South Australia

Correctional Services Act 1982

An Act to provide for the establishment and management of prisons and other correctional institutions; to regulate the manner in which persons in correctional institutions are to be treated by those responsible for their detention and care; to provide for certain powers relating to the management of correctional services officers and employees; to provide for drug and alcohol testing of correctional services officers and employees and other persons; and for other purposes.

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Legislative history

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Correctional Services Act 1982*.

3—Objects and guiding principles

(1) The primary object of this Act is the promotion of community safety.

(2) The other objects of this Act are—

(a) to provide mechanisms for the establishment and proper administration of correctional institutions, probation and parole hostels and other facilities and services relating to persons who offend against the criminal law; and

(b) to provide for the safe and secure management of prisoners held in correctional institutions in the State; and

(c) to promote the rehabilitation of prisoners, probationers and parolees—

(i) by providing the necessary correction, guidance and management to assist in their reintegration into the community; and

(ii) by providing for effective, planned and individualised management plans for prisoners, probationers and parolees, including by providing for the assessment of the risks they pose to the community, their needs and the development, implementation and review of management plans based on such assessments; and

(d) to have regard to the rights of victims of crime; and

(e) to have regard to the particular needs and circumstances relevant to the cultural identity and linguistic background of prisoners, probationers and parolees; and

(f) to recognise the importance of family and community involvement and participation in the rehabilitation of prisoners, probationers and parolees; and

(g) to recognise the particular importance of Aboriginal and Torres Strait Islander community involvement in the rehabilitation of prisoners, parolees and probationers who are Aboriginal and Torres Strait Islander persons, by ensuring so far as is reasonably practicable that—

(i) Aboriginal and Torres Strait Islander persons are placed in a correctional institution as close as possible to their usual place of residence; and

(ii) an Aboriginal or Torres Strait Islander person is entitled to seek a review of a decision to transfer the person from 1 correctional institution to another in relation to regional transfers where the person will be 200km or further from the correctional institution they are being transferred from; and

(iii) Aboriginal and Torres Strait Islander communities are adequately consulted in relation to any community service projects that are regarded as having particular value to the relevant Aboriginal or Torres Strait Islander community; and

(h) to support the reintegration of prisoners, probationers and parolees with the community as part of their rehabilitation; and

(i) to facilitate, for the purpose of promoting the safety of the community, the sharing of information related to the administration or enforcement of this Act in accordance with the requirements of this Act; and

(j) to make provision in relation to the management of officers and employees.

(3) The Minister, the CE, the Department and other persons and bodies involved in the administration of this Act are to be guided by the following principles in the exercise of their functions:

(a) in exercising powers under this Act, the paramount consideration must be the safety of the community;

(b) prisoners, probationers and parolees should be made aware of their obligations under the law, of the consequences of any breach of the law and of the importance of individual responsibility;

(c) the management of prisoners, probationers and parolees should be designed to assist in their rehabilitation and reintegration into the community;

(d) facilities and programs developed for the care, rehabilitation, imprisonment, training, therapeutic treatment or other treatment of prisoners, probationers and parolees should—

(i) be evidence based; and

(ii) be individually designed as much as reasonably practicable—

(A) to take account of the prisoner, probationer or parolee's age, gender, gender identity, sexuality or sexual identity, cultural identity, developmental and cognitive capacity, ability or disability, and any special needs; and

(B) to address offending behaviours; and

(C) to address the physical and mental health of the prisoner, probationer or parolee; and

(D) to address the educational and vocational training needs of the prisoner, probationer or parolee; and

(iii) be governed by a comprehensive assessment and case plan developed in a multidisciplinary framework; and

(iv) support—

(A) a focus on connecting and reintegrating with the community; and

(B) recognition of the impact of offending on victims; and

(v) take into consideration the different traditions, cultural values and religious beliefs of ethnic or racial groups within the prisoner, probationer or parolee's community.

4—Interpretation

(1) In this Act, unless the contrary intention appears—

Aboriginal or Torres Strait Islander person means a person who—

(a) is descended from an Aboriginal or Torres Strait Islander; and

(b) regards themself as an Aboriginal or Torres Strait Islander; and

(c) is accepted as an Aboriginal or Torres Strait Islander by an Aboriginal or Torres Strait Islander community;

alcotest means a test by means of an apparatus of a kind approved for the conduct of alcotests under the *Road Traffic Act 1961*;

analyst has the same meaning as in the *Controlled Substances Act 1984*;

biological sample means a sample of urine, saliva or sweat;

the Board means the Parole Board of South Australia;

CE means the person holding or acting in the position of chief executive of the Department;

child sexual offence means an offence under the *Criminal Law Consolidation Act 1935* of the following kind committed against or in relation to a child under 16 years of age (including a substantially similar offence against a corresponding previous enactment or the law of another place):

(a) rape;

(ab) compelled sexual manipulation;

(b) indecent assault;

(ba) persistent sexual abuse of a child;

(c) incest;

(d) an offence involving unlawful sexual intercourse;

(e) an offence involving an act of gross indecency;

(f) an offence involving child prostitution;

(g) an offence involving indecency or sexual misbehaviour including an offence against Part 3 Division 11A of the *Criminal Law Consolidation Act 1935* or against section 23 or 33 of the *Summary Offences Act 1953*;

(h) an attempt to commit, or assault with intent to commit, any of the offences referred to in the above paragraphs;

(i) any other offence (such as homicide or abduction), if there are reasonable grounds to believe that any of the offences referred to in the above paragraphs was also committed by the same person against or in relation to the child in the course of, or as part of the events surrounding, the commission of the offence;

Commonwealth Criminal Code means the Criminal Code set out in the Schedule to the *Criminal Code Act 1995* of the Commonwealth, or a law of the Commonwealth that replaces that Code;

community corrections officer means an officer or employee of the Department whose duties include the supervision of offenders in the community;

contempt prisoner means a person committed to prison, or sentenced to imprisonment, for failure to comply with an order for the payment of a pecuniary sum, or for contempt of court;

correctional institution means a prison or police prison;

correctional services dog means a dog that has completed training of a kind approved by the CE for the purposes of this Act;

criminal intelligence means information relating to actual or suspected criminal activity (whether in this State or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or endanger a person's life or physical safety;

criminal organisation means a criminal organisation within the meaning of Division 1 or Division 2 of Part 3B of the *Criminal Law Consolidation Act 1935*;

Department means the administrative unit of the Public Service that is responsible for assisting a Minister in the administration of this Act;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

drug means—

(a) alcohol; or

(b) a substance that is a prescription drug or a controlled drug under the *Controlled Substances Act 1984*;

drug test means an alcotest or a prescribed procedure; and ***drug testing*** has a corresponding meaning;

electronic device means an electronic device of a class or kind approved by the Minister for the purposes of this Act;

home detention means home detention served subject to a home detention order or home detention served by a prisoner under Part 4 Division 6A (as the case requires);

home detention order means an order made by a court under the *Sentencing Act 2017* that a prisoner serve a sentence of imprisonment imposed on the prisoner by the court on home detention;

immediate family means—

(a) a spouse or domestic partner;

(b) a parent;

(c) a grandparent;

(d) a child (including an adult child);

(e) a grandchild (including an adult grandchild);

(f) a brother or sister;

injury means physical or mental injury, and includes pregnancy, mental shock and nervous shock;

magistrate means a magistrate appointed under the *Magistrates Act 1983*;

manager, in relation to a correctional institution, means the person for the time being in charge of the institution;

member, of a criminal organisation, includes an associate member or a prospective member, however described;

nearest police station, in relation to a person who has been arrested without warrant under this Act, means the police station nearest to the place of arrest at which facilities are continuously available for the care and custody of the person arrested;

non-parole period means a period fixed by a court as a period during which a prisoner may not be released on parole;

parent includes a person who stands in the position, and undertakes the responsibilities, of a parent;

police prison means premises declared to be a police prison under Part 3;

prescribed procedure means a procedure, prescribed by regulation, consisting of the taking of a biological sample from a person for analysis for the purpose of ascertaining the presence of a drug in the body of the person from whom the sample was taken;

prison means premises declared to be a prison under Part 3;

prisoner means a person committed to a correctional institution pursuant to an order of a court or a warrant of commitment;

probation and parole hostel means premises declared by the Minister under section 17E to be a probation and parole hostel;

registered victim includes a member of a victim's immediate family whose name is entered in the Victims Register;

remand prisoner means a person remanded in custody awaiting trial or sentence;

sentence of indeterminate duration means detention in custody until further order of a court;

sexual offence means an offence under the *Criminal Law Consolidation Act 1935* of the following kind (including a substantially similar offence against a corresponding previous enactment or the law of another place):

(a) rape;

(ab) compelled sexual manipulation;

(b) indecent assault;

(ba) persistent sexual abuse of a child;

(c) incest;

(d) an offence involving unlawful sexual intercourse;

(e) an offence involving an act of gross indecency;

(f) an offence against Part 3 Division 12 of the *Criminal Law Consolidation Act 1935*;

(g) an attempt to commit, or assault with intent to commit, any of the offences referred to in the above paragraphs;

(h) any other offence (such as homicide or abduction), if there are reasonable grounds to believe that a sexual offence was also committed by the same person in the course of, or as part of the events surrounding, the commission of that offence,

and includes any other offence that is a child sexual offence;

spouse—a person is the spouse of another if they are legally married;

terrorism intelligence authority means a terrorism intelligence authority designated by regulations under section 74B of the *Police Act 1998*;

terrorism notification means a terrorism notification under section 74B of the *Police Act 1998*;

terrorist offence means—

(a) an offence against Division 72 Subdivision A of the Commonwealth Criminal Code (International terrorist activities using explosive or lethal devices); or

(b) a terrorism offence against Part 5.3 of the Commonwealth Criminal Code (Terrorism) where the maximum penalty is 7 or more years imprisonment; or

(c) an offence against Part 5.5 of the Commonwealth Criminal Code (Foreign incursions and recruitment), except an offence against subsection 119.7(2) or (3) (Publishing recruitment advertisements); or

(d) an offence against the repealed *Crimes (Foreign Incursions and Recruitment) Act 1978* of the Commonwealth, except an offence against paragraph 9(1)(b) or (c) of that Act (Publishing recruitment advertisements); or

(e) an offence of a kind prescribed by the regulations for the purposes of this definition;

terror suspect—see subsection (4);

victim of an offence means a person who suffers injury as a result of the offence;

Victims Register—see section 5;

VIC levy means a levy imposed under the *Victims of Crime Act 2001* or a corresponding previous law;

Visiting Tribunal, in relation to a correctional institution, means a Visiting Tribunal established under this Act in respect of that institution.

(2) A reference in this Act to an ***officer of the Department*** includes a reference to—

(a) a person who, immediately before the commencement of this subsection, held an appointment made by the Governor as an officer of the Department; or

(b) a person who, after the commencement of this subsection, is designated by the Minister as an officer of the Department under section 4A.

(3) For the purposes of this Act, unless the contrary intention appears—

(a) a reference to ***imprisonment*** (other than in a penalty provision) includes a reference to imprisonment served on home detention subject to a home detention order; and

(b) a reference to a ***prisoner*** includes a reference to a person serving a sentence of imprisonment on home detention subject to a home detention order; and

(c) a reference to the release of a prisoner from a correctional institution or prison includes a reference to the release of a prisoner subject to a home detention order from home detention.

(4) A person is a ***terror suspect*** for the purposes of this Act if the person—

(a) is, or has previously been, charged with a terrorist offence; or

(b) has ever been convicted of a terrorist offence; or

(c) is the subject of a terrorism notification; or

(d) is, or has previously been, the subject of a control order under Part 5.3 of the Commonwealth Criminal Code.

(5) For the purposes of subsection (4)(a), a person is only taken to have been charged with an offence if an information or other initiating process charging the person with the offence has been filed in a court.

4A—Appointment of officers of Department

(1) The Minister may, by written notice, designate a person to whom this section applies as a person who is to be taken to be an officer of the Department for the purposes of this Act, the *Prisoners (Interstate Transfer) Act 1982* and any other prescribed Act.

(2) The Minister may, by written notice, revoke—

(a) the appointment of an officer of the Department made by the Governor before the commencement of this section; or

(b) a designation made under subsection (1).

(3) This section applies to a person if—

(a) the person is engaged by another person (the ***contractor***) to carry out certain work in the course of and for the purposes of the contractor's business; and

(b) the contractor is engaged, in the course of and for the purposes of a business, by the Minister under a contract, arrangement or understanding for the purposes of this Act or another Act; and

(c) the Minister is satisfied that the person is a suitable person to be designated as an officer of the Department.

(4) Section 74 of the *Public Sector Act 2009* does not apply to a person designated under subsection (1).

5—Victims Register

(1) The CE must keep a Victims Register for the purposes of this Act.

(2) The victim of an offence for which a prisoner is serving a sentence of imprisonment or, if the victim is dead or under an incapacity or in prescribed circumstances, a member of the victim's immediate family, may apply in writing to the CE to have the following information entered in the Victims Register:

(a) the applicant's name;

(ab) the applicant's contact address and (if supplied) phone number or the name, contact address and (if supplied) phone number of a person nominated by the applicant to receive information under this Act on his or her behalf;

(b) any information (including the name of the prisoner) in the applicant's possession that may assist the CE to identify the prisoner.

(3) The CE is entitled to assume the accuracy of information supplied under subsection (2) without further inquiry.

(4) The Victims Register must also contain any other information prescribed by the regulations.

(5) The CE must, when requested to do so by the Board, provide the Board with information derived from the Victims Register.

(6) If the Victims Register includes particulars of a person nominated by a registered victim to receive information under this Act on his or her behalf, any information or notification required or authorised by this Act to be given to the registered victim must, instead, be given to the person so nominated (and where such information or notification is to be given at the request of the registered victim, the person so nominated is entitled to make such a request as if he or she were the registered victim).

