Injury Rehabilitation and Compensation Act 2013**, as the case requires, are not exceeded—
- (a) by reference to the injured person's employment by any employer or employers during the relevant period before the accident; or
(b) if the injured person was not then working under a contract of service, on any basis that is best calculated to give the appropriate compensation for the injured person's loss of earning capacity.

(3) For the purposes of enabling the return to work of the injured person, the Authority may—

- (a) prepare a return to work plan under the **Workplace Injury Rehabilitation and Compensation Act 2013**;
- (b) approve a provider of occupational rehabilitation services for the purposes of a return to work plan prepared under paragraph (a);
- (c) provide alternative assistance or programs to the injured person or in respect of the employment of the injured person.

S. 104ZR(3)(a)
amended by
No. 67/2013
s. 649(Sch. 9
item 6(3)).

(4) Any costs and expenses incurred as a result of subsection (3) are to be paid by the Authority under section 104ZW(2) as if the costs and expenses were a payment of compensation and section 104ZW(3) applies accordingly.

(5) In this section, *injured person* means—

- (a) an offender or person who suffers personal injury (including death) while engaged in working or taking part in a program of activities referred to in section 104ZP(a) or (c); or
- (b) a volunteer who suffers personal injury (including death) while engaged in working in a prison or at a location.

104ZS Compensation for loss of or damage to property

Compensation payable for loss of or damage to property is to be such that the Minister considers reasonable in the circumstances and is to be paid to the owner of the property or any person who has an interest in it.

S. 104ZS
inserted by
No. 55/2009
s. 4.

S. 104ZT
inserted by
No. 55/2009
s. 4,
amended by
No. 67/2013
s. 649(Sch. 9
item 6(4)).

104ZT Jurisdiction

If any question or matter arises under this Part, the County Court and the Magistrates' Court have, under this Act, the same jurisdiction to hear and determine the question or matter as if it were a question or matter arising under the **Accident Compensation Act 1985** or the **Workplace Injury Rehabilitation and Compensation Act 2013**, as the case requires, and those Acts apply with the necessary adaptations and modifications.

S. 104ZU
inserted by
No. 55/2009
s. 4,
amended by
No. 67/2013
s. 649(Sch. 9
item 6(5)).

104ZU Authority to represent Crown

In all proceedings under this Part, the Authority represents the Crown and has the same powers, rights and authorities as the Authority has under the **Accident Compensation Act 1985** or the **Workplace Injury Rehabilitation and Compensation Act 2013** in regard to the corresponding matter relating to a worker under that Act.

S. 104ZV
inserted by
No. 55/2009
s. 4.

104ZV Compensation otherwise payable

If a person is entitled to compensation in respect of personal injury otherwise than in accordance with this Part, there is payable to that person the amount, if any, by which the amount of compensation in respect of the injury determined under this Part exceeds the amount to which the person is entitled.

S. 104ZW
inserted by
No. 55/2009
s. 4.

104ZW Payments

- (1) The Authority is entitled to the reimbursement of its reasonable costs and expenses incurred in representing the Crown under section 104ZU.
- (2) The Authority must make any payment of compensation under this Part out of the WorkCover Authority Fund under the **Workplace Injury Rehabilitation and Compensation Act 2013**.

S. 104ZW(2)
amended by
No. 67/2013
s. 649(Sch. 9
item 6(6)).

- (3) There is to be paid into the WorkCover Authority Fund out of the Consolidated Fund, which is to the necessary extent appropriated accordingly—
- (a) the amounts to be reimbursed under subsection (1); and
 - (b) the amount of any payments under subsection (2).
-

Pt 9E
(Heading and
ss 104ZX–
104ZZA)
inserted by
No. 10/2013
s. 35.

PART 9E—DISCLOSURE OF INFORMATION

104ZX Definitions

S. 104ZX
inserted by
No. 10/2013
s. 35.

In this Part—

Corrections legislation means any of the following—

- (a) this Act;
- (b) the **Community Based Sentences (Transfer) Act 2012**;
- (c) the **Parole Orders (Transfer) Act 1983**;
- (d) the **Prisoners (Interstate Transfer) Act 1983**;
- (e) the **Serious Sex Offenders (Detention and Supervision) Act 2009**;
- (f) the regulations made under any Act referred to in paragraph (a), (b), (c), (d) or (e);

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

official duties includes the following—

- (a) the administration of Corrections legislation;
- (b) the provision of reports to the Minister in accordance with this Act;
- (c) the provision of training, education or health-related services to a prisoner or offender;

- (d) law enforcement, including—
 - (i) the detection, investigation or prosecution or prevention of contraventions of the law; and
 - (ii) the enforcement of laws relating to the confiscation of the proceeds of crime;
- (e) preparation for, conduct of or participation in, proceedings in any court or tribunal;
- (f) the administration of an order made by the Secretary under section 16, 16A or 17 of the **Mental Health Act 1986**;
- (g) the administration or enforcement of an order of a court or tribunal;

personal or confidential information includes the following—

- (a) information relating to the personal affairs of a person who is or has been an offender or a prisoner;
- (b) information relating to the classification of a prisoner under this Act;
- (c) information—
 - (i) that identifies any person or discloses his or her address or location; or
 - (ii) from which any person's identity, address or location can reasonably be determined;
- (d) 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;

- (e) 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;
- (f) information of a business, commercial or financial nature relating to—
 - (i) the provision of correctional services; or
 - (ii) an agreement entered into under section 8B(1) or 9(1) or a sub-contract agreement under that agreement;
- (g) information concerning the investigation of a contravention or possible contravention of the law by—
 - (i) an offender; or
 - (ii) a prisoner; or
 - (iii) an officer within the meaning of Part 5 or Part 9; or
 - (iv) a person authorised under section 9A to exercise a function or power; or
 - (v) a person working with, or in contact with, offenders or prisoners; or
 - (vi) a person engaged in the administration of this Act;
- (h) information concerning procedures or plans to be adopted or followed in a prison in the event of an emergency;
- (i) information concerning the management of prisons;

- (j) information concerning—
 - (i) security systems and security measures in, or in relation to, a prison; or
 - (ii) security measures taken to protect the community from offenders;
- (k) information given to an independent prison visitor as an independent prison visitor;

relevant person means—

- (a) an officer within the meaning of Part 5 or Part 9;
- (b) a member of the Adult Parole Board;
- (c) an independent prison visitor;
- (d) an employee of the Department of Justice;
- (e) a person who provides services or advice to the Department of Justice whether paid or unpaid;
- (f) a contractor or subcontractor or an employee of a contractor or subcontractor.