6—Criminal intelligence

(1) Information that is classified by the Commissioner of Police as criminal intelligence for the purposes of granting an approval under section 34(4)(e) or making an order under section 85A(1)(b), or in connection with providing information under section 85CB, may not be disclosed to any person other than the CE, the Minister, a court or a person to whom the Commissioner of Police authorises its disclosure.

(2) If—

(a) the CE—

(i) refuses to grant an approval under section 34(4)(e); or

(ii) makes an order under section 85A(1)(b) excluding a person from a correctional institution or institutions; and

(b) the decision to do so is made because of information that is classified by the Commissioner of Police as criminal intelligence,

the CE is not required to provide any grounds or reasons for the decision other than that it was made in the public interest or that it would be contrary to the public interest if the person were to be permitted to visit a prisoner in, or enter, the correctional institution or institutions.

(2a) If the CE decides to take action in relation to a relevant person (within the meaning of section 85CB) after receiving information provided by the Commissioner of Police in accordance with that section and the decision to do so is made because of information that is classified by the Commissioner of Police as criminal intelligence, the CE is not required to provide any grounds or reasons for the decision other than that it was made in the public interest or that it would be contrary to the public interest if the action were not to be taken.

(3) In any proceedings relating to a decision of the CE to refuse to grant an approval under section 34(4)(e) or an order of the CE under section 85A(1)(b), the CE and the court before which the proceedings are being heard—

(a) must, on the application of the Commissioner of Police, take steps to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and

(b) may take evidence consisting of or relating to information so classified by the Commissioner of Police by way of affidavit of a police officer of or above the rank of superintendent.

(3a) In any proceedings relating to a decision of the CE to take action in relation to a relevant person (within the meaning of section 85CB) after receiving information provided by the Commissioner of Police in accordance with that section, the CE and the court before which the proceedings are being heard—

(a) must, on the application of the Commissioner of Police, take steps to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and

(b) may take evidence consisting of or relating to information so classified by the Commissioner of Police by way of affidavit of a police officer of or above the rank of superintendent.

(4) The Commissioner of Police may not delegate the function of classifying information as criminal intelligence under this section except to a Deputy Commissioner or Assistant Commissioner of Police.

Part 2—Correctional services

Division 1—Administration

7—Power of Minister and CE to delegate

(1) The Minister may, from time to time, by instrument in writing, delegate to the CE any powers, duties or functions under this Act or any other Act.

(2) The CE may delegate to any officer or employee of the Department, any of the powers, functions, duties or responsibilities vested in, imposed on or delegated to, the CE under this Act or any other Act.

(2a) The CE may delegate to the manager of a police prison any of the powers, functions, duties or responsibilities—

(a) that are vested in, imposed on or delegated to the CE; and

(b) that are applicable to the police prison or to those persons who are, or are to be, detained in it.

(3) A delegation under this section is revocable at will, and does not prevent the exercise or performance of any power, function, duty or responsibility by the Minister or the CE.

(4) Any power, function, duty or responsibility vested in, imposed on or delegated to the CE under this Act may, if the CE is absent from or otherwise unable to perform the duties of office, be exercised or performed by such other officer or employee of the Department as the Minister may authorise.

8—Use of volunteers in the administration of this Act

The Minister must promote the use of volunteers in the administration of this Act to such extent as the Minister thinks appropriate.

9—CE's annual report

(1) The CE must, not later than 31 October in each year, submit to the Minister a report on—

(a) the operation of this Act and the work of the Department for the financial year ending on the preceding 30 June; and

(b) any other matter as the Minister may direct.

(2) The Minister must, as soon as practicable after receipt of a report submitted under this section, cause a copy of the report to be laid before each House of Parliament.

Division 3—Visiting Tribunals

17—Establishment of Visiting Tribunals

(1) There must be established for each correctional institution such number of Visiting Tribunals as the Minister thinks necessary or desirable.

(2) The Governor may, by proclamation, appoint—

(a) a magistrate; or

(b) a special justice,

to be a Visiting Tribunal for a correctional institution.

(4) The Governor may, by further proclamation, vary or revoke a proclamation under this section.

Division 4—Community service administration

17A—Establishment of community service centres

(1) The Minister may, by notice published in the Gazette, declare any premises to be a community service centre.

(2) The Minister may, by notice published in the Gazette, revoke or vary a declaration under this section.

(3) Community service centres are under the control of the Minister.

17D—Insurance cover to be provided by Minister

(1) The Minister must provide insurance, upon such terms and conditions as the Minister thinks fit, for offenders in respect of death or injury arising out of, or occurring in the course of, community service performed pursuant to any Act.

(2) The Minister must provide insurance, upon such terms and conditions as the Minister thinks fit, for persons appointed as voluntary supervisors of offenders performing community service pursuant to any Act in respect of death or injury arising out of, or occurring in the course of, carrying out their duties as supervisors.

(3) The cost of providing insurance cover under this section will be borne by the Crown.

Division 5—Probation hostels

17E—Establishment of probation hostels

(1) The Minister may, by notice published in the Gazette, declare any premises to be a probation hostel.

(2) The Minister may, by notice published in the Gazette, vary or revoke a declaration under this section.

(3) Probation hostels are under the control of the Minister.

Part 3—Correctional institutions

Division 1—Establishment of correctional institutions

18—Governor may proclaim premises to be a prison or police prison

(1) The Governor may, by proclamation—

(a) declare any premises to be a prison; or

(b) declare any premises under the control of the Commissioner of Police to be a police prison,

for the purposes of this Act.

(2) The Governor may, by further proclamation, vary or revoke a proclamation under subsection (1).

19—Correctional institutions to be under the control of the Minister

(1) All correctional institutions established under this Act are under the control of the Minister.

Division 2—Official visitors

19A—Preliminary

For the purposes of this Division, a reference to a ***correctional institution*** includes a reference to—

(a) a vehicle (including a police vehicle)—

(i) on the grounds of a correctional institution; or

(ii) used to transport prisoners to or from correctional institutions; and

(b) a cell at a court being used to accommodate a prisoner.

19B—Review

(1) The Minster must, within 5 years after the commencement of this section, cause a review of the operation of this Division to be undertaken.

(2) A report on the review must be provided to the Minister who must cause a copy of the report to be laid before each House of Parliament within 3 months after receipt of the report.

20—Official visitors

(1) The Governor may appoint for each correctional institution such number of official visitors as the Governor thinks necessary or desirable.

(2) The Governor must, in making appointments under this section, ensure that—

(a) at least 1 official visitor for each correctional institution is an Aboriginal or Torres Strait Islander person; and

(b) at least 1 official visitor for each correctional institution is a legal practitioner; and

(c) at least 1 official visitor for each correctional institution is a woman.

(3) A person who constitutes a Visiting Tribunal for a correctional institution cannot be appointed as an official visitor for the correctional institution.

(4) An official visitor will be appointed on conditions determined by the Governor and for a term, not exceeding 5 years, specified in the instrument of appointment and, at the expiration of a term of appointment, will be eligible for reappointment.

(5) The Governor may remove an official visitor from office—

(a) for breach of, or noncompliance with, a condition of appointment; or

(b) for misconduct; or

(c) for failure or incapacity to carry out official duties satisfactorily.

(6) The position of an official visitor becomes vacant if the official visitor—

(a) dies; or

(b) resigns by written notice given to the Minister; or

(c) completes a term of appointment and is not reappointed; or

(d) is removed from the position by the Governor under subsection (5); or

(e) becomes bankrupt or applies as a debtor to take the benefit of the laws relating to bankruptcy; or

(f) is convicted of an indictable offence or sentenced to imprisonment for an offence; or

(g) becomes a member of the Parliament of this State or any other State or of the Commonwealth or becomes a member of a Legislative Assembly of a Territory of the Commonwealth.

(7) Nothing in this section is to be taken to prevent the appointment of a person as an official visitor for more than 1 correctional institution.

20A—Independence

(1) In exercising functions and powers under this Act, an official visitor must act independently, impartially and in the public interest.

(2) Neither the Minister nor the CE can—

(a) control how an official visitor is to exercise the visitor's statutory functions and powers; or

(b) give any direction in relation to the exercise of powers or functions under this Division by an official visitor, including with respect to the content of any report prepared by an official visitor.

Note—

This provision does not derogate from any express power of the Minister or CE under this Act.

20B—Remuneration

(1) An official visitor is entitled to remuneration, allowances and expenses determined by the Remuneration Tribunal.

(2) Jurisdiction is, by force of this section, conferred on the Remuneration Tribunal to make a determination or perform any other functions required by this section.

20C—Staff and resources

Official visitors must be provided with the resources reasonably required for exercising their functions.

20D—Functions of official visitors

(1) The functions of an official visitor in relation to the correctional institution in respect of which the visitor is appointed include the following:

(a) to receive any complaint of a prisoner in the correctional institution;

(b) to act as an advocate for prisoners in the correctional institution to promote the proper resolution of issues relating to the care, treatment or control of the prisoners;

(c) to conduct visits to the correctional institution as required or authorised under this Division;

(d) to conduct inspections of the correctional institution as required or authorised under this Division;

(e) to promote the best interests of prisoners in the correctional institution;

(f) to inquire into, investigate and provide advice to the Minister or the CE on any matter relating to the management of the correctional institution, or the care, treatment or control of the prisoners, either on the official visitor's own initiative or on referral by the Minister or the CE;

(g) to make recommendations to the Minister or the CE on any matter for the purposes of improving the quality of care, treatment or control of prisoners in the correctional institution;

(h) any other functions assigned to the official visitor under this or any other Act.

(2) An official visitor has power to do all things necessary or convenient to be done for or in connection with the performance of the official visitor's functions and may have free and unfettered access to a correctional institution in respect of which the visitor is appointed.

(3) In exercising functions under this Division, an official visitor—

(a) must encourage prisoners in the correctional institution to express their own views and give proper weight to those views; and

(b) must have regard to relevant legislation and other material, including international conventions and treaties, with a view to promoting the high quality care, treatment and control of prisoners in the correctional institution; and

(c) must pay particular attention to the needs and circumstances of prisoners in the correctional institution who—

(i) are Aboriginal or Torres Strait Islander persons; or

(ii) have a physical, psychological or intellectual disability; and

(d) may receive and consider information, reports and materials relevant to exercising the official visitor's statutory functions.

(4) Despite any other provision of this Division, an official visitor may conduct a visit to or inspection of any correctional institution (whether or not the official visitor is appointed in respect of the institution) if the official visitor considers it necessary to do so to investigate systemic issues relating to prisoners or the provision of correctional services.

(5) An official visitor may receive and consider information, reports and materials, and interview a prisoner or other person, including in accordance with a requirement under section 20E(2), in private.

(6) In exercising functions and powers under this Division, an official visitor must, so far as is reasonably practicable, ensure that those functions and powers are exercised in a manner that is not likely to—

(a) adversely affect the good order and security of a correctional institution or the safety of any person at, or whose work is connected with, a correctional institution; or

(b) adversely affect the protection from disclosure of criminal intelligence or the protection of the health, safety and welfare of a victim of an offence committed by a prisoner.

20E—Provision of information to official visitor

(1) A government or non-government organisation that is involved in the provision of services under this or any other Act must, at an official visitor's request, provide the official visitor with free and unfettered access to information relevant to the exercise of the official visitor's functions.

(2) If an official visitor has reason to believe that a person is capable of providing information or producing a document that may be relevant to the exercise of the official visitor's functions, the official visitor may, by notice in writing provided to the person, require the person to do 1 or more of the following:

(a) to provide that information to the official visitor in writing signed by that person or, in the case of a body corporate, by an officer of the body corporate;

(b) to produce that document to the official visitor;

(c) to attend before a person specified in the notice and answer relevant questions or produce relevant documents.

(3) A notice under subsection (2) is to specify the period within which, or the time, day and place at which, the person is required to provide the information or document, or to attend.

(4) A notice under subsection (2) must provide a period of time for compliance with a requirement under that subsection that has been determined by the official visitor to be reasonable in the circumstances.

(5) A person must comply with a requirement under subsection (2).

Maximum penalty: $5 000.

(6) However, information or a document is not required to be provided or produced under this section if to do so would involve the disclosure (directly or indirectly) of information in relation to or connected with a matter that forms or is the subject of a complaint, report, assessment, investigation, referral or evaluation under the *Independent Commissioner Against Corruption Act 2012*.

(7) In addition, information or a document is not required to be provided or produced under this section if to do so would involve the disclosure (directly or indirectly) of—

(a) criminal intelligence; or

(b) information in relation to or connected with a victim of an offence committed by a prisoner.

(8) If a document is produced in accordance with a requirement under this section, the official visitor may take possession of, make copies of, or take extracts from, the document.

20F—Requests to contact official visitor

A prisoner in a correctional institution may make a request to contact an official visitor in respect of the correctional institution.

20G—Reporting obligations of official visitor

(1) An official visitor may, at any time, provide a report to the Minister on any matter arising out of the performance of the official visitor's functions.

(2) An official visitor must, not later than 31 October in each year, provide a report to the Minister on the work of the official visitor during the previous financial year.

(3) The Minister must, within 6 sitting days after receiving a report under this section, have copies of the report laid before both Houses of Parliament.

(4) If a report laid before Parliament under this section includes recommendations on any matter relating to the management of a correctional institution or for the purposes of improving the quality of care, treatment or control of prisoners, the Minister must, within 8 sitting days of the expiration of 6 months after the report was laid before Parliament, cause a report to be laid before each House of Parliament giving details of any action taken or proposed to be taken in consequence of those recommendations.

20H—Confidentiality of information

Information about individual cases disclosed to an official visitor is to be kept confidential and is not liable to disclosure under the *Freedom of Information Act 1991*.

20I—Offences

(1) A person must not, without reasonable excuse, hinder, resist or threaten an official visitor in the exercise of powers or functions under this Division.

Maximum penalty: $10 000.

(2) A person must not make a statement that the person knows to be false or misleading in a material particular to an official visitor in the provision of information under this Division.

Maximum penalty: $10 000.

(3) A person must not deliberately mislead or attempt to mislead an official visitor in relation to the exercise of powers or functions under this Division by the official visitor.

Maximum penalty: $10 000.

(4) A person must not—

(a) prejudice, or threaten to prejudice, the safety or career of; or

(b) intimidate or harass, or threaten to intimidate or harass; or

(c) do any act that is, or is likely to be, to the detriment of,

either of the following:

(d) another person because the other person has provided, is providing or will or may in the future provide information to an official visitor in the exercise of powers or functions under this Division;

(e) an official visitor in relation to the exercise of powers or functions under this Division by the official visitor.

Maximum penalty: $10 000.

20J—Conflict of interest

(1) An official visitor must inform the Minister in writing of any direct or indirect interest that the official visitor has or acquires that conflicts or may conflict with the official visitor's functions under this Division (including, for example, if the official visitor has been an officer or employee of the Department or another public sector agency, or a member of a Minister's staff).

(2) An official visitor must take steps to resolve a conflict or possible conflict between a direct or indirect interest and the official visitor's functions in relation to a particular matter and, unless the conflict is resolved to the Minister's satisfaction, the official visitor is disqualified from acting in relation to the matter.

Part 4—Imprisonment

Division 1—Admission and assignment of prisoners

21A—Documentation to be presented upon admission of a prisoner to a correctional institution

A person who is to be detained in a correctional institution pursuant to an order of a court or a warrant of commitment cannot be admitted to a correctional institution for detention except on presentation of—

(a) a written statement that contains particulars of the order of the court; or

(b) the warrant of commitment, which must contain particulars of the order of the court on which it is founded.

22—Assignment of prisoners to particular correctional institutions

(1) A person who is remanded in custody awaiting trial or sentence will be detained in such correctional institution as the CE may determine.

(2) Subject to this section, a person who is sentenced to imprisonment or committed to prison will be imprisoned in such correctional institution as the CE may determine.

(3) Subject to this Act, a person who is sentenced to a term of imprisonment exceeding 15 days must not be imprisoned in a police prison.

(4) A person may be detained in a particular correctional institution pursuant to this section notwithstanding that the warrant of commitment by virtue of which the person is detained in custody directs that he or she be detained in some other correctional institution.

Division 3—Assessment of prisoners

23—Initial and periodic assessment of prisoners

(1) The CE must, as soon as practicable after the initial admission to a prison of a person who has been sentenced to a term of imprisonment exceeding six months, to life imprisonment or to a sentence of indeterminate duration, and thereafter at regular intervals of not more than one year, assess the prisoner and his or her circumstances and determine whether or not the prisoner should be transferred to some other prison.

(2) The Minister may, for the purpose of assisting the CE in carrying out assessments under this section, establish such committees as the Minister thinks fit.

(3) In carrying out an assessment under this section, the CE must have regard to—

(a) the age, gender, gender identity, sexuality or sexual identity, and the social, medical, psychological and vocational background and history, of the prisoner; and

(b) the needs of the prisoner in respect of education or training or medical or psychiatric treatment; and

(c) the aptitude or suitability of the prisoner for any particular form of training or work; and

(d) the nature of the offence, or offences, in respect of which the prisoner is imprisoned and the length of sentence; and

(e) the information contained in any file held by a court in respect of the prisoner; and

(f) the behaviour of the prisoner while in prison; and

(g) the security of, and availability of accommodation in, any prison under consideration; and

(h) the question of maintaining the prisoner's family ties; and

(i) where relevant, any proposed plans in respect of the release of the prisoner and his or her social rehabilitation; and

(j) such other matters as the CE thinks relevant.

(4) The CE must notify the prisoner before commencing an assessment, and must, if the prisoner so requests, grant the prisoner an opportunity to make representations in person to the CE or to a committee established pursuant to subsection (2), including a request that, if practicable, the assessment be made by a person of the same sex or gender identity as the prisoner.

(5) The prisoner may make written representations in respect of his or her assessment to the CE or to a committee established pursuant to subsection (2).

(6) After the first assessment of a prisoner has been completed, the CE must prepare a programme in relation to the prisoner that contains particulars of any proposals for the education or training or medical or psychiatric treatment of the prisoner, and may, after any subsequent assessment, add to or vary that programme.

Division 4—Custody of prisoners

24—CE has custody of prisoners

(1) The CE has the custody of a prisoner, whether the prisoner is within, or outside, the precincts of the place in which he or she is being detained, or is to be detained.

(2) Subject to this Act, the CE has an absolute discretion—

(a) to place any particular prisoner or prisoner of a particular class in such part of the correctional institution; and

(b) to establish in respect of any particular prisoner, or prisoner of a particular class, or in respect of prisoners placed in any particular part of the correctional institution, such a regime for work, recreation, contact with other prisoners or any other aspect of the day-to-day life of prisoners; and

(c) to vary any such regime,

as from time to time seems expedient to the CE.

(3) A variation of a regime in respect of a particular prisoner under subsection (2) for any purpose does not constitute a penalty for the purposes of this Act.

Division 5—Transfer and leave of absence of prisoners

25—Transfer of prisoners

(1) The CE may, by written order, direct that a prisoner be transferred from the place in which he or she is being detained to any other correctional institution.

(2) An order given by the CE under subsection (1) is sufficient authority for the transfer of the prisoner in accordance with the order and the detention of the prisoner in the correctional institution to which he or she is transferred.

26—Prisoner may be temporarily detained in any other prison etc while in transit

While a prisoner is being taken to any place in which he or she is to be detained, or is being taken for any purpose contemplated by this Act from any place in which he or she is being detained, the prisoner may, without any authority other than this section, be detained in any other place for as long as may reasonably be required in the course of effecting the transfer.

27—Leave of absence from prison

(1) The CE may, by written order, grant to a prisoner leave to be absent from the place in which he or she is being detained—

(a) for the medical or psychiatric examination, assessment or treatment of the prisoner; or

(b) for the attendance of the prisoner at an educational or training course; or

(c) for the participation of the prisoner in paid employment or in any form of recreation, entertainment or community service; or

(d) for such compassionate purpose as the CE thinks fit; or

(e) for any purpose related to criminal investigation; or

(f) for such other purpose as the CE thinks fit.

(1a) However, a prisoner may not be granted leave to be absent from the place in which he or she is being detained in circumstances set out in the regulations.

(2) Leave of absence granted under this section may be subject to such conditions as the CE thinks fit, including either or both of the following:

(a) a condition requiring the prisoner—

(i) to be in the custody of, and supervised by, 1 or more officers or employees of the Department authorised by the Minister for the purpose; and

(ii) to obey the reasonable directions of any officer or employee authorised under subparagraph (i);

(b) a condition requiring the prisoner to be monitored by use of an electronic device.

(2a) If leave of absence is to be granted to a prisoner for participation in paid employment, the CE may impose a condition requiring the prisoner to pay to the CE a specified amount per week, calculated in accordance with the Minister's directions, towards the cost of his or her board and lodging while so employed, or towards reducing the amount of any VIC levy that the prisoner is liable to pay in respect of any offence.

(3) The CE may, by written order, revoke a leave of absence granted under this section, or vary or revoke any of the conditions to which it is subject or impose further conditions.

(4) Where a prisoner is still at large after the revocation or expiry of leave of absence, the prisoner may be apprehended without warrant by any police officer or any officer or employee of the Department authorised by the Minister for the purpose.

(5) A prisoner who is still at large after the expiry of leave of absence will be taken to be unlawfully at large.

(6) A prisoner is not, while still at large after revocation of leave of absence, serving his or her sentence of imprisonment.

27A—Interstate leave of absence

(1) The following provisions apply in relation to a request under section 27 for leave of absence to be taken outside of this State:

(a) the leave may only be granted in respect of a participating State;

(b) the period of leave cannot exceed 7 days, but successive grants of leave can be made;

(c) the CE must give written notice of the leave to—

(i) the chief officer of police and the corresponding chief executive in the State in which the leave will be taken; and

(ii) the chief officer of police in any other State through which the prisoner will have to travel by land;

(d) the prisoner remains in the custody of the CE despite being outside the State.

(2) The following provisions apply in relation to an interstate prisoner who has been granted leave of absence under a corresponding law:

(a) an order or permit under a corresponding law appointing an escort for the prisoner has effect, according to its terms, while the prisoner is in this State, except for any period during which the prisoner is detained in a correctional institution;

(b) if the prisoner is in the custody of an escort and requires overnight accommodation while in this State, the prisoner may be detained in a correctional institution for that period, and the order or permit for the leave is sufficient authority for that detention (whether or not the leave is to be taken in this State);

(c) if, while the prisoner is in this State, the prisoner escapes or attempts to escape from custody, breaches a condition to which the leave is subject or is otherwise unlawfully at large, the prisoner may be arrested, without warrant, by—

(i) an officer or employee of the Department; or

(ii) a police officer; or

(iii) the prisoner's escort (if any),

and taken to the nearest police station;

(d) a prisoner who is arrested under paragraph (c) must be brought before a magistrate within 2 working days of the day of arrest and may be detained in a correctional institution until that occurs;

(e) the magistrate may, if he or she thinks it appropriate in such a case, order that the prisoner—

(i) be returned by the prisoner's escort to the State in which the leave was granted; or

(ii) be delivered into the custody of an escort for the purposes of being returned to that State,

as the case may require (and no right of appeal lies against such an order);

(f) if an order is made under paragraph (e)(ii)—

(i) the prisoner may be detained in a correctional institution until—

(A) the order is executed; or

(B) the expiration of 7 days from the making of the order,

whichever occurs first; and

(ii) the order, if not executed, expires at the end of that 7 day period;

(g) the prisoner will, while detained in a correctional institution under this section, be taken to be a prisoner for the purposes of this Act.

(3) In this section—

corresponding chief executive, in relation to a participating State, means the officer responsible for the administration of prisons in that State;

corresponding law means a law prescribed by regulation to be a corresponding law for the purposes of this section;

escort, in relation to a prisoner or an interstate prisoner, means a person authorised or appointed under this Act or the law of the participating State to have custody of the prisoner for the purposes of leave of absence, or return from leave of absence, as the case may be;

interstate prisoner means a person subject to detention in a participating State who has been granted leave of absence under a corresponding law;

participating State means a State in which a corresponding law is in force;

State means a State or Territory of the Commonwealth.

28—Removal of prisoner for criminal investigation, attendance in court etc

(1) A prisoner is entitled to attend before a court for the purpose of committal proceedings, trial or sentence for the offence in respect of which the prisoner is being detained or for any other offence with which he or she has been charged.

(2) Where a prisoner is required to attend before a court whether as a party to any proceedings or as a witness, the court hearing the proceedings may, by order, direct the CE to cause the prisoner to be brought before the court in accordance with the order.

(2a) If a prisoner is required to attend before the Independent Commissioner Against Corruption, the Deputy Commissioner or an examiner under the *Independent Commission Against Corruption Act 2012*, the Commissioner, Deputy Commissioner or examiner may, by order, direct the manager of the correctional institution in which the prisoner is being detained to cause the prisoner to be brought before the Commissioner, Deputy Commissioner or examiner in accordance with the order.

(3) On the determination or an adjournment of proceedings at which a prisoner attends under this section, the prisoner may be returned to the correctional institution without any further process or authority.

(4) If a prisoner—

(a) has been charged with an offence; or

(b) is suspected on reasonable grounds of—

(i) having committed an offence; or

(ii) having knowledge or information that might assist in the prevention or investigation of an offence,

the CE must, at the request of a police officer, release the prisoner into the custody of the police officer for the purposes of investigation of the offence, obtaining evidence as to the commission of the offence or identifying the prisoner as the person who committed the offence, in accordance with law.

Division 6—Management of prisoners

29—Work by prisoners

(1) A prisoner is, while in a correctional institution, required to perform such work, whether within or outside the precincts of the correctional institution, as the CE directs.

(3) Tasks selected for prison work must, as far as reasonably practicable, be selected on the basis that they are likely to provide prisoners with experience in a recognised profession, trade or other field of employment.

(4) The CE must, in directing a prisoner to perform any particular work, have regard to the age and the physical and mental health of the prisoner, and any skills or work experience of the prisoner.

(5) A prisoner in a correctional institution is not entitled to perform any other remunerated or unremunerated work of any kind, whether for the benefit of the prisoner or any other person, unless the prisoner has the permission of the CE to do so.

30—Prison education

The CE must arrange for such courses of instruction or training as the CE thinks fit to be made available to prisoners.

31—Prisoner allowances and other money

(1) A prisoner is, while in a correctional institution, entitled to an allowance at a rate from time to time fixed by the CE.

(2) A prisoner who performs work under this Division (not being work performed under section 29(5)) is entitled to a further allowance at a rate from time to time fixed by the CE.

(2a) The CE may establish a system of bonus payments for prisoners who, in the opinion of the CE, display a positive attitude, or apply themselves with particular effort, to the performance of work or other tasks or duties in the prison.

(3) The CE may, for the purposes of subsection (2), fix rates of allowance that vary according to—

(a) the classes of work to which they apply; or

(b) the correctional institution in which the work will be performed; or

(c) the different security classifications of prisoners performing the work; or

(d) any combination of those factors.

(4) All allowances to which a prisoner is entitled under this section will be credited to the prisoner to an account, or accounts, kept in his or her name by the CE.

(4a) The CE may establish an account in the name of a prisoner into which is paid from time to time a proportion (not exceeding 30 per cent) of the prisoner's weekly income under this section, for the purposes of the resettlement of the prisoner in the community on being discharged from prison.

(4b) The amount standing to a prisoner's credit in a resettlement account cannot be drawn on while the prisoner is in prison unless the CE is of the opinion that special reason exists for doing so.

(5) The CE must review regularly the rates of the allowances to which a prisoner is entitled under this section.