104ZY Authorisation to use or disclose information

- (1) A relevant person may use or disclose personal or confidential information if the use or disclosure is reasonably necessary for the performance of the relevant person's official duties.
- (2) A relevant person may also use or disclose personal or confidential information in the following circumstances—

S. 104ZY
inserted by
No. 10/2013
s. 35.

- (a) if the use or disclosure is reasonably necessary to lessen or prevent a serious and imminent threat to a person's life, health, safety or welfare or to public health;
- (b) with the authorisation, or at the request, of the person to whom the information relates;
- (c) if the use or disclosure is authorised by the Minister;
- (d) if the disclosure is to the Ombudsman or the Ombudsman's officers;
- (e) if the information is disclosed to a person included on the victims register for the purpose of making a victim submission;
- (f) if the information is the current location of a prisoner and the disclosure is to the prisoner's lawyer;
- (g) if the use or disclosure is in accordance with the **Health Records Act 2001**;
- (h) if the disclosure is to the Department of Human Services and the information is reasonably necessary to ensure the proper care, or housing, of a person who is or is likely to be provided with services by or on behalf of that Department;
- (i) if the disclosure is to the Department of Health and the information is reasonably necessary to ensure the proper care or treatment of a person who is or is likely to be provided with services by or on behalf of that Department;
- (j) if the disclosure is to the Australian Electoral Commission and the information is reasonably necessary to establish a prisoner's entitlement to vote in accordance with the Commonwealth Electoral Act 1918;

- (k) if the disclosure is to the Commonwealth Department of Immigration and Citizenship and the information is reasonably necessary for the purpose of determining the eligibility of a prisoner to remain in Australia in accordance with the Migration Act 1958 of the Commonwealth;
 - (l) if the disclosure is to the Commonwealth Department of Human Services and the information is reasonably necessary for the purpose of determining the eligibility of a prisoner or former prisoner to receive Commonwealth payments or allowances;
 - (m) if the use or disclosure is to an Australian lawyer for the purpose of obtaining legal advice or representation in relation to the administration or operation of Corrections legislation;
 - (n) if the information is already in the public domain;
 - (o) if the use or disclosure is specifically authorised or required by or under this Act or any other Act.
- (3) This section does not apply to personal or confidential information referred to in section 104ZZ.

104ZZ Authorisation to disclose information given to Adult Parole Board

- (1) A relevant person may use or disclose 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 if the use or disclosure is reasonably necessary—
 - (a) for the administration of Corrections legislation; or

S. 104ZZ
inserted by
No. 10/2013
s. 35,
amended by
No. 12/2014
s. 16(2) (ILA
s. 39B(1)).

S. 104ZZ(1)(b)
substituted by
No. 12/2014
s. 16(1).

- (b) for the preparation for, conduct of or participation in—
- (i) criminal proceedings in any court; or
 - (ii) proceedings before a tribunal; or
 - (iii) an inquest or investigation held by a coroner; or
- (c) to lessen or prevent a serious and imminent threat to a person's life or safety.

S. 104ZZ(2)
inserted by
No. 12/2014
s. 16(2).

- (2) A relevant person may use or disclose 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 if the use or disclosure is authorised by the Minister.

S. 104ZZA
inserted by
No. 10/2013
s. 35.

104ZZA Offence to use or disclose personal or confidential information unless authorised

A person who is or has been a relevant person must not use or disclose personal or confidential information unless that use or disclosure is authorised under section 104ZY or 104ZZ.

Penalty: 120 penalty units.

PART 10—GENERAL

105 Proceedings for offences

- (1) Proceedings for offences against this Act or the regulations may be brought by—
- (a) the Secretary; or
 - (b) the Director of Public Prosecutions; or
 - (c) a crown prosecutor within the meaning of the **Criminal Procedure Act 2009**; or
 - (d) a member of staff of the Office of Public Prosecutions established under the **Public Prosecutions Act 1994** who is a lawyer; or
 - (e) a police officer.

S. 105(1)
amended by
No. 45/1996
s. 17(Sch. 1
item 64),
substituted by
No. 12/2014
s. 17.

S. 105(1)(e)
substituted by
No. 37/2014
s. 10(Sch.
item 32.16).

- (2) For the purposes of subsection (1), the Secretary may authorize officers generally, a class of officers or a particular officer.

S. 105(2)
amended by
No. 45/1996
s. 17(Sch. 1
item 64).

105A Offences by bodies corporate

- (1) If, in proceedings for an offence against this Act, it is necessary to establish the intention or knowledge of a body corporate, it is sufficient to show that an officer, employee or agent of the body corporate had that intention or knowledge.
- (2) If an offence against this Act committed by a body corporate is proved to have been committed with the consent or connivance of a person who is a director, manager, secretary or other officer of the body corporate, that person is deemed to have committed the offence also and is liable to be proceeded against and punished accordingly.

S. 105A
inserted by
No. 14/2004
s. 10.

- (3) This section applies only with respect to an offence alleged to have been committed after the commencement of section 10 of the **Corrections (Further Amendment) Act 2004**.

S. 106
amended by
Nos 16/1987
s. 4(3)(Sch. 1
item 7(j)),
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—

S. 107(d)
amended by
No. 46/1998
s. 7(Sch. 1).

- (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(e)
inserted by
No. 45/1996
s. 17(Sch. 1
item 66(b)).

108 Apprehension of escaped prisoners

A prison officer or any police officer—

- (a) may arrest a person who has escaped from the legal custody of the Secretary or the Chief Commissioner of Police; and
- (b) must deliver the person to a prison or police gaol as soon as possible after the arrest.

S. 108
repealed by
No. 11/1993
s. 4(4),
new s. 108
inserted by
No. 45/2001
s. 19,
amended by
No. 37/2014
s. 10(Sch.
item 32.17).