(5a) Subject to subsections (5b) and (5c), the CE may, if a prisoner receives any money (other than the allowances paid under this section)—

(a) hold the money for as long as may be necessary for the purposes of ascertaining the identity of the person who made the payment and the circumstances of the payment; or

(b) credit the whole, or part, of it to the prisoner; or

(c) hold the whole, or part, of it on behalf of the prisoner and pay it over to the prisoner in accordance with this Act on discharge from prison; or

(d) return the whole, or part, of it to the person who made the payment; or

(e) if the prisoner is not lawfully entitled to the money, and the identity or whereabouts of the person who made the payment cannot be ascertained—pay the money to the Treasurer under section 6 of the *Unclaimed Money Act 2021*; or

(f) retain it as evidence of an offence.

(5b) A person who has been released from prison may not, without the approval of the CE, within a period of 12 months of release from prison, give money to a prisoner or deposit money in any account kept in the name of a prisoner.

(5c) If a prisoner receives money in contravention of subsection (5b), the CE must make reasonable efforts to return the money to the person who made the payment.

(6) The CE may deduct from any money standing to the credit of a prisoner pursuant to this section any amount due and payable by the prisoner by way of repayment of a loan made by the CE.

(6a) If the CE is aware, by virtue of a warrant executed against the prisoner (whether issued before or after the commencement of this subsection), that a prisoner is liable for a VIC levy imposed in respect of any offence, the CE must deduct from the prisoner's weekly income under this section an amount determined by the CE.

(6b) Subsection (6a) does not apply in relation to a prisoner who is being detained by virtue only of a warrant of commitment issued before the commencement of this subsection solely for the enforcement of a VIC levy.

(6c) Money deducted under subsection (6a), and any money paid to the CE at any time by a prisoner in or towards satisfaction of a VIC levy, must be paid into the Victims of Crime Fund.

(7) Subject to this Act, withdrawals from any account held in the name of a prisoner, and the purposes for which they are made, are at the discretion of the CE and, without limiting the generality of that discretion, withdrawals may be refused where the CE thinks that the refusal is justified in the interests of the good management of the prisoner or of the correctional institution generally.

32—CE may sell items of personal use to prisoners

(1) The CE may sell any items of personal use or consumption that the CE thinks fit to prisoners.

(2) Withdrawals of money from any account held in the name of a prisoner, at the discretion of the CE in accordance with section 31, may be made for the purchase of items for sale under this section.

(3) The CE is authorised—

(a) in selling items under this section, to set prices that, in the opinion of the CE, reflect the costs associated with selling the items; and

(b) if a surplus arises from time to time in selling items under this section, to retain the surplus and deposit it in the account established under section 32A.

32A—Prisoner Amenity Account

(1) The *Prisoner Amenity Account* is established.

(2) The CE will be responsible for the administration of the account.

(3) The account will consist of—

(a) any surplus deposited from time to time under section 32(3)(b); and

(b) any other money that the CE thinks may be appropriately deposited in the account from time to time.

(4) The CE may apply any money standing to the credit of the account towards the provision of amenities to prisoners.

33—Prisoners' mail

(1) Subject to this section—

(a) prisoners are entitled to receive and send letters; and

(b) letters sent to prisoners must be handed to them as soon as reasonably practicable after delivery to the institution; and

(c) letters sent by prisoners must be forwarded as soon as reasonably practicable.

(3) A letter sent to or by a prisoner contravenes this section if it contains—

(a) a threat of a criminal act; or

(b) a proposal or plan to commit a criminal act, or to do anything towards the commission of a criminal act; or

(c) an unlawful threat or demand; or

(d) an incitement to violence, or material likely to inflame violence; or

(e) plans for any activity prohibited by the regulations; or

(f) an item prohibited by the regulations; or

(g) a sum of money, whether in cash or otherwise, or a request for any such sum, where the prior permission of the CE has not been obtained in respect of that sum or request; or

(h) a request for any goods, without the prior permission of the CE; or

(i) a statement that is in code; or

(j) material relating to, or that constitutes, work by the prisoner that the prisoner is not authorised to perform; or

(k) material of a kind prohibited by the regulations or the CE.

(3a) A letter contravenes this section if the letter is sent, or proposed to be sent, by a prisoner to—

(a) if, in relation to an offence for which the prisoner was imprisoned, there is a registered victim—the registered victim; or

(b) any other victim of an offence for which the prisoner was imprisoned; or

(c) a person involved, or who the CE suspects was involved, in the commission of an offence for which the prisoner was imprisoned.

(4) The CE may cause all letters sent to or by prisoners to be opened and examined by an authorised officer for the purpose of determining whether any letter contravenes this section.

(6) An authorised officer may, for the purpose of perusing a letter opened by the authorised officer that is in a language other than English, cause the letter to be translated.

(7) A letter sent by a prisoner—

(aaa) to the Independent Commissioner Against Corruption or the Office for Public Integrity; or

(a) to the Ombudsman; or

(b) to a Member of Parliament; or

(ba) to the Health and Community Services Complaints Commissioner; or

(bb) to the Parole Administrative Review Commissioner; or

(c) to a Visiting Tribunal; or

(ca) to an official visitor of the correctional institution; or

(d) to a nominated legal practitioner of the prisoner at the practitioner's business address,

cannot be opened pursuant to this section.

(7a) Nothing in this section empowers an authorised officer to open a declaration vote sent by a prisoner to a returning officer.

(8) Where an authorised officer is satisfied on reasonable grounds that a letter sent to a prisoner is from the Independent Commissioner Against Corruption, the Office for Public Integrity, the Ombudsman, a Member of Parliament, a Visiting Tribunal, an official visitor or a nominated legal practitioner of the prisoner sent from the practitioner's business address, the authorised officer must not open that letter.

(10) Where a letter sent to a prisoner is found to contravene this section, the CE may—

(a) in the case of a letter—

(i) hand it over to the prisoner; or

(ii) retain it and hand it over to the prisoner on discharge from prison; or

(iii) furnish a copy of it to the prisoner with any material that contravenes this section deleted from the copy, provided that the letter is handed over to the prisoner on discharge from prison; or

(iv) retain it as evidence of an offence, provided that a copy of it, or an expurgated copy of it, is handed over to the prisoner as soon as reasonably practicable, or on discharge from prison; and

(b) in the case of a prohibited item found in a letter—

(i) cause the item to be destroyed; or

(ii) retain it and hand it over to the prisoner on discharge from prison; or

(iii) retain it as evidence of an offence; or

(iv) return it to the sender; or

(v) dispose of it in such other manner as the CE thinks fit; and

(c) in the case of a sum of money, subject to subsection (10a)—

(i) hold the money for as long as may be necessary for the purposes of ascertaining the identity of the sender and the circumstances of the payment; or

(ii) credit the whole, or part, of it to the prisoner; or

(iii) hold the whole, or part, of it on behalf of the prisoner and pay it over to the prisoner in accordance with this Act on discharge from prison; or

(iv) return the whole, or part of it to the sender; or

(v) if the prisoner is not lawfully entitled to the money, and the identity or whereabouts of the sender cannot be ascertained—pay the money to the Treasurer as unclaimed money for the purposes of the *Unclaimed Money Act 2021*; or

(vi) retain it as evidence of an offence.

(10a) If a sum of money referred to in subsection (10)(c) is in a letter sent to a prisoner by a person who has been released from prison within a period of 12 months before the date of receipt of the letter, the CE must return the money to the sender.

(11) Where a letter sent by a prisoner is found to contravene this section, the CE may—

(a) in the case of a letter—

(i) return it to the prisoner; or

(ii) retain it as evidence of an offence, provided that a copy is furnished to the prisoner at some time prior to any hearing in respect of the offence; and

(b) in the case of a prohibited item found in a letter—

(i) cause the item to be destroyed; or

(ii) retain it and hand it over to the prisoner on discharge from prison; or

(iii) retain it as evidence of an offence; or

(iv) return it to the prisoner; or

(v) forward it to the intended recipient; or

(vi) dispose of it in such other manner as the CE thinks fit; and

(c) in the case of a sum of money—

(i) hold it for as long as may be necessary for the purposes of ascertaining the circumstances of the payment; or

(ii) retain it as evidence of an offence; or

(iii) pay it into the General Revenue of the State; or

(iv) disburse it in such other manner as the Minister may direct.

(12) The CE must advise a prisoner in such manner as the CE thinks fit of any action taken under this section in respect of a letter, or anything contained in a letter, sent to or by the prisoner.

(13) An authorised officer must not, otherwise than as required by law or in the performance of duties, disclose to any other person the contents of any letter perused pursuant to this section.

(14) In this section—

authorised officer means an officer or employee of the Department authorised by the CE for the purposes of this section, not being a person who is engaged in a position involving substantial day-to-day contact with prisoners;

nominated legal practitioner, in relation to a prisoner, means a legal practitioner that the prisoner has, by notice in writing given to the CE, nominated as a legal practitioner that represents the prisoner, provided that a prisoner may only have up to 4 nominated legal practitioners at any particular time.

33A—Prisoners' goods

(1) A prisoner is not entitled to receive any goods from a person outside the prison unless the prisoner has the permission of the CE to do so.

(2) A prisoner is not entitled to send, supply or give any goods to a person (whether inside or outside of the prison) unless the prisoner has the permission of the CE to do so.

(3) The CE may cause all goods, and all parcels apparently containing goods, sent or given to a prisoner, or sent, supplied or given by a prisoner, to be examined.

(4) If goods sent or given to a prisoner consist of items prohibited by the regulations or are goods in respect of which permission is not given, the CE has an absolute discretion to deal with or dispose of the goods as he or she thinks fit (for example, by returning them to the sender or donor, selling, destroying or storing them, handing them over to a member of the prisoner's family).

(5) If goods sent, supplied or given by a prisoner consist of items prohibited by the regulations or are goods in respect of which permission is not given, the CE has an absolute discretion to deal with or dispose of the goods as he or she thinks fit (for example, by returning them to the prisoner, selling, destroying or storing them).

(6) Goods that consist of items prohibited by the regulations, or that a person is prohibited by some other Act or law from possessing, must be destroyed unless they are to be kept as evidence.

(7) The Minister may fix charges for the storage of goods on behalf of prisoners.

(8) Any costs incurred in dealing with or disposing of goods (including storage charges) may be deducted by the CE from any account (other than a resettlement account) held on behalf of the prisoner under this Act.

(9) If a prisoner fails, on being discharged from prison, to take any goods that have been stored in the prison on his or her behalf, the CE may deal with or dispose of the goods as he or she thinks fit.

(10) Any proceeds from the sale of goods under this section will (after deduction of the costs of storage and sale) be credited to the prisoner's account or, if the prisoner has been discharged and his or her whereabouts are known, refunded to the prisoner.

(11) Money not refunded under subsection (10) will be dealt with in accordance with the *Unclaimed Money Act 2021*.

34—Prisoners' rights to have visitors

(1) Subject to this section, a prisoner (other than a remand prisoner) is, while in a correctional institution, entitled to be visited by a person, or a number of persons not exceeding the prescribed number, on one occasion, or such greater number of occasions as may be prescribed, in each period of two weeks.

(2) Subject to this section, a remand prisoner is entitled to be visited by a person, or a number of persons not exceeding the prescribed number, on three occasions, or such greater number of occasions as may be prescribed, in each week.

(3) The CE may, if of the opinion that special reasons exist for doing so—

(a) permit a prisoner to be visited on any further occasion than is provided by or under this Act; or

(b) debar a particular person from visiting a prisoner for such period as the CE thinks fit, or until further order of the CE.

(4) The following restrictions apply to a visit to a prisoner (including a remand prisoner) under this section:

(a) a person may not visit a prisoner unless the person provides such evidence as the CE thinks appropriate as to the person's identity;

(b) a person 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 program approved by the CE;

(c) a person who has been released from prison may not, without the approval of the CE, within a period of 12 months of the person's release from prison, visit a prisoner;

(d) a person under the age of 18 years may not, without the approval of the CE, visit a prisoner if the prisoner has ever been found guilty of a child sexual offence;

(e) a person who the CE believes on reasonable grounds is a member of a criminal organisation, or associates with, or has associated with, a member of a criminal organisation, may not visit a prisoner without the approval of the CE.

35—Prisoners' rights to access to legal aid and legal services

(1) A prisoner is not by virtue of imprisonment debarred from the benefit of any Act or law relating to legal aid.

(2) Where a prisoner is visited by a legal practitioner for the purpose of rendering any legal services, that visit will not be held to be a visit for the purposes of section 34.

35AA—Assistance to make certain complaints

If a prisoner informs the manager of a correctional institution that the prisoner wishes to make a complaint about—

(a) corruption in public administration (within the meaning of the *Independent Commission Against Corruption Act 2012*); or

(b) misconduct in public administration or maladministration in public administration (both within the meaning of the *Ombudsman Act 1972*),

the manager of the correctional institution must take such steps as are necessary to facilitate the making of a complaint (including providing facilities to enable the prisoner to prepare the complaint and enclose and seal it in an envelope and delivering the sealed envelope to the Commission or Ombudsman without undue delay).

35A—Power to monitor or record prisoner communication

(1) Subject to this section, the CE may monitor or record a communication between a prisoner and another person.

(2) A party to a communication that may be monitored or recorded under this section is not required to be informed of the fact that the communication may be monitored or recorded, unless the communication occurs in circumstances (if any) prescribed by the regulations.

(3) The CE must not monitor or record a communication between a prisoner and—

(a) a legal practitioner who represents the prisoner, or who is communicating with the prisoner for the purpose of determining whether or not to represent the prisoner; or

(ab) the Independent Commissioner Against Corruption; or

(b) the Ombudsman; or

(c) the Health and Community Services Complaints Commissioner; or

(d) a Member of Parliament; or

(e) a Visiting Tribunal; or

(f) an official visitor of the correctional institution in which the prisoner is detained; or

(g) a person or body of a class designated by the CE.

(4) The exemption under subsection (3) applies only if the CE has, before the communication occurs, authorised the communication.

(5) If a communication monitored or recorded under this section reveals information about an offence, the CE must give the information to the Commissioner of Police.

(5a) Despite any other Act or law (but without limiting subsection (5)), a communication monitored or recorded under this section or evidence or information revealed by such a communication may be provided to, and may be received and used by—

(a) —

(i) law enforcement agencies; and

(ii) prosecution authorities; and

(iii) any other person or body prescribed by the regulations,

for the purposes of—

(iv) any criminal investigation or proceedings; or

(v) proceedings for the imposition of a penalty; or

(vi) national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004* of the Commonwealth); and

(b) the Independent Commissioner Against Corruption and the Office for Public Integrity for the purposes of any investigation or action in relation to suspected corruption, misconduct or maladministration in public administration.

(5b) Terms and expressions used in subsection (5a) and in the *Independent Commissioner Against Corruption Act 2012* have the same respective meanings in that subsection as they do in that Act.

(6) In this section—

communication includes conversation and a message, and any part of a conversation or message, whether—

(a) in the form of—

(i) speech, music or other sounds; or

(ii) data; or

(iii) text; or

(iv) visual images, whether or not animated; or

(v) signals; or

(b) in any other form or in any combination of forms.

36—Power to keep prisoner apart from other prisoners

(1) A prisoner must not be kept separately and apart from all other prisoners in the correctional institution except in accordance with this section.

(2) The CE may direct that a prisoner be kept separately and apart from all other prisoners in the correctional institution if the CE is of the opinion that it is desirable to do so—

(a) in the interests of the proper administration of justice where an investigation is to be conducted into an offence alleged to have been committed by the prisoner; or

(b) in the interests of the safety or welfare of the prisoner; or

(c) in the interests of protecting other prisoners; or

(d) in the interests of security or good order within the correctional institution.

(3) Subject to this section, a direction under subsection (2) has effect for such period, not exceeding 30 days, as may be specified in the direction.

(4) A direction under subsection (2)(b), (c) or (d) may be extended by the CE for such period, not exceeding 30 days, as may be specified by the CE, if the CE is satisfied that it is desirable to do so on a ground referred to in subsection (2)(b), (c) or (d).

(4a) Nothing in subsection (4) is to be taken to prevent the CE from granting more than 1 extension in respect of a direction under subsection (2)(b), (c) or (d).

(5) A direction cannot be given more than once pursuant to subsection (2)(a) in respect of the incident giving rise to the alleged offence.

(6) A direction given under subsection (2) or an extension—

(a) must be in writing; and

(b) may be revoked at any time by the CE.

(7) A copy of a direction given under subsection (2) or an extension must be served personally on the prisoner within 24 hours of being given under subsection (2) or issued under subsection (4).

(8) Despite the fact that a direction under subsection (2) or an extension is in force in respect of a prisoner, the CE may permit the prisoner to have contact with such other prisoners on such occasions as the CE thinks fit.

(9) If, under subsection (2), the CE gives a direction—

(a) that a prisoner be kept separately and apart for a period exceeding 5 days; or

(b) that will result in a prisoner being kept separately and apart for a period exceeding 5 consecutive days, or an aggregate of 5 days within any 10 day period,

the CE must, as soon as reasonably practicable after giving the direction, provide the Minister with a report of the circumstances relating to the direction.

(9a) If the CE issues an extension the CE must, as soon as is reasonably practicable after issuing the extension, provide the Minister with a report of the circumstances relating to the extension.

(10) On receiving a report under subsection (9) or (9a), the Minister may review the matter and may confirm or revoke the direction or extension (as the case requires).

(11) In this section—

extension means an extension issued by the CE under subsection (4).

36A—Restraints to be used on prisoners in certain circumstances

(1) An officer or employee of the Department may use restraints on a prisoner—

(a) if the prisoner is being transferred from the place in which the prisoner is being detained to a place where the prisoner is to be detained; or

(b) if the prisoner is on leave of absence and is required to be in the custody of, and be supervised by, 1 or more officers or employees of the Department authorised by the Minister under section 27(2)(a)(i); or

(c) in any other circumstances determined by the CE.

(2) An officer or employee of the Department who uses restraints on a prisoner under this section must comply with any requirements determined by the CE.

37—Search of prisoners

(1) The CE may cause a prisoner or a prisoner's belongings to be searched in any of the following cases:

(a) where the prisoner enters a correctional institution or moves from one part of the institution to another;

(b) where the CE has reasonable cause to suspect that the prisoner has in his or her possession in the correctional institution an item prohibited by the regulations;

(c) where the prisoner is required pursuant to this Act to provide a biological sample for analysis.

(1a) The CE may also cause a prisoner's belongings to be searched if, for the purpose of detecting items prohibited by the regulations, the CE—

(a) proposes that the belongings of all prisoners within the correctional institution, or a part of the institution, be searched; or

(b) causes the random selection of prisoners from the whole, or a part, of the institution for the purposes of such a search and the prisoner falls within the selection.

(2) The following provisions apply to the search of a prisoner:

(a) those present at any time during the search when the prisoner is naked, except a medical practitioner, must be of the same sex or gender identity as the prisoner;

(b) at least two persons, apart from the prisoner, must be present at all times during the search when the prisoner is naked;

(c) for the purposes of the search, the prisoner may be required—

(i) to open his or her mouth;

(ii) to strip;

(iii) to adopt particular postures;

(iv) to do anything else reasonably necessary for the purposes of the search,

and if the prisoner does not comply with such a requirement reasonable force may be applied to secure compliance.

(2a) A prisoner may waive the requirement under subsection (2)(a) that those present during a search (other than a medical practitioner) be of the same sex or gender identity as the prisoner.

(3) Force must not be applied to open a prisoner's mouth except by or under the supervision of a medical practitioner.

(4) Nothing may be introduced into an orifice of a prisoner's body for the purposes of a search except by a medical practitioner.

(5) A search must be carried out expeditiously and undue humiliation of the prisoner must be avoided.

(6) The annual report submitted under this Act by the CE in respect of a financial year must include particulars of—

(a) the number of searches conducted under subsection (1a) in respect of each correctional institution during the year; and

(b) the number and general description of items prohibited by the regulations detected in the institution during those searches.

37AA—Drug testing of prisoners

(1) The CE may require a prisoner to undergo a drug test in any of the following circumstances:

(a) on the initial admission of the prisoner to a correctional institution;

(b) on the prisoner returning to a correctional institution after being absent;

(d) if, for the purpose of ascertaining the incidence of unlawful drug use in a correctional institution, the manager—

(i) proposes that all prisoners within the institution, or a part of the institution, undergo a drug test; or

(ii) causes the random selection of prisoners from the whole, or a part, of the institution to undergo a drug test and the prisoner falls within the selection;

(e) in any other circumstance that the CE thinks fit.

(1a) The manager of a correctional institution may require a prisoner to undergo a drug test—

(a) if the manager reasonably suspects that the prisoner has unlawfully used a drug; or

(b) in any other circumstance that the CE thinks fit.

(2) For the purposes of this Act, a prisoner ***uses a drug*** if the prisoner—

(a) consumes or smokes, or administers to himself or herself, the drug; or

(b) permits another person to administer the drug to him or her.

(3) In proceedings for an offence against this Act or any other Act—

(a) if the proceedings relate to the unlawful use of alcohol—a certificate apparently signed by an authorised officer and certifying—

(i) that the prisoner named in the certificate submitted to an alcotest on a day and at a time stated in the certificate; and

(ii) that the alcotest was carried out in conformity with the requirements of this Act using apparatus of a kind approved by the Governor under the *Road Traffic Act 1961* for the purposes of carrying out alcotests; and

(iii) that the alcotest produced a reading of a specified level of alcohol in the prisoner's blood,

is, in the absence of proof to the contrary, proof of the matters so certified;

(b) if the proceedings relate to the unlawful use of any other drug—

(i) a certificate apparently signed by an authorised officer and certifying—

(A) that the prisoner named in the certificate submitted to a specified prescribed procedure on a day and at a time stated in the certificate; and

(B) that the procedure was carried out in conformity with the requirements of this Act; and

(C) that the biological sample obtained as a result of the procedure was assigned a specified identifying number; and

(ii) a certificate apparently signed by an analyst and certifying that the drug specified in the certificate was found to be present in the biological sample assigned that number,

is, in the absence of proof to the contrary, proof of the matters so certified.

(4) In this section—

authorised officer means an officer or employee of the Department authorised by the CE for the purposes of this section.

Division 6A—Home detention

Subdivision 1—Release on home detention by CE

37A—Release on home detention

(1) Subject to this section, the CE has an absolute discretion to release a prisoner from prison to serve a period of home detention in accordance with this Division.

(2) The exercise by the CE of the discretion under subsection (1) is subject to the following limitations:

(a) a prisoner who is serving or is liable to serve a sentence of indeterminate duration and has not had a non-parole period fixed cannot be released on home detention;

(d) any limitations determined from time to time by the Minister, which may include, without limitation, the exclusion of prisoners sentenced for a specified class of offence or any other class of prisoners from release on home detention.

(3) The release of a prisoner under this Division is subject to the following conditions:

(a) a condition requiring the prisoner to remain at the prisoner's residence during the period of home detention and not to leave the residence at any time during that period except for the following purposes:

(i) attendance at remunerated employment at such times and places as are approved from time to time by the authorised officer to whom the prisoner is assigned; or

(ii) urgent medical or dental treatment for the prisoner; or

(iia) attendance at—

(A) a place for the purpose of undergoing assessment or treatment (or both) relating to the person's mental or physical condition; or

(B) an intervention program (within the meaning of the *Sentencing Act 2017*); or

(C) any other course of education, training or instruction, or other activity,

as approved or directed by the authorised officer to whom the person is assigned; or

(iii) any other purpose approved or directed by the authorised officer to whom the prisoner is assigned; and

(b) a condition requiring the prisoner to be of good behaviour during the period of home detention; and

(c) a condition requiring the prisoner to obey the lawful directions of the authorised officer during the period of home detention; and

(ca) a condition prohibiting the prisoner from possessing a firearm or ammunition (both within the meaning of the *Firearms Act 2015*) or any part of a firearm; and

(cb) a condition requiring the prisoner to submit to such tests (including testing without notice) for gunshot residue as an authorised officer may reasonably require; and

(d) such other conditions as the CE thinks appropriate (including a condition that the prisoner be monitored by use of an electronic device).

(4) A prisoner released under this Division will, unless the release is earlier revoked, remain on home detention—

(a) in the case of a prisoner subject to a non-parole period—until he or she is released on parole;

(b) in the case of any other prisoner—until the time at which he or she would, but for this Division, have been released from prison pursuant to this Act.

(5) The CE may, by notice in writing served personally on the prisoner, vary or revoke any of the conditions to which the prisoner's release is subject.

(5a) The Chief Executive Officer may only vary or revoke the conditions imposed by subsection (3)(ca) and (cb) on the release of a person on home detention if he or she is satisfied that—

(a) there are cogent reasons to do so; and

(b) the possession of a firearm, ammunition or part of a firearm by the person does not represent an undue risk to the safety of the public.

(6) In this section—

non-parole period, in relation to a prisoner serving a sentence imposed for an offence against a law of the Commonwealth, includes the minimum term to be served under a recognisance release order;

residence includes, if the defendant is an Aboriginal or Torres Strait Islander person, any place specified in the instrument of release as the person's residence.

37C—Revocation of release

(1) The CE—

(a) must revoke the release of a prisoner under this Division if the prisoner breaches a condition to which the release is subject; and

(b) may, in the absolute discretion of the CE, revoke the release of a prisoner under this Division for any other reason.

(2) A prisoner is not in breach of the condition requiring the prisoner to remain at the prisoner's residence if the prisoner leaves the residence for the purpose of averting or minimising a serious risk of death or injury (either to the prisoner or some other person).

(3) On the revocation of the release of a prisoner under this Division, the prisoner may be apprehended, without warrant, by a police officer or any authorised officer and returned to prison.

(4) Where a prisoner breaches a condition to which the release of the prisoner is subject or is, during the period of home detention, sentenced to imprisonment for an offence (whenever committed), the prisoner is liable to serve in prison the balance of the non-parole period or the term of imprisonment (as the case may require), being—

(a) in the case of a breach of condition or an offence committed during the period of home detention—the unexpired balance as at the date of the breach or offence; and

(b) in the case of an offence committed at any other time—the unexpired balance as at the date on which the further sentence of imprisonment is imposed.

(5) Subsection (4) applies notwithstanding that the period of home detention may have expired before the prisoner can be apprehended.

(6) A prisoner is, on breaching the condition referred to in section 37A(3)(a), unlawfully at large.

Subdivision 2—General

37CA—Home detention officers

(1) The Minister may appoint such home detention officers for the purposes of this Division and the *Sentencing Act 2017* as the Minister thinks fit.

(2) The CE must—

(a) on the receipt of a copy of a home detention order in respect of a prisoner; or

(b) on the release of a prisoner under this Division,

assign the prisoner to a home detention officer, and the CE may from time to time re-assign the prisoner to another home detention officer.

(3) A home detention officer to whom a prisoner is assigned—

(a) may give reasonable directions to the prisoner—

(i) requiring the prisoner to take up, not to take up or not to give up some particular employment; or

(ii) requiring the prisoner to attend a particular course of counselling or instruction; and

(b) may give the prisoner other directions of a kind authorised by the Minister either generally or in relation to the particular prisoner.

(4) Any home detention officer may, at any time—

(a) enter or telephone the residence of a prisoner serving a period of home detention; or

(b) telephone the prisoner's place of employment or any other place at which the prisoner is permitted or required to attend; or

(c) question any person at that residence or place as to the whereabouts of the prisoner,

for the purposes of ascertaining whether or not the prisoner is complying with the conditions to which the prisoner's release is subject.

(5) A person must not—

(a) hinder a home detention officer in the exercise of powers under this section; or

(b) fail to answer truthfully any question put to the person by a home detention officer pursuant to those powers.

Maximum penalty: $5 000.

37D—Crown not liable to maintain prisoners on home detention

The Crown is not liable to maintain a prisoner who is serving a period of home detention (whether the home detention is home detention under this Division or home detention served under a home detention order).