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 Disclosure of certain information is not breach of section 4 of Judicial Proceedings Reports Act 1958

Section 4 of the **Judicial Proceedings Reports Act 1958** does not prevent a disclosure of information, including the identity of a victim, that is made for the purposes of the administration of this Act or of an order made under this Act or an order or sentence made or imposed by a court under the **Sentencing Act 1991** or for the purposes of an application for an order under this Act or the **Sentencing Act 1991**.

S. 110
amended by
No. 49/1991
s. 119(7)
(Sch. 4
item 3.9),
substituted by
No. 50/1994
s. 124,
amended by
No. 35/2002
s. 9,
repealed by
No. 55/2009
s. 5, new
s. 110
inserted by
No. 25/2014
s. 12.²

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**.
- (3) It is the intention of section 9CB as amended by the **Corrections (Custody) Act 2001** to alter or vary section 85 of the **Constitution Act 1975**.
- (3A) It is the intention of section 9CB, as amended by the **Corrections (Amendment) Act 2003**, to alter or vary section 85 of the **Constitution Act 1975**.
- (4) It is the intention of section 55E to alter or vary section 85 of the **Constitution Act 1975**.

S. 111A(2)
inserted by
No. 26/1997
s. 16(2).

S. 111A(3)
inserted by
No. 45/2001
s. 20.

S. 111A(3A)
inserted by
No. 38/2003
s. 11.

S. 111A(4)
inserted by
No. 45/2001
s. 20.

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 acts of misconduct committed by people detained in police gaols; **S. 112(1)(aa) inserted by No. 15/1989 s. 30(1).**
- (ab) the prohibition and regulation of smoking in a prison or in any part of a prison; **S. 112(1)(ab) inserted by No. 45/2014 s. 5.**
- (ac) the prohibition and regulation of entry, use and possession of tobacco products and tobacco smoking accessories in a prison or in any part of a prison; **S. 112(1)(ac) inserted by No. 45/2014 s. 5.**
- (b) the establishment of training institutions for officers under Part 5 or Part 9; **S. 112(1)(b) amended by No. 16/1991 s. 17(a).**
- (ba) the training, discipline and conduct of officers; **S. 112(1)(ba) inserted by No. 16/1991 s. 17(b).**
- (c) the medical and dental testing and treatment (including vaccination) of prisoners, offenders and people detained in police gaols; **S. 112(1)(c) amended by No. 15/1989 s. 30(2).**
- (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; **S. 112(1)(d) amended by No. 15/1989 s. 30(3).**

S. 112(1)(f)
amended by
No. 15/1989
s. 30(4).

- (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 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
Nos 45/1996
s. 16, 10/2013
s. 36(1).

- (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 and providing that the Secretary may approve the expenditure of

- that interest or other proceeds from the investment of those retained moneys for purposes related to assisting victims (within the meaning of paragraph (a), (b) or (c) of the definition of *victim* in section 30A(1)) or their family members (as defined in section 30A(1));
- (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;
- * * * * *
- (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;
- (ma) the establishment and keeping of a victims register;
- (mb) the manner of application for registration by persons wishing to be included on the victims register;
- (mc) the manner and circumstances in which a person may be removed from the victims register;
- (md) matters to be included in victim submissions;
- S. 112(1)(j)
amended by
No. 15/1989
s. 30(5)(a)(b).
- S. 112(1)(k)
amended by
No. 45/2001
s. 21,
repealed by
No. 53/2007
s. 19(1).
- S. 112(1)(ma)
inserted by
No. 14/2004
s. 11.
- S. 112(1)(mb)
inserted by
No. 14/2004
s. 11.
- S. 112(1)(mc)
inserted by
No. 14/2004
s. 11.
- S. 112(1)(md)
inserted by
No. 14/2004
s. 11.

Corrections Act 1986
No. 117 of 1986
Part 10—General

- S. 112(1)(me)
inserted by
No. 50/2008
s. 6.
- (me) matters to be included in applications and notices under Part 9C;
- S. 112(1)(mf)
inserted by
No. 10/2013
s. 36(2).
- (mf) police custody transfer orders;
- S. 112(1)(n)
amended by
Nos 44/1991
s. 6(n),
53/2003 s. 19,
48/2011 s. 10,
12/2014
s. 20(2).
- (n) parole orders (including mandatory and other terms and conditions of parole orders) and the procedure of the Parole Board;
- S. 112(1)(o)
amended by
No. 15/1989
s. 30(6).
- (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;
- S. 112(1)(qa)
inserted by
No. 12/2014
s. 18.
- (qa) prescribing a firearm or a type of firearm to be a non-lethal firearm;
- S. 112(1)(r)
substituted by
No. 44/1991
s. 4(2).
- (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;
 - (sa) the establishment of bodies for the purpose of carrying out functions under the regulations; **S. 112(1)(sa) inserted by No. 53/2007 s. 19(2).**
 - (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.
- (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 **S. 112(2)(c) amended by No. 45/1996 s. 17(Sch. 1 item 67).**
 - (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 **S. 112(2)(d) amended by No. 45/1996 s. 17(Sch. 1 item 67).**
 - (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.

S. 112(3)
amended by
No. 45/1996
s. 17(Sch. 1
item 67).

(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(4)
amended by
No. 45/1996
s. 17(Sch. 1
item 67).

(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.

S. 112(5)
repealed by
No. 45/1996
s. 7(d).

* * * * *

S. 112A
inserted by
No. 53/2007
s. 20.

112A Additional regulation-making powers—firearms

Without limiting section 112, the Governor in Council may, subject to disallowance by Parliament, make regulations for or with respect to—

- (a) the manner and circumstances in which an escort officer may be issued with a firearm, including circumstances relating to—
 - (i) the classification of prisoners and prisons;
 - (ii) firearms training;
 - (iii) cases of emergency;
- (b) without limiting paragraph (a), conferring discretion on the Secretary or a Governor to issue a firearm to an escort officer in circumstances where the Secretary or

Governor reasonably believes that a firearm is necessary for the security or good order of the prison or for the safety of a prisoner, an escort officer or other persons;

(c) the carrying and storage of firearms issued to escort officers.

S. 112A(c)
amended by
No. 12/2014
s. 19(1).

* * * * *

S. 112A(d)(e)
repealed by
No. 12/2014
s. 19(2).

112B Validation of regulations

Any regulations made, or purported to have been made, under section 112 and in force, or purportedly in force, immediately before the commencement of sections 19 and 20 of the **Justice Legislation Amendment Act 2007** that would have been validly made if section 112A had been in operation at the time the relevant regulations were made or purported to have been made have, and are deemed to always have had, the same force and effect as they would have had if section 112A had been operation at that time.

S. 112B
inserted by
No. 53/2007
s. 20.

Pt 10A
(Heading and
s. 112C)
inserted by
No. 26/2013
s. 3.

PART 10A—VALIDATION

S. 112C
inserted by
No. 26/2013
s. 3.

112C Validation of actions and decisions

- (1) An action taken or purporting to be taken or a decision made or purporting to be made by the Director-General or the Secretary to the Department of Justice or a delegate or purported delegate of the Director-General or the Secretary in the purported exercise of a power or function under section 17 of this Act as in force before the commencement of section 19 of the **Corrections (Amendment) Act 1994** has, and is taken always to have had, the same force and effect as it would have had if that section 19 had been in operation when the action was taken or purported to be taken or the decision was made or purported to be made.
- (2) A charge or additional charge imposed or purporting to be imposed by or on behalf of the Director-General or the Secretary to the Department of Justice or a Governor on or after 24 March 1993 and before 8 April 2004 for the purchase, in a prison, of tobacco products was, and is taken always to have been, validly imposed.
- (3) Any act or thing done or omitted to be done, whether under a power conferred by or under an enactment or otherwise, before or after the commencement of section 19 of the **Corrections (Amendment) Act 1994** in reliance on or in relation to an action or decision referred to in subsection (1) has the same effect, and gives rise to the same consequences, and is to be regarded as always having had the same effect and having

given rise to the same consequences, as if that section 19 had been in operation when the action was taken or purported to be taken or the decision was made or purported to be made.

- (4) A right or liability conferred or imposed in relation to, or affected by an action or decision referred to in subsection (1) is exercisable or enforceable, and is to be regarded as always having been exercisable or enforceable, as if section 19 of the **Corrections (Amendment) Act 1994** had been in operation when the action was taken or purported to be taken or the decision was made or purported to be made.

112D Validation—Justice Legislation Amendment Act 2015

S. 112D
inserted by
No. 20/2015
s. 39.

- (1) In this section—

relevant period means the period starting on 1 July 2014 and ending on the day that section 38 of the **Justice Legislation Amendment Act 2015** comes into operation.

- (2) The transport of a person, and detention of that person while being transported, during the relevant period from a court or police gaol to a court, police gaol or a designated mental health service and the exercise of any function or power related to that transport and detention have, and are taken always to have had, the same force and effect as they would have had if section 9AA(1)(b)(iii) as amended by section 38 of the **Justice Legislation Amendment Act 2015** were in force during the relevant period.
- (3) An instrument of authorisation referred to in section 9A(1B) made or purported to have been made by the Chief Commissioner during the relevant period has, and is taken always to have had, the same force and effect as it would have

had if section 9AA(1)(b)(iii) as amended by section 38 of the **Justice Legislation Amendment Act 2015** were in force during the relevant period.

PART 11—TRANSITIONAL PROVISIONS

113 Act to apply to prison sentences etc. before date of commencement

- (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**.
- (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.
- (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. 113(1)
amended by
No. 16/1987
s. 4(3)(Sch. 1
item 7(k)).

S. 113(2)
amended by
No. 16/1987
s. 4(3)(Sch. 1
item 7(k)).

S. 113(3)
amended by
No. 16/1987
s. 4(3)(Sch. 1
item 7(k)).

S. 114
amended by
No. 16/1987
s. 4(3)(Sch. 1
item 7(i)),
repealed by
No. 11/1995
s. 3(2)(Sch. 2),
new s. 114
inserted by
No. 45/2001
s. 22.

114 Transitional provisions—legal custody

- (1) Any person who immediately before the commencement of section 4 of the **Corrections (Custody) Act 2001** was deemed under section 4 to be in the custody of the Secretary, is, on and after that commencement, deemed to be in the legal custody of the Secretary under Part 1A until custody ceases in accordance with that Part.
- (2) Any person who immediately before the commencement of section 12 of the **Corrections (Custody) Act 2001** was deemed under section 11 to be in the custody of the Chief Commissioner of Police, is, on and after that commencement, deemed to be in the legal custody of the Chief Commissioner of Police under Part 1A until custody ceases in accordance with that Part.

S. 115
inserted by
No. 35/2002
s. 10.

115 Transitional provisions—Criminal Justice Legislation (Miscellaneous Amendments) Act 2002

- (1) The amendments to this Act made by section 7 of the **Criminal Justice Legislation (Miscellaneous Amendments) Act 2002** apply to fingerprints taken after the commencement of that section.
- (2) The amendments to this Act made by section 8 of the **Criminal Justice Legislation (Miscellaneous Amendments) Act 2002** apply to information whether obtained before or after the commencement of that section.

S. 115A
inserted by
No. 97/2004
s. 5.

115A Transitional provisions—change of name applications

- (1) This Act as amended by Part 2 of the **Corrections and Major Crime (Investigative Powers) Acts (Amendment) Act 2004** applies to any change of name application received by the Registrar before the commencement of that Part, if the change of name had not been registered before that commencement.

(2) In this section—

change of name application has the same meaning as in section 47G;

Registrar means the Registrar of Births, Deaths and Marriages under the **Births, Deaths and Marriages Registration Act 1996**.

115B Transitional provision—Corrections and Other Justice Legislation (Amendment) Act 2006

S. 115B
inserted by
No. 49/2006
s. 8.

(1) This Act as amended by section 6 of the **Corrections and Other Justice Legislation (Amendment) Act 2006** applies to warrants issued by the Adult Parole Board or a magistrate on or after the commencement of section 6 of that Act.

(2) Division 6 of Part 8, as inserted by section 7 of the **Corrections and Other Justice Legislation (Amendment) Act 2006**, applies to any change of name application received by the Registrar before the commencement of section 7 of that Act, if the change of name had not been registered before that commencement.

(3) In subsection (2)—

change of name application has the same meaning as in section 79A;

Registrar means the Registrar of Births, Deaths and Marriages under the **Births, Deaths and Marriages Registration Act 1996**.