Division 7—Release of prisoners from prison or home detention

38—Release of prisoner from prison or home detention

(1) Subject to this Act, a prisoner (other than a remand prisoner) will be released from the correctional institution in which the prisoner is being detained on the day on which the prisoner's sentence of imprisonment expires, unless released earlier under any other provision of this Act, or under any other Act or law.

(2) Subject to subsection (3), the CE may, by instrument in writing, authorise the release of a prisoner from prison or from home detention on any day during the period of 30 days preceding the day on which the prisoner is due, or would have been due, to be released from prison pursuant to any other provision of this Act.

(3) Subsection (2) does not apply in relation to a prisoner who is serving a term of imprisonment for default in payment of a pecuniary sum.

(3a) If—

(a) the Board orders the release of a prisoner from prison or home detention on parole on a specified date; and

(b) pursuant to subsection (2), the CE authorises the release of the prisoner before that specified date,

the release of the prisoner on the authority of the CE will be on parole subject to the conditions imposed under this Act.

(4) In this section—

pecuniary sum has the same meaning as in the *Sentencing Act 2017*.

39—Time of release from prison

(1) A prisoner must be released from the correctional institution in which the prisoner is being detained as near as practicable to 10 a.m. on the day of the prisoner's release.

(3) Where a contempt prisoner purges his or her contempt or complies with the court order for payment of a pecuniary sum, and does so between 5 p.m. on one day and 9 a.m. on the next day, the manager of the correctional institution is not, notwithstanding any other provision of this Act or any other Act or law, required to release the prisoner from the institution until that next day, at some time after 10 a.m.

39A—Delivery of property and money to prisoner on release

Where a prisoner is released from prison on home detention or parole, or on the expiration or extinguishment of his or her sentence of imprisonment, the CE must, as soon as reasonably practicable, hand over to the prisoner any personal property held on the prisoner's behalf, and must pay to the prisoner any money held to the prisoner's credit pursuant to this Act—

(a) in a lump sum; or

(b) in the case of a prisoner released on parole subject to the supervision of a community corrections officer, in a lump sum, or in such instalments payable during the period of supervision as the community corrections officer may determine.

39B—Manner in which former prisoner's personal property is to be dealt with

(1) Where a former prisoner has left any personal property in a correctional institution in which he or she was at some time detained, the CE must give a written notice to the former prisoner, sent by post to his or her last known address, setting out particulars of the personal property and of the place at which it may be collected.

(2) If the former prisoner fails to collect the personal property within three months of being given a notice under subsection (1), the CE must deal with the property in the following manner:

(a) where the property consists solely of items that would, in the opinion of the CE, be of negligible monetary value and of no sentimental value to the former prisoner, the CE may dispose of the property in such manner as the CE thinks fit; and

(b) in any other case—

(i) if the whereabouts of the former prisoner is known to the CE, the CE must cause the property to be delivered to the former prisoner except where it is not practicable to do so, in which case the CE may dispose of the property in such manner as the CE thinks fit; or

(ii) if the whereabouts of the former prisoner is, after reasonable inquiries, unknown to the CE, the CE may dispose of the property in such manner as the CE thinks fit.

(3) Money received from the sale of any personal property pursuant to this section will be paid into the General Revenue of the State.

39C—Certain prohibited items not to be returned to prisoners

Nothing in this Division requires the delivery or return to a person of any item of personal property the possession of which by that person is prohibited by law.

Part 5—Offences

Division 1—Powers of Visiting Tribunals

41—Powers of Visiting Tribunals

(1) For the purposes of a hearing under this Division a Visiting Tribunal may—

(a) by summons signed by the Visiting Tribunal, require the attendance before the Visiting Tribunal of any person whom the Visiting Tribunal thinks fit to call before it; or

(b) by summons signed by the Visiting Tribunal, require the production of any books, papers or documents; or

(c) inspect any books, papers or documents produced before it, retain them for such reasonable period as it thinks fit, and make copies of any of them, or of any of their contents; or

(d) require any person to make an oath or affirmation that the person will answer truthfully all questions put by the Visiting Tribunal, or by any person appearing before the Visiting Tribunal, relevant to any matter being inquired into by the Visiting Tribunal (which oath or affirmation may be administered by the Visiting Tribunal); or

(e) require any person appearing before the Visiting Tribunal (whether summoned to appear or not) to answer any relevant question put by the Visiting Tribunal or by any other person appearing before the Visiting Tribunal.

(2) Subject to subsection (3), a person who—

(a) having been duly served with a summons, fails, without reasonable excuse, to attend before the Visiting Tribunal, or to produce any books, papers or documents, as required by the summons; or

(b) misbehaves before a Visiting Tribunal, wilfully insults a Visiting Tribunal or interrupts the proceedings of a Visiting Tribunal; or

(c) refuses to be sworn, to affirm or to answer a relevant question when required to do so by a Visiting Tribunal,

is guilty of an offence.

Maximum penalty: $7 500 or imprisonment for 3 months.

(3) A person is not required to answer a question put pursuant to this section if the answer would tend to incriminate the person.

42—Immunity from liability of persons who constitute Visiting Tribunals

No liability attaches to a person who constitutes a Visiting Tribunal for any act or omission by the Visiting Tribunal in good faith and in the exercise or purported exercise of powers, or the discharge or purported discharge of duties, under this Act.

Division 2—Breaches of regulations

42A—Minor breach of prison regulations

(1) Where the CE is satisfied that a prisoner has committed a breach of a regulation that is specified to be a regulation to which this section applies, the CE may give the prisoner notice in writing that—

(a) sets out the date of the alleged offence and briefly states the facts on which the allegation is founded; and

(b) identifies the particular regulation that is alleged to have been breached; and

(c) specifies that the prisoner may elect to be charged with, and receive a formal hearing in relation to, the offence; and

(d) specifies the punishment that the CE proposes to impose if the prisoner does not elect to be charged with the offence.

(2) If the prisoner does not within 24 hours give notice in writing to the CE, or an officer or employee of the Department specified in the CE's notice, that the prisoner elects to be charged with the offence, the CE may, without affording further opportunity for persons—

(a) to hear or view evidence; or

(b) to call, examine or cross-examine witnesses; or

(c) to make submissions on the alleged breach or penalty,

impose on the prisoner one or both of the following penalties:

(d) forfeiture of any specified amenities or privileges for a specified period not exceeding 10 days; or

(e) exclusion from any work that is performed in association with other prisoners for a specified period not exceeding 10 days.

43—CE may deal with breach of prison regulations

(1) Where it is alleged that a prisoner has committed a breach of the regulations, the CE may, within the prescribed time, charge the prisoner with the offence, and conduct an inquiry into the allegation, in the prescribed manner.

(2) If, after conducting an inquiry under subsection (1), the CE is satisfied beyond reasonable doubt that the allegation has been proved, the CE may impose on the prisoner any one or more of the following penalties:

(a) forfeiture to the Crown of a sum, not exceeding the amount prescribed for the purposes of this paragraph, payable out of any money held by the CE on behalf of the prisoner, or any allowance to be paid to the prisoner under this Act; or

(b) forfeiture of any specified amenities or privileges for a specified period not exceeding 35 days; or

(c) exclusion from any work that is performed in association with other prisoners for a specified period not exceeding 21 days,

or may reprimand and caution the prisoner.

(3) If, after conducting an inquiry under subsection (1), the CE is not satisfied beyond reasonable doubt that the allegation has been proved, the CE must dismiss the charge.

44—CE may refer matter to Visiting Tribunal

(1) The CE may, at any time before imposing a penalty on a prisoner in respect of an alleged breach of the regulations, refer the matter to a Visiting Tribunal for hearing and determination.

(2) The Visiting Tribunal may, on hearing any matter referred to it under subsection (1) and on being satisfied beyond reasonable doubt that the allegation against the prisoner is proved, impose on the prisoner any one or more of the following penalties:

(c) forfeiture to the Crown of a sum, not exceeding the amount prescribed for the purposes of this paragraph, payable out of any money held by the CE on behalf of the prisoner, or any allowance to be paid to the prisoner under this Act; or

(d) forfeiture of any specified amenities or privileges for a specified period not exceeding 2 months; or

(e) exclusion from any work that is performed in association with other prisoners for a specified period not exceeding 28 days,

or it may reprimand and caution the prisoner.

(4) Where a prisoner causes any loss of or damage to property as a result of a breach of the regulations, the Visiting Tribunal may, whether or not it imposes a penalty in respect of the breach, direct that the prisoner pay to the owner of the property as compensation for the loss or damage such sum, not exceeding an amount prescribed for the purposes of this subsection, as the Visiting Tribunal thinks fit, payable out of any money held by the CE on behalf of the prisoner, or any allowance to be paid to the prisoner under this Act.

(5) If, after hearing a matter referred to it under subsection (1), the Visiting Tribunal is not satisfied beyond reasonable doubt that the allegation against the prisoner is proved, it must dismiss the charge.

45—Procedure at inquiry

In any proceedings under this Division for an offence against the regulations, the following provisions apply:

(a) the CE or Visiting Tribunal—

(i) must afford the prisoner the opportunity of hearing or viewing all the evidence in support of the charge; and

(ii) must afford the prisoner and the CE, or any officer or employee of the Department authorised by the CE for the purpose, reasonable opportunities to make submissions in relation to the charge and to call, examine or cross-examine witnesses; and

(iii) must permit the CE or authorised officer or employee to make submissions as to the penalty to be imposed; and

(iv) must permit the prisoner to hear any submissions made, and to make submissions, as to the penalty to be imposed;

(b) if the prisoner refuses to attend at the hearing of the proceedings, the CE or Visiting Tribunal may hear and determine the proceedings in the prisoner's absence;

(ba) the prisoner is not entitled to be represented in the proceedings by a legal practitioner;

(c) the CE or Visiting Tribunal is not, subject to this Act, bound by legal forms or technicalities or the rules of evidence, but may inform himself, herself or itself, in such manner as he, she or it thinks fit;

(d) where more than one penalty of forfeiture of amenities or privileges or exclusion from work is imposed for an offence, or for a number of offences arising out of the one incident, those penalties cannot be made consecutive one on the other;

(e) no conviction may be recorded against a prisoner who is found guilty of a breach of the regulations.

46—Appeals against penalty imposed by CE

(1) A prisoner may appeal to a Visiting Tribunal against any penalty imposed on the prisoner by the CE.

(2) An appeal under this section must be instituted in the prescribed manner.

(3) On the institution of an appeal under this section the penalty appealed against is suspended.

(4) On determining an appeal under this section the Visiting Tribunal may—

(a) affirm the penalty; or

(b) increase, decrease or otherwise vary the penalty, or revoke it and substitute any other penalty that could have been imposed in the first instance by the CE.

(5) No appeal lies against an order of a Visiting Tribunal made on an appeal under this section.

47—Appeals against orders of Visiting Tribunals

(1) A prisoner may appeal against an order of a Visiting Tribunal made in any proceedings against the prisoner under this Division on the ground that the proceedings were not conducted in accordance with the provisions of this Act.

(1a) An appeal under this section lies—

(a) if the Visiting Tribunal is constituted of a magistrate—to the District Court;

(b) in any other case—to the Magistrates Court.

(2) An appeal under this section must be instituted in the prescribed manner.

(2a) The notice of appeal must specify the grounds on which the appeal is made.

(3) On the institution of an appeal under this section, the order appealed against is suspended.

(4) On any appeal under this section the court may—

(a) dismiss the appeal; or

(b) quash the order of the Visiting Tribunal; or

(c) quash the order of the Visiting Tribunal and make any order that the court thinks should have been made by the Visiting Tribunal in the first instance.

(5) No appeal lies against a decision of a court on an appeal under this section.

48—Summary Procedure Act does not apply to proceedings under this Division

The *Summary Procedure Act 1921* does not apply to or in relation to any proceedings under this Division.

Division 3—Criminal offences

49—Disrupting security or order

(1) A prisoner must not take part in an unlawful assembly.

Maximum penalty: Imprisonment for 3 years.

(2) A prisoner must not take part in a riot or mutiny.

Maximum penalty:

(a) if, during the riot or mutiny, the prisoner wilfully and unlawfully damages or destroys, or attempts to damage or destroy, property that is part of a correctional institution and the security of the correctional institution is endangered by the act—imprisonment for 15 years; or

(b) if, during the riot or mutiny, the prisoner—

(i) demands something be done or not be done with threats of injury or detriment to any person or property; or

(ii) escapes or attempts to escape from lawful custody, or helps another prisoner to escape or attempt to escape from lawful custody,

imprisonment for 10 years; or

(c) if, during the riot or mutiny, the prisoner wilfully and unlawfully damages or destroys, or attempts to damage or destroy, any property—imprisonment for 7 years; or

(d) in any other case—imprisonment for 4 years.

(3) In this section—

mutiny means 3 or more prisoners collectively challenging authority under this Act, with intent to subvert the authority, if the security of the correctional institution is endangered;

riot means an unlawful assembly that has begun to act in so tumultuous a way as to disturb the peace;

unlawful assembly means 3 or more prisoners—

(a) assembled with intent to carry out a common purpose and there are reasonable grounds to believe the prisoners will—

(i) tumultuously disturb the peace; or

(ii) provoke other prisoners to tumultuously disturb the peace; or

(b) who, having assembled with intent to carry out a common purpose, whether or not the assembly was lawful, conduct themselves in a way that there are reasonable grounds to believe the prisoners will—

(i) tumultuously disturb the peace; or

(ii) provoke other prisoners to tumultuously disturb the peace.

49A—Possession of certain items by prisoners

A prisoner who has possession of—

(a) a controlled drug (within the meaning of the *Controlled Substances Act 1984*); or

(b) an item prescribed by the regulations for the purposes of this paragraph,

in a correctional institution without the permission of the CE is guilty of an offence.

Maximum penalty: Imprisonment for 5 years.