- (4) Division 7 of Part 8, as inserted by section 7 of the **Corrections and Other Justice Legislation (Amendment) Act 2006**, applies to—
- (a) warrants issued on or after the commencement of section 7 of that Act; and
 - (b) warrants issued before the commencement of section 7 of that Act that have not been executed on that commencement.

S. 116
inserted by
No. 53/2007
s. 21.

116 Transitional provision—victims register

- (1) The inclusion on the victims register, immediately before the commencement of section 15 of the **Justice Legislation Amendment Act 2007**, of the name of a person that is included by reason of the fact that he or she was the victim of a person convicted or found guilty of an offence under section 318(1) or 319(1) of the **Crimes Act 1958**, is not to be taken to be affected by that commencement.
- (2) The amendments made to this Act by section 15 of the **Justice Legislation Amendment Act 2007** apply to any application for inclusion on the victims register received by the Secretary and not finally determined immediately before the commencement of that section.

S. 117
inserted by
No. 50/2008
s. 7.

117 Transitional provision—Corrections Amendment Act 2008

- (1) Part 9C applies to an award of damages made to a prisoner against the State on or after the commencement of the **Corrections Amendment Act 2008** even if the legal proceedings were commenced by the prisoner before that commencement.
- (2) Words used in subsection (1) have the same meanings as they have in Part 9C.

118 Transitional provision—Justice Legislation Further Amendment Act 2009

S. 118
inserted by
No. 55/2009
s. 6.

Part 9D does not apply to a claim by a person referred to in section 110 (as in force immediately before its repeal) under the **Accident Compensation Act 1985** that was made but not finalised before the commencement of section 4 of the **Justice Legislation Further Amendment Act 2009**. Section 110 (as in force before its repeal) continues to apply to that claim.

119 Transitional provision—Justice Legislation Amendment Act 2010

S. 119
inserted by
No. 30/2010
s. 54.

- (1) This Act, as in force immediately before the commencement of Division 1 of Part 4 of the **Justice Legislation Amendment Act 2010**, continues to apply in respect of an application under Division 4 of Part 8 for a home detention order that was made but not determined by the Adult Parole Board before that commencement.
- (2) Despite the commencement of Division 1 of Part 4 of the **Justice Legislation Amendment Act 2010**, this Act, as in force immediately before the commencement of Division 1 of Part 4 of that Act, continues to apply in respect of a prisoner who was the subject of a home detention order immediately before that commencement.
- (3) Despite the commencement of Division 1 of Part 4 of the **Justice Legislation Amendment Act 2010**, this Act, as in force immediately before the commencement of Division 1 of Part 4 of that Act, continues to apply in respect of an offender who was serving a sentence of imprisonment by way of home detention under the **Sentencing Act 1991** immediately before that commencement.

S. 120
inserted by
No. 48/2011
s. 11.

120 Transitional provision—Sentencing Legislation Amendment (Abolition of Home Detention) Act 2011

(1) In this section—

2011 Act means the **Sentencing Legislation Amendment (Abolition of Home Detention) Act 2011**;

old home detention order means a home detention order within the meaning of section 3 as in force before the commencement of section 6 of the 2011 Act, being an order in force immediately before that commencement.

(2) Despite the commencement of section 6 of the 2011 Act, an old home detention order is taken to continue in force on and from that commencement as if this Act, as in force before that commencement, continued to apply to it.

(3) Despite the commencement of section 25 of the 2011 Act, section 131 of the **Personal Safety Intervention Orders Act 2010**, as in force before that commencement, is taken to continue to apply on and from that commencement in relation to an old home detention order.

(4) Despite the commencement of section 27 of the 2011 Act, sections 17(8), 24(da) and 176AA of the **Family Violence Protection Act 2008**, as in force before that commencement, are taken to continue to apply on and from that commencement in relation to an old home detention order.

S. 121
inserted by
No. 10/2013
s. 37.

121 Transitional provision—Corrections Amendment Act 2013

(1) On and from the commencement of section 14 of the **Corrections Amendment Act 2013**, a person who is an official visitor immediately before that commencement is taken to be an independent

prison visitor appointed under Division 2 of Part 6 of this Act for a period corresponding with the remaining period of that person's appointment as an official visitor.

- (2) Any reference to an official visitor in any subordinate instrument, instrument of appointment or other document as far as it relates to any period after the commencement of section 14 of the **Corrections Amendment Act 2013** is to be construed as a reference to an independent prison visitor.

122 Transitional provisions—Justice Legislation Amendment (Cancellation of Parole and Other Matters) Act 2013

S. 122
inserted by
No. 15/2013
s. 4.

- (1) In this section—

commencement day means the day on which section 3 of the **Justice Legislation Amendment (Cancellation of Parole and Other Matters) Act 2013** comes into operation.

- (2) In this section words and expressions have the same meanings as they have in section 77 as in force on and after the commencement day.
- (3) In section 77(2) and (3) as in force on and after the commencement day, a reference to a charge includes a reference to a charge that was made before the commencement day but had not been dealt with by a court before that day and was still pending on that day.
- (4) Section 77(4), (5) and (6) as in force on and after the commencement day do not apply in relation to a prisoner if the conviction occurred before the commencement day.

(5) Section 77 as in force on and after the commencement day applies as if it included the following provisions—

"(6A) The Board must consider whether to cancel the parole or to vary the terms and conditions of the parole of a prisoner who—

(a) is released on parole in respect of a sexual offence or a serious violent offence; and

(b) was convicted before the commencement day of a sexual offence or a violent offence that was committed during the parole period.

(6B) The Board must determine under subsection (6A) to cancel the parole of the prisoner unless the Board is satisfied that circumstances exist that justify the continuation of the parole."

S. 123
inserted by
No. 46/2013
s. 4.

123 Transitional provisions—Corrections Amendment (Breach of Parole) Act 2013

(1) Section 78A applies in respect of an offence alleged to have been committed on or after the commencement of section 3 of the **Corrections Amendment (Breach of Parole) Act 2013**.

(2) For the purposes of subsection (1), if an offence is alleged to have been committed between 2 dates, one before and one on or after the commencement of section 3 of the **Corrections Amendment (Breach of Parole) Act 2013**, the offence is alleged to have been committed before that commencement.

124 Transitional provisions—Corrections Amendment (Parole Reform) Act 2013

S. 124
inserted by
No. 62/2013
s. 13.

The amendments made by the **Corrections Amendment (Parole Reform) Act 2013** do not affect the appointment of the chairperson or any member of the Adult Parole Board made before the commencement of section 4 of that Act.

125 Transitional provisions—Corrections Legislation Amendment Act 2014

S. 125
inserted by
No. 12/2014
s. 21.

- (1) The Minister may vary or cancel a lease or licence—
- (a) granted over Crown land—
 - (i) reserved for prison purposes under section 4 of the **Crown Land (Reserves) Act 1978**; and
 - (ii) on which a prison is or is to be located; and
 - (b) that is in force on or after the commencement of section 5 of the **Corrections Legislation Amendment Act 2014**—
- as if the lease or licence were granted under section 8CA(2).
- (2) Section 74(5A), (5B) and (5C) apply in respect of an electronic monitoring requirement attached to a term or condition of a parole order if that requirement is in force on or after the commencement of section 14 of the **Corrections Legislation Amendment Act 2014**, even if the parole order is made before that commencement.
- (3) Section 76A applies in respect of a parole order that contains an abstinence, treatment or testing condition and that is in force on or after the commencement of section 15 of the **Corrections**

Legislation Amendment Act 2014, even if the parole order is made before that commencement.

- (4) Despite the commencement of section 20 of the **Corrections Legislation Amendment Act 2014**, a parole order made before that commencement continues in force, on and from that commencement, subject to its terms and conditions unless and until those terms and conditions are varied by the Board.
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SCHEDULES

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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>Old Name</i>	<i>Column 2</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.

SCHEDULE 3

Section 77
Sch. 3
inserted by
No. 15/2013
s. 5.

VIOLENT OFFENCES

1. A serious violent offence within the meaning of section 77.
2. An offence at common law of affray, riot or common assault.
3. An offence against any of the following sections of the **Crimes Act 1958**—
 - (a) section 18 (causing injury intentionally or recklessly);
 - (b) section 19 (administering certain substances);
 - (c) section 21A (stalking);
 - (d) section 22 (conduct endangering life);
 - (e) section 23 (conduct endangering persons);
 - (f) section 24 (negligently causing serious injury);
 - (g) section 25 (setting traps etc. to kill);
 - (h) section 26 (setting traps etc. to cause serious injury);
 - (i) section 27 (extortion with threat to kill);
 - (j) section 28 (extortion with threat to destroy property etc.);
 - (k) section 29 (using firearm to resist arrest etc.);
 - (l) section 30 (threatening injury to prevent arrest);
 - (m) section 31 (assaults);
 - (n) section 31A (use of firearms in commission of offences);
 - (o) section 31B (being armed with criminal intent);
 - (p) section 32 (performing female genital mutilation);

- (q) section 33 (taking person from Victoria with intention of having prohibited female genital mutilation performed);
 - (r) section 75 (robbery);
 - (s) section 76 (burglary) in circumstances where the offender entered the building or part of the building as a trespasser with intent to commit an offence involving an assault to a person in the building or part in question;
 - (t) section 197(2) (destroying or damaging property) in circumstances where the offender intends by the destruction or damage to endanger the life of another;
 - (u) section 198 (threats to destroy or damage property);
 - (v) section 199 (possessing anything with intent to destroy or damage property);
 - (w) section 317 (offences connected with explosive substances);
 - (x) section 317A (bomb hoaxes).
4. An offence of conspiracy to commit, incitement to commit or attempting to commit any of the offences referred to in clauses 1, 2 and 3.
 5. An offence, whether committed in Victoria or elsewhere, the necessary elements of which consist of elements that constitute any of the offences referred to in clauses 1, 2 and 3.
 6. An offence against any of the following sections of the **Family Violence Protection Act 2008**—
 - (a) section 37 (contravention of family violence safety notice);
 - (b) section 37A (contravention of family violence safety notice intending to cause harm or fear for safety);

- (c) section 123 (contravention of family violence intervention order);
 - (d) section 123A (contravention of family violence intervention order intending to cause harm or fear for safety);
 - (e) section 125A (persistent contravention of family violence safety notice or family violence intervention order).
7. An offence against section 100 (contravention of personal safety intervention order) of the **Personal Safety Intervention Orders Act 2010**.
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Endnotes

1 General information

See www.legislation.vic.gov.au for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative 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.

2 Table of Amendments

This publication incorporates amendments made to the **Corrections Act 1986** by Acts and subordinate instruments.

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**

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

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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) never proclaimed, 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; ss 5, 6 never proclaimed, repealed by No. 49/2006 s. 9
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**

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**

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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

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**

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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

Corrections (Custody) Act 2001, No. 45/2001

Assent Date: 27.6.01
Commencement Date: Ss 3–37 on 1.3.02: s. 2(2)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

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**

Sentencing (Amendment) Act 2002, No. 2/2002

Assent Date: 26.3.02
Commencement Date: Ss 12, 13 on 2.5.02: Government Gazette 2.5.02 p. 789
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Criminal Justice Legislation (Miscellaneous Amendments) Act 2002, No. 35/2002

Assent Date: 18.6.02
Commencement Date: Ss 7–10 on 19.6.02: s. 2(1)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections (Amendment) Act 2003, No. 38/2003

Assent Date: 11.6.03
Commencement Date: 12.6.03: s. 2
Current State: All of Act in operation

Corrections and Sentencing Acts (Home Detention) Act 2003, No. 53/2003

Assent Date: 16.6.03
Commencement Date: Ss 11–19 on 1.1.04: s. 2(5); ss 20, 21 never proclaimed, repealed by No. 79/2006 s. 15
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections (Further Amendment) Act 2004, No. 14/2004

Assent Date: 18.5.04
Commencement Date: 30.8.04: s. 2(2)
Current State: All of Act in operation

Drugs, Poisons and Controlled Substances and Therapeutic Goods (Victoria) Acts (Amendment) Act 2004, No. 74/2004

Assent Date: 9.11.04
Commencement Date: S. 21 on 10.11.04: s. 2
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

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Corrections and Major Crime (Investigative Powers) Acts (Amendment) Act 2004, No. 97/2004