Division 4—Prisoners at large

50—Effect of prisoner being at large

(3) A prisoner is not, while unlawfully at large, serving his or her sentence of imprisonment.

50A—Prisoner must comply with conditions to which temporary leave of absence is subject

(1) A prisoner who has been granted leave of absence from a correctional institution by the CE pursuant to this Act and who contravenes or fails to comply with a condition to which the leave is subject is guilty of an offence.

Maximum penalty: Imprisonment for 1 year.

(2) A term of imprisonment to which a prisoner is sentenced for an offence against this section is cumulative on any other imprisonment that the prisoner is liable to serve.

51—Offences by persons other than prisoners

(1) A person who—

(a) communicates with a prisoner in a manner prohibited by the regulations; or

(b) delivers to a prisoner, or introduces into, or has possession of in, a correctional institution without the permission of the CE, any item prohibited by the regulations; or

(c) loiters outside a correctional institution for any unlawful purpose,

is guilty of an offence.

Maximum penalty:

(a) in the case of an offence against paragraph (b) of this subsection where the prohibited item is a controlled drug (within the meaning of the *Controlled Substances Act 1984*)—imprisonment for 10 years;

(ab) in the case of an offence against paragraph (b) of this subsection where the prohibited item is an item of a kind prescribed by the regulations for the purposes of this paragraph—imprisonment for 5 years;

(b) in any other case—imprisonment for 6 months.

(2) A person who, without the permission of the CE or without lawful excuse, has possession of a controlled drug (within the meaning of the *Controlled Substances Act 1984*) in a correctional institution buffer zone is guilty of an offence.

Maximum penalty: Imprisonment for 10 years.

(3) A person who, without the permission of the CE or without lawful excuse, has possession of a prohibited item of a kind prescribed by the regulations for the purposes of this subsection in a correctional institution buffer zone is guilty of an offence.

Maximum penalty: Imprisonment for 5 years.

(4) In this section—

correctional institution buffer zone—see subsection (5).

(5) The Minister may, by notice in the Gazette, declare an area surrounding the boundary of a correctional institution to be the correctional institution buffer zone for the correctional institution.

(6) The Minister may, by notice in the Gazette, revoke or vary a declaration under subsection (5).

52—Power of arrest

(1) An officer or employee of the Department may, without warrant, apprehend—

(a) any person who the officer or employee suspects on reasonable grounds of being an escaped prisoner or a prisoner otherwise unlawfully at large; or

(b) any person who the officer or employee suspects on reasonable grounds of having assisted or being about to assist a prisoner in an escape or attempted escape or of having removed or attempted to remove, or being about to remove, a prisoner from custody.

(1a) An officer or employee of the Department or a police officer may, without warrant, apprehend a person—

(a) who is subject to an order of a court or a warrant of commitment authorising their detention in custody; and

(b) who the officer or employee of the Department or police officer (as the case requires) suspects on reasonable grounds has been released from custody in error.

(2) An officer or employee of the Department or a police officer (as the case requires) who has apprehended a person pursuant to subsection (1) or (1a) must—

(a) in relation to a prisoner unlawfully at large or a person apprehended in the circumstances referred to in subsection (1a), return the prisoner forthwith to a correctional institution; and

(b) in relation to any other person, take the person forthwith to the nearest police station.

Part 6—Parole

Division 1—The Parole Board

55—Continuation of Parole Board

(1) The *Parole Board of South Australia* continues in existence.

(2) The Board will consist of 11 members appointed by the Governor.

(3) The membership of the Board must include—

(a) —

(i) a judge of the Supreme Court; or

(ii) a District Court judge; or

(iii) a person who has retired from the office of judge of the Supreme Court or District Court judge; or

(iv) a legal practitioner of at least seven years standing who has, in the opinion of the Governor, extensive knowledge of, and experience in, the criminal justice system; or

(v) a person who has, in the opinion of the Governor, extensive knowledge of, and experience in, the science of criminology, penology, or any other related science; and

(b) a legally qualified medical practitioner who has, in the opinion of the Governor, extensive knowledge of, and experience in, the practice of psychiatry; and

(c) a person who has, in the opinion of the Governor, extensive knowledge of, and experience in, criminology, sociology or any other related science; and

(d) a person who has, in the opinion of the Governor, extensive knowledge of, or experience in, matters related to the impact of crime on victims and the needs of victims of crime in relation to the criminal justice system; and

(e) a former police officer; and

(f) an Aboriginal or Torres Strait Islander person; and

(g) both women and men.

(3a) One member of the Board, being a person referred to in subsection (3)(a), must be appointed by the Governor to be the presiding member of the Board.

(4) An employee of the Department is not eligible to be appointed as a member of the Board.

56—Term of office of members

(2) A member of the Board will be appointed for such term, not exceeding three years, as the Governor determines and specifies in the instrument of appointment.

(3) On the expiration of the term of office of a member of the Board, the member is eligible for reappointment.

57—Allowances and expenses

(1) A member of the Board will be paid the allowances and expenses determined by the Remuneration Tribunal.

(2) Jurisdiction is, by force of this section, conferred on the Remuneration Tribunal to make a determination or perform any other functions required by this section.

(3) The Remuneration Tribunal may make different provision according to the member of the Board or the circumstances to which the determination is to apply and may vary an amount payable according to any other factor that the Remuneration Tribunal considers relevant.

(4) The Remuneration Tribunal must, at least once in each prescribed period, review the allowances and expenses referred to in subsection (1) and may, if it considers it appropriate to do so, determine to increase any such amount payable by a specified amount.

(5) The regulations may make further provision in relation to a determination of the Remuneration Tribunal for the purposes of this Act.

58—Removal from and vacancies of office

(1) The Governor may remove a member of the Board from office on the ground of—

(a) mental or physical incapacity to carry out satisfactorily the duties of office; or

(b) dishonourable conduct; or

(c) neglect of duty.

(2) The office of a member of the Board becomes vacant if the member—

(a) dies; or

(b) completes a term of office; or

(c) resigns by giving notice in writing to the Minister; or

(d) is removed from office by the Governor pursuant to subsection (1).

(3) On the office of a member of the Board becoming vacant, a person must be appointed to that office in accordance with this Act.

59—Deputies

(1) The Governor—

(a) must appoint one of the members of the Board to be the first deputy presiding member of the Board; and

(ab) must appoint one of the members of the Board to be the second deputy presiding member of the Board; and

(b) may appoint a suitable person to be the deputy of any member of the Board other than the presiding member or either of the deputy presiding members.

(2) Where a member is for any reason absent or unable to act as a member of the Board, any deputy appointed under subsection (1)(b) may act as a member of the Board.

(2a) For the purposes of subsection (1)(b), a person may be appointed as a deputy if the person has any of the qualifications referred to in section 55(3).

(3) If the presiding member of the Board is for any reason absent or unable to act for the purpose of section 74B or 77AA—

(a) if the first deputy presiding member of the Board is available, the first deputy presiding member must act as the presiding member for that purpose; or

(b) if the first deputy presiding member is for any reason absent or unable to act for that purpose, the second deputy presiding member of the Board must act as the presiding member for that purpose.

60—Proceedings of the Board

(1) Subject to this section, the Board will sit as a full board.

(2) If the presiding member thinks it necessary or desirable for the purpose of expediting the determination of proceedings before the Board, the Board may sit in separate divisions.

(3) A division of the Board will be constituted as follows:

(a) the presiding member and two other members of the Board;

(b) the first deputy presiding member and two other members of the Board;

(c) the second deputy presiding member and two other members of the Board;

(d) another member of the Board nominated by the presiding member and 2 other members of the Board.

(4) Where the Board sits as a full board, the following provisions apply:

(a) —

(i) the presiding member will preside; or

(ii) if the presiding member is absent—the first deputy presiding member will preside; or

(iii) if both the presiding member and the first deputy presiding member are absent—the second deputy presiding member will preside; or

(iv) if none of the members mentioned in the preceding subparagraphs is present—a member chosen from those members present will preside; and

(b) five members constitute a quorum and the Board cannot proceed with the hearing or determination of any matter unless a quorum is present; and

(c) a question arising for decision by the Board will be decided by a majority of the votes cast by the members present; and

(d) each member present is entitled to one vote and, in the event of an equality of votes, the person presiding is entitled to a second or casting vote.

(5) Where the Board sits in separate divisions, the following provisions apply:

(a) the presiding member, the first or second deputy presiding member, or the member nominated under subsection (3)(d), will preside at proceedings before the division of which he or she is a member; and

(b) a division of the Board cannot proceed with the hearing or determination of any matter unless all members of the division are present; and

(c) a decision in which all the members of a division of the Board concur is a decision of the Board; and

(d) the divisions of the Board may sit concurrently for the purpose of hearing and determining separate proceedings.

(6) Where the members of a division of the Board are unable to concur in a decision in any proceedings before that division, the person presiding over that division must refer the proceedings to the Board sitting as a full board for fresh hearing and determination.

(7) Subject to this Act, the Board, or a division of the Board, may conduct its proceedings as it thinks fit.

60A—Validity of acts of Board

(1) No act or proceeding of the Board is invalid by reason of a vacancy in its membership or a defect in the appointment of a member.

61—Judicial notice of Board documents

(1) Where a document purports to bear the signature of a member of the Board, it will be presumed in any proceedings before a court, in the absence of proof to the contrary, that the document had been duly signed by that member.

(2) An apparently genuine document purporting to be a record of any determination, decision or finding of the Board and purporting to be signed by the secretary to the Board is, in the absence of proof to the contrary, proof that the determination, decision or finding was made by the Board.

62—Appointment of secretary to the Board

(1) There will be a secretary to the Board who will be a Public Service employee.

(2) The position of secretary to the Board may be held in conjunction with any other position in the Public Service of the State.

63—Powers of the Board

(1) For the purposes of proceedings before the Board under this Act or any other Act, the Board may—

(a) by summons signed on behalf of the Board by a member of the Board, require any person to attend before the Board; or

(b) by summons signed on behalf of the Board by a member of the Board, require any person to produce any document relating to any matter before the Board; or

(c) require any person to furnish the Board with a written report or written information in relation to any aspect of a matter before the Board; or

(d) require any person appearing before the Board to answer on oath or affirmation any questions put by the Board that are relevant to any matter before the Board; or

(e) require any written report or information to be verified by statutory declaration.

(2) A person who—

(a) having been duly served with a summons, fails to attend before the Board, or fails to produce documents, as required by the summons; or

(b) wilfully insults the Board or any member of the Board; or

(c) misbehaves before the Board; or

(d) interrupts the proceedings of the Board; or

(e) refuses to be sworn or to affirm, or refuses to answer any question that the person would be compellable to answer before a court,

is guilty of an offence.

Maximum penalty: $5 000 or imprisonment for 3 months.

(3) The Board may (and must, if a prisoner of a prescribed class so requests) interview a prisoner at any time and, if such an interview is to be conducted outside the prison, may request the manager of the prison to cause the prisoner to be brought before the Board at a specified time and place.

(4) The Board is not obliged to interview a prisoner pursuant to the prisoner's request more than once in any year.

(5) For the purposes of this section, a prisoner is of a prescribed class if the prisoner is serving—

(a) a sentence of life imprisonment; or

(b) a sentence of indeterminate duration; or

(c) a sentence of imprisonment for a term of more than one year in respect of which a non-parole period has not been fixed.

64—Reports by Board

(1) The Board must, not later than 31 October in each year, report to the Minister on—

(a) the number of prisoners released on parole during the previous financial year; and

(b) the number of applications for parole during the previous financial year that were refused by the Board; and

(d) the number of persons returned to prison in the previous financial year on cancellation of parole, and the reasons for each such cancellation; and

(e) the work of the Board generally in the previous financial year; and

(f) such other matters as the Board thinks fit, or as the Minister may direct.

(1a) The Minister must, within 12 sitting days after receiving a report prepared under subsection (1), cause a copy of the report to be tabled in each House of Parliament.

(2) The Board must at least once in each designated period review the progress and circumstances of, and report to the Minister on, each prisoner serving a sentence of life imprisonment or any sentence of indeterminate duration and each prisoner serving a sentence for a term of more than one year in respect of whom a non-parole period has not been fixed.

(3) The Board must, at any time at the request of the Minister, report to the Minister—

(a) on any prisoner serving a sentence of life imprisonment or any sentence of indeterminate duration; or

(b) on any other matter relating to the administration of this Part.

(5) The Board must, on the request of the Attorney-General, provide a report to the Attorney-General on the progress and circumstances of a prisoner who is a high risk offender (within the meaning of the *Criminal Law (High Risk Offenders) Act 2015*), including such recommendations as the Board thinks fit as to whether or not an application for an extended supervision order under the *Criminal Law (High Risk Offenders) Act 2015* should be made in respect of the prisoner and, if such order is made, the conditions of the order to which the prisoner should be subject.

(6) In this section—

designated period means the period of time (which must be 5 years or less) designated by the presiding member of the Board for the purposes of subsection (2).

Division 3—Release on parole

66—Automatic release on parole for certain prisoners

(1) Subject to this section, the Board must order that a prisoner who is liable to serve a total period of imprisonment of less than 5 years and for whom a non-parole period has been fixed be released from prison or home detention on parole on the day on which the non-parole period expires.

(1a) However, if, because the commencement of a prisoner's non-parole period has been back dated, the non-parole period expires prior to the date on which it is fixed, the Board must order that the prisoner be released from prison or home detention on parole not later than 30 days after the day on which the non-parole period is fixed.

(2) Subsection (1) does not apply to—

(aa) a prisoner if any part of the imprisonment for which the person was sentenced is in respect of an offence committed while the prisoner was on parole; or

(a) a prisoner if any part of the imprisonment for which the prisoner was sentenced is in respect of a sexual offence; or

(ab) a prisoner if any part of the imprisonment for which the prisoner was sentenced is in respect of an offence of personal violence; or

(aba) a prisoner if any part of the imprisonment for which the prisoner was sentenced is in respect of a serious drug offence; or

(ac) a prisoner if any part of the imprisonment for which the prisoner was sentenced is in respect of an offence against section 85 (being an offence consisting of arson) or 85B of the *Criminal Law Consolidation Act 1935*; or

(aca) a prisoner who is a serious firearm offender (within the meaning of Part 3 Division 3 of the *Sentencing Act 2017*); or

(acb) a prisoner who is a terror suspect; or

(ad) a prisoner who has been returned to prison under section 74 or 74AAA for breach of a parole condition; or

(b) a prisoner of a class excluded by the regulations from the application of subsection (1).