Assent Date: 14.12.04
Commencement Date: Ss 3–5 on 15.12.04: s. 2(2)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Public Administration Act 2004, No. 108/2004

Assent Date: 21.12.04
Commencement Date: S. 117(1)(Sch. 3 item 45) on 5.4.05: Government Gazette 31.3.05 p. 602
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Serious Sex Offenders Monitoring Act 2005, No. 1/2005

Assent Date: 1.3.05
Commencement Date: S. 47 on 26.5.05 : Government Gazette 26.5.05 p. 1069
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections (Transition Centres and Custodial Community Permits) Act 2005, No. 2/2005

Assent Date: 5.4.05
Commencement Date: Ss 3–8 on 1.8.05: s. 2(3)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Legal Profession (Consequential Amendments) Act 2005, No. 18/2005

Assent Date: 24.05.05
Commencement Date: S. 18(Sch. 1 item 22) on 12.12.05: Government Gazette 1.12.05 p. 2781
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Sentencing and Mental Health Acts (Amendment) Act 2005, No. 69/2005

Assent Date: 11.10.05
Commencement Date: S. 26 on 1.10.06: s. 2(3)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Prisoners (Interstate Transfer) (Amendment) Act 2005, No. 81/2005

Assent Date: 22.11.05
Commencement Date: Ss 6, 7(2)(3), 8, 9 on 23.11.05: s. 2(1); s. 7(1) on 23.2.06: Government Gazette 23.2.06 p. 366
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Health Professions Registration Act 2005, No. 97/2005

Assent Date: 7.12.05
Commencement Date: S. 182(Sch. 4 item 13) on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

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Terrorism (Community Protection) (Amendment) Act 2006, No. 5/2006

Assent Date: 7.3.06
Commencement Date: S. 14 on 9.3.06: s. 2(2)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Disability Act 2006, No. 23/2006

Assent Date: 16.5.06
Commencement Date: S. 235 on 1.7.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Education and Training Reform Act 2006, No. 24/2006

Assent Date: 16.5.06
Commencement Date: S. 6.1.2(Sch. 7 item 10) on 1.7.07: Government Gazette 28.6.07 p. 1304
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Infringements (Consequential and Other Amendments) Act 2006, No. 32/2006

Assent Date: 13.6.06
Commencement Date: S. 90 on 1.7.06: Government Gazette 29.6.06 p. 1315
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Children, Youth and Families (Consequential and Other Amendments) Act 2006, No. 48/2006

Assent Date: 15.8.06
Commencement Date: S. 42(Sch. item 8) on 23.4.07: s. 2(3)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections and Other Justice Legislation (Amendment) Act 2006, No. 49/2006

Assent Date: 15.8.06
Commencement Date: Ss 3, 4, 6–8 on 16.8.06: s. 2(1); s. 5 on 1.10.06: s. 2(3)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Public Sector Acts (Further Workplace Protection and Other Matters) Act 2006, No. 80/2006

Assent Date: 10.10.06
Commencement Date: S. 26(Sch. item 20) on 11.10.06: s. 2(1)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Statute Law Revision Act 2007, No. 28/2007

Assent Date: 26.6.07
Commencement Date: S. 3(Sch. item 14) on 27.6.07: s. 2(1)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

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Justice Legislation Amendment Act 2007, No. 53/2007

Assent Date: 17.10.07
Commencement Date: Ss 16, 17 on 1.7.05: s. 2(2); s. 18 on 18.10.07: s. 2(1);
ss 15, 21 on 1.12.07: s. 2(4); ss 19, 20 on 1.5.08:
s. 2(5)
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Relationships Act 2008, No. 12/2008

Assent Date: 15.4.08
Commencement Date: S. 73(1)(Sch. 1 item 12) on 1.12.08: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Justice Legislation Amendment Act 2008, No. 21/2008

Assent Date: 2.6.08
Commencement Date: Ss 3–5 on 3.6.08: s. 2(1); s. 6 on 3.6.08: Special
Gazette (No. 148) 3.6.08 p. 1
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Corrections Amendment Act 2008, No. 50/2008

Assent Date: 23.9.08
Commencement Date: 24.9.08: s. 2
Current State: All of Act in operation

Family Violence Protection Act 2008, No. 52/2008

Assent Date: 23.9.08
Commencement Date: Ss 238–241 on 8.12.08: Special Gazette (No. 339)
4.12.08 p. 1
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Stalking Intervention Orders Act 2008, No. 68/2008

Assent Date: 18.11.08
Commencement Date: Ss 67, 68 on 8.12.08: Special Gazette (No. 339)
4.12.08 p. 1
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Justice Legislation Further Amendment Act 2009, No. 55/2009

Assent Date: 22.9.09
Commencement Date: Ss 3–6 on 30.10.09: Government Gazette 29.10.09
p. 2729
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

**Criminal Procedure Amendment (Consequential and Transitional Provisions)
Act 2009, No. 68/2009**

Assent Date: 24.11.09
Commencement Date: S. 97(Sch. item 33) on 1.1.10: Government Gazette
10.12.09 p. 3215
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Corrections Act 1986
No. 117 of 1986
Endnotes

**Statute Law Amendment (Evidence Consequential Provisions) Act 2009,
No. 69/2009**

Assent Date: 24.11.09
Commencement Date: S. 54(Sch. Pt 2 item 14) on 1.1.10: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Serious Sex Offenders (Detention and Supervision) Act 2009, No. 91/2009

Assent Date: 15.12.09
Commencement Date: Ss 201–218 on 1.1.10: Government Gazette 24.12.09
p. 3397
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

**Statute Law Amendment (National Health Practitioner Regulation) Act 2010,
No. 13/2010**

Assent Date: 30.3.10
Commencement Date: S. 51(Sch. item 16) on 1.7.10: s. 2(2)
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Health and Human Services Legislation Amendment Act 2010, No. 29/2010

Assent Date: 8.6.10
Commencement Date: S. 52 on 1.7.10: Special Gazette (No. 235) 23.6.10 p. 1
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Justice Legislation Amendment Act 2010, No. 30/2010

Assent Date: 8.6.10
Commencement Date: Ss 45–55 on 1.1.11: Government Gazette 28.10.10
p. 2583
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Personal Safety Intervention Orders Act 2010, No. 53/2010

Assent Date: 7.9.10
Commencement Date: S. 222 on 1.12.10: Government Gazette 14.10.10
p. 2405; s. 221(Sch. item 3) on 5.9.11: Special Gazette
(No. 271) 23.8.11 p. 1
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

Justice Legislation Further Amendment Act 2010, No. 64/2010

Assent Date: 28.9.10
Commencement Date: S. 15 on 28.10.10: Government Gazette 28.10.10
p. 2583
Current State: This information relates only to the provision/s
amending the **Corrections Act 1986**

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Sentencing Legislation Amendment (Abolition of Home Detention) Act 2011, No. 48/2011

Assent Date: 22.9.11
Commencement Date: Ss 3–11 on 16.1.12: Special Gazette (No. 423) 21.12.11 p. 4
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Sentencing Amendment (Community Correction Reform) Act 2011, No. 65/2011

Assent Date: 22.11.11
Commencement Date: S. 107(Sch. item 2) on 16.1.12: Special Gazette (No. 423) 21.12.11 p. 3
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Integrity and Accountability Legislation Amendment Act 2012, No. 82/2012

Assent Date: 18.12.12
Commencement Date: S. 285 on 10.2.13: Special Gazette (No. 32) 6.2.13 p. 2
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections Amendment Act 2013, No. 10/2013

Assent Date: 13.3.13
Commencement Date: Ss 4(1), 8–19, 22–35, 36(1), 37 on 30.4.13: Special Gazette (No. 141) 16.4.13 p. 1; ss 4(2), 5–7, 20, 21, 36(2) on 1.11.13: s. 2(2)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Justice Legislation Amendment (Cancellation of Parole and Other Matters) Act 2013, No. 15/2013

Assent Date: 26.3.13
Commencement Date: Ss 3–7 on 20.5.13: Special Gazette (No. 141) 16.4.13 p. 1
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections Further Amendment Act 2013, No. 26/2013

Assent Date: 15.5.13
Commencement Date: 20.3.13: s. 2
Current State: All of Act in operation

Corrections Amendment (Breach of Parole) Act 2013, No. 46/2013 (as amended by No. 25/2014)

Assent Date: 10.9.13
Commencement Date: Ss 3, 4 on 1.7.14: s. 2(2)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections Amendment (Parole Reform) Act 2013, No. 62/2013

Assent Date: 6.11.13
Commencement Date: Ss 3–13 on 20.11.13: Special Gazette (No. 409) 19.11.13 p. 1
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections Act 1986
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Workplace Injury Rehabilitation and Compensation Act 2013, No. 67/2013

Assent Date: 12.11.13
Commencement Date: S. 649(Sch. 9 item 6) on 1.7.14: s. 2(1)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Crimes Amendment (Investigation Powers) Act 2013, No. 72/2013

Assent Date: 3.12.13
Commencement Date: S. 19 on 1.7.14: s. 2(2)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Education and Training Reform Amendment (Dual Sector Universities) Act 2013, No. 76/2013

Assent Date: 17.12.13
Commencement Date: Ss 23, 24 on 1.1.14: s. 2(4)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections Legislation Amendment Act 2014, No. 12/2014

Assent Date: 18.3.14
Commencement Date: Ss 10–13, 17 on 19.3.14: s. 2(1); ss 6, 7, 9, 15, 16, 21 on 8.4.14: Special Gazette (No. 112) 8.4.14 p. 1; ss 3, 8, 18, 19 on 1.5.14: Special Gazette (No. 112) 8.4.14 p. 1; ss 4, 5, 14 on 1.7.14: Special Gazette (No. 136) 29.4.14 p. 1; s. 20 on 1.7.14: Special Gazette (No. 112) 8.4.14 p. 1
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Legal Profession Uniform Law Application Act 2014, No. 17/2014

Assent Date: 25.3.14
Commencement Date: S. 160(Sch. 2 item 23) on 1.7.15: Special Gazette (No. 151) 16.6.15 p. 1
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections Amendment (Parole) Act 2014, No. 18/2014

Assent Date: 1.4.14
Commencement Date: 2.4.14: s. 2
Current State: All of Act in operation

Justice Legislation Amendment (Discovery, Disclosure and Other Matters) Act 2014, No. 25/2014

Assent Date: 8.4.14
Commencement Date: S. 12 on 9.4.14: s. 2(1)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections Act 1986
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Mental Health Act 2014, No. 26/2014

Assent Date: 8.4.14
Commencement Date: S. 455(Sch. item 6) on 1.7.14: s. 2(1)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections Amendment (Further Parole Reform) Act 2014, No. 31/2014

Assent Date: 13.5.14
Commencement Date: Ss 3–9 on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 1
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Victoria Police Amendment (Consequential and Other Matters) Act 2014, No. 37/2014

Assent Date: 3.6.14
Commencement Date: S. 10(Sch. item 32) on 1.7.14: Special Gazette (No. 200) 24.6.14 p. 2
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Corrections Amendment (Smoke-Free Prisons) Act 2014, No. 45/2014

Assent Date: 1.7.14
Commencement Date: Ss 3, 5 on 2.7.14: s. 2(1); s. 4 on 1.7.15: s. 2(2)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Criminal Organisations Control and Other Acts Amendment Act 2014, No. 55/2014

Assent Date: 26.8.14
Commencement Date: S. 186 on 27.8.14: s. 2(1); s. 144 on 31.10.14: Special Gazette (No. 330) 23.9.14 p. 1
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Inquiries Act 2014, No. 67/2014

Assent Date: 23.9.14
Commencement Date: S. 147(Sch. 2 item 11) on 15.10.14: Special Gazette (No. 364) 14.10.14 p. 2
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

Justice Legislation Amendment Act 2015, No. 20/2015

Assent Date: 16.6.15
Commencement Date: Ss 38, 39 on 17.6.15: s. 2(3)
Current State: This information relates only to the provision/s amending the **Corrections Act 1986**

3 Amendments Not in Operation

Not updated for this publication.

4 Explanatory details

¹ S. 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.

² S. 110: The amendment proposed by section 97(Sch. item 33.2) of the **Criminal Procedure Amendment (Consequential and Transitional Provisions) Act 2009**, No. 68/2009 is not included in this publication because section 110 was repealed before this amendment came into operation.