(3) In this section—

offence of personal violence means any of the following offences (including a substantially similar offence against a corresponding previous enactment or the law of another place):

(a) an offence against the person under Part 3 of the *Criminal Law Consolidation Act 1935*;

(b) a home invasion;

(c) an offence of robbery or aggravated robbery;

(d) a conspiracy to commit, or an attempt to commit, an offence referred to in paragraph (a), (b) or (c);

(e) an offence that is committed in circumstances in which the offender uses violence or a threat of violence for the purpose of committing the offence, in the course of committing the offence, or for the purpose of escaping from the scene of the offence;

serious drug offence means—

(a) an offence against Part 5 Division 2 or 3 of the *Controlled Substances Act 1984* or a substantially similar offence against a corresponding previous enactment; or

(b) a conspiracy to commit, or an attempt to commit, such an offence.

67—Release on parole by application to Board

(1) This section applies to a prisoner if—

(a) section 66 does not apply to the prisoner; and

(b) a non-parole period has been fixed for the prisoner; and

(c) the prisoner is not serving a sentence of indeterminate duration.

(2) If this section applies to a prisoner—

(a) the prisoner; or

(b) the CE, or any officer or employee of the Department authorised by the CE,

may apply in the prescribed manner to the Board for the prisoner's release on parole.

(3) An application cannot be made under subsection (1) more than six months before the expiration of the non-parole period fixed in respect of the prisoner's sentence.

(3a) The paramount consideration of the Board when determining an application under this section for the release of a prisoner on parole must be the safety of the community.

(4) The Board must also take the following matters into consideration when determining an application under this section:

(a) any relevant remarks made by the court in passing sentence; and

(b) the likelihood of the prisoner complying with the conditions of parole; and

(c) where the prisoner was imprisoned for an offence or offences involving violence, the circumstances and gravity of the offence, or offences, for which the prisoner was sentenced to imprisonment (but the Board may not substitute its view of these matters for the view expressed by the court in passing sentence); and

(ca) if, in relation to an offence for which the prisoner was imprisoned, there is a registered victim—the impact that the release of the prisoner on parole is likely to have on the registered victim and the registered victim's family; and

(cb) in the case of a prisoner who is serving a sentence of life imprisonment where the Board is informed of the impact that the release of the prisoner on parole is likely to have on a victim of an offence for which the prisoner was imprisoned (other than a registered victim) and the victim's family—that impact; and

(d) the behaviour of the prisoner while in prison or on home detention; and

(e) the behaviour of the prisoner during any previous release on parole; and

(f) any reports tendered to the Board—

(i) on the social background, or the medical, psychological or psychiatric condition, of the prisoner;

(ii) from the CE (including recommendations (if any) as to the conditions that should, in the opinion of the CE, be imposed by the Board on the prisoner's release on parole); and

(g) the probable circumstances of the prisoner after release from prison or home detention; and

(h) any other matters that the Board thinks are relevant.

(4a) Information as to the impact referred to in subsection (4)(ca) or (cb) may be provided to the Board by the registered victim, other victim or family member (as the case requires) or on their behalf by the Commissioner for Victim's Rights.

(5) Subject to subsections (6) to (7b) (inclusive), the Board may, on an application under this section, order that a prisoner be released from prison on parole on a day specified in the order.

(6) Without derogating from subsections (3a) and (4), the Board must not order that a prisoner serving a sentence of life imprisonment for an offence of murder be released on parole unless the Board is satisfied that the prisoner has satisfactorily cooperated in the investigation of the offence (whether the cooperation occurred before or after the prisoner was sentenced to imprisonment).

(7) For the purposes of subsection (6), the Board must take into account any report tendered to the Board from the Commissioner of Police evaluating the prisoner's cooperation in the investigation of the offence, including—

(a) the nature and extent of the prisoner's cooperation; and

(b) the timeliness of the cooperation; and

(c) the truthfulness, completeness and reliability of any information or evidence provided by the prisoner; and

(d) the significance and usefulness of the prisoner's cooperation.

(7a) If the Board orders the release on parole of a prisoner of a prescribed class—

(a) the Board must provide a copy of the order and a written statement of the reasons for making the order to the following persons:

(i) the CE;

(ii) the prisoner;

(iii) the Attorney-General;

(iv) the Commissioner of Police;

(v) the Commissioner for Victims' Rights;

(vi) if, in relation to an offence for which the prisoner was imprisoned, there is a registered victim—the registered victim, unless the victim has indicated to the Board that he or she does not wish to be so notified; and

(b) the day of release specified in the order must be a day that falls after the period within which an application for review of the order under Division 4 may be made.

(7ab) The Board must not, in providing reasons to a prisoner under subsection (7a)(a)(ii), disclose to the prisoner information relating to a victim of an offence for which the prisoner is serving a sentence of imprisonment or a member of the victim's immediate family.

(7b) If an order for release on parole of a prisoner of a prescribed class is stayed by operation of section 77F(1) (as a result of an application for review of the order being made under Division 4), the release of the prisoner will not take effect on the day specified in the order (and, a copy of the application for review served on the CE is sufficient authority for the continued detention of the prisoner in custody pending determination of the review).

(8) The Board cannot specify a release date under this section that is earlier than the day on which the prisoner's non-parole period expires.

(9) The Board must, not more than 30 days after refusing an application by a prisoner for release on parole, notify the prisoner in writing of—

(a) its refusal; and

(b) the reasons for its refusal and of any matters that might assist the prisoner in making any further application for parole; and

(c) a date, not less than six months or more than one year after the date on which the Board refuses the application, before which the Board will not accept any further application by the prisoner for release on parole.

(10) The Board is not obliged to (but may, if in its opinion good reason exists for doing so) accept a further application by a prisoner for release on parole before the date notified by the Board under subsection (9).

(11) For the purposes of subsection (6), a reference to an ***offence of murder*** includes—

(a) an offence of conspiracy to murder; and

(b) an offence of aiding, abetting, counselling or procuring the commission of murder.

(12) In this section—

prisoner of a prescribed class has the same meaning as in Division 4.

68—Conditions of release on parole

(1) The release on parole of a prisoner serving a sentence of life imprisonment—

(a) is subject to each of the following conditions:

(i) a condition prohibiting the prisoner from committing any offence;

(ia) a condition that the prisoner not possess a firearm or ammunition (both within the meaning of the *Firearms Act 2015*) or any part of a firearm;

(ii) a condition prohibiting the prisoner from possessing an offensive weapon unless the Board permits the prisoner to possess such a weapon and the prisoner complies with the terms and conditions of the permission;

(iii) until the expiration of the period of parole (or for such lesser period as may be specified by the Board)—a condition that the prisoner must—

(A) be under the supervision of a community corrections officer; and

(B) obey the reasonable directions of the community corrections officer; and

(C) submit to such tests (including testing without notice) for gunshot residue as the community corrections officer may reasonably require; and

(b) may be subject to any other condition to be effective until the expiration of the period of parole (or such earlier date as is specified by the Board), including a condition that, for the period of up to 1 year commencing on the day on which the prisoner is released, the prisoner must—

(i) reside at specified premises (including premises declared under this Act to be a probation and parole hostel or a prison); and

(ii) undertake at specified places such activities and programs as determined by the Board from time to time to assist in the reintegration of the prisoner into the community.

(1aaa) In addition, the Board must consider imposing a condition on the release on parole of a prisoner serving a sentence of life imprisonment that the prisoner be monitored by use of an electronic device to be effective until the expiration of the period of parole (or such earlier date as is specified by the Board).

(1aa) The release on parole of a prisoner (other than a prisoner serving a sentence of life imprisonment)—

(a) is subject to each of the following conditions:

(i) a condition prohibiting the prisoner from committing any offence;

(ii) a condition prohibiting the prisoner from possessing an offensive weapon unless the Board permits the prisoner to possess such a weapon and the prisoner complies with the terms and conditions of the permission;

(iii) until the expiration of the period of parole (or such earlier date as is specified by the Board)—a condition that the prisoner must—

(A) be under the supervision of a community corrections officer; and

(B) obey the reasonable directions of the community corrections officer; and

(b) —

(i) in the case of a prisoner released under section 66—is subject to the prescribed conditions; and

(ii) in all cases—may be subject to any other condition (including a condition that the prisoner be monitored by use of an electronic device) to be effective until the expiration of the period of parole (or such earlier date as is specified by the Board).

(1a) If the prisoner was sentenced to imprisonment for a child sexual offence, the Board must consider imposing the following conditions on the release of the prisoner:

(a) a condition preventing the prisoner from loitering, without reasonable excuse, at or in the vicinity of a school, public toilet or place at which children are regularly present while children are present at the school, toilet or place;

(b) a condition preventing the prisoner from engaging in remunerative or voluntary work with children or at a place used for the education, care or recreation of children;

(c) a condition preventing the prisoner from providing or offering to provide accommodation to a child who is not related to the prisoner by blood or marriage or of whom the prisoner does not have lawful custody;

(d) a condition requiring the prisoner, on making an application for employment, to provide the prospective employer with a report about the prisoner's criminal history;

(e) a condition requiring the prisoner to be monitored by use of an electronic device.

(1ab) If the Board is satisfied that a prisoner will not, on their release on parole, be undertaking remunerative or voluntary work or a course of education, training or instruction, the Board must consider imposing a condition on that release to be effective until the expiration of the period of parole (or such earlier date as is specified by the Board) that the prisoner perform community service as determined by the Board.

(1ac) If a person subject to a parole condition requiring performance of community service is sentenced to imprisonment for an offence (whenever committed) or for non-payment of a pecuniary sum or is returned to prison under this Division, the parole condition will be taken to have been revoked.

(1b) The paramount consideration of the Board when fixing conditions to which the release of a prisoner on parole will be subject must be the safety of the community.

(2) The Board must also take the following matters into consideration when fixing conditions to which the release of a prisoner on parole will be subject:

(a) any remarks made by the court in passing sentence; and

(b) the likelihood of the prisoner complying with the conditions; and

(c) the circumstances and gravity of the offence, or offences, for which the prisoner was sentenced to imprisonment; and

(ca) if, in relation to an offence for which the prisoner was imprisoned, there is a registered victim—the impact that the release of the prisoner on parole is likely to have on the registered victim and the registered victim's family; and

(cb) in the case of a prisoner who is serving a sentence of life imprisonment where the Board is informed of the impact that the release of the prisoner on parole is likely to have on a victim of an offence for which the prisoner was imprisoned (other than a registered victim) and the victim's family—that impact; and

(d) the behaviour of the prisoner while in prison or on home detention; and

(e) the behaviour of the prisoner during any previous release on parole; and

(f) any reports tendered to the Board—

(i) on the social background, or the medical, psychological or psychiatric condition, of the prisoner;

(ii) from community corrections officers or other officers or employees of the Department; and

(g) the probable circumstances of the prisoner after release from prison or home detention; and

(h) any other matters that the Board thinks are relevant.

(3) Information as to the impact referred to in subsection (2)(ca) or (cb) may be provided to the Board by the registered victim, other victim or family member (as the case requires) or on their behalf by the Commissioner for Victim's Rights.

(4) Despite any other provision of this Division but subject to subsection (4a), a prisoner must not be released on parole unless the prisoner has accepted in writing the conditions to which the parole will be subject.

(4a) If, in the opinion of the CE, a prisoner is unreasonably refusing to accept the conditions to which the prisoner's parole will be subject, or is unable to accept them due to a physical or cognitive impairment—

(a) the CE may accept the conditions on behalf of the prisoner; and

(b) the prisoner will be taken to have accepted the conditions from the date of acceptance by the CE.

(5) If the parole conditions of a prisoner who is to be released under section 66 are not accepted by or on behalf of the prisoner, the Board—

(a) must review the circumstances of the prisoner at intervals of not less than 3 months or more than 12; and

(b) may, if the parole conditions will now be accepted by or on behalf of the prisoner, order the release of the prisoner on that acceptance.

(6) For the purposes of subsection (1aa)(b)(i), the presiding member of the Board must determine from time to time a set of conditions to which release on parole under section 66 will be subject.

(7) The presiding member of the Board must ensure that an up to date copy of the prescribed conditions is published in the Gazette and on a website determined by the presiding member.

(8) In this section—

prescribed conditions means the conditions determined by the presiding member of the Board under subsection (6).

68A—Board may direct person to surrender firearm etc

(1) The Board may, in relation to the release of a prisoner on parole that is subject to the condition imposed by section 68(1)(a)(ia), direct the prisoner to surrender forthwith at a police station specified by the Board any firearm, ammunition or part of a firearm owned or possessed by the prisoner.

(2) A person who refuses or fails to comply with a direction under subsection (1) is guilty of an offence.

Maximum penalty: $10 000 or imprisonment for 2 years.

(3) No criminal liability attaches to a person to the extent that he or she is complying with a direction under this section.

(4) The Commissioner of Police must deal with any surrendered firearm, ammunition or part of a firearm in accordance with the scheme set out in the regulations.

(5) No compensation is payable by the Crown in respect of the exercise of a power or function under this section.

(6) The regulations may provide for the payment, recovery or waiver of fees in respect of this section.

69—Duration of parole

(1) A prisoner (not being a prisoner serving a sentence of life imprisonment) who is released on parole will, unless the release is cancelled or suspended, the parole order is discharged or the sentence is extinguished, remain on parole until the expiry of the term, or terms, of imprisonment to which the prisoner was sentenced.

(2) A prisoner serving a sentence of life imprisonment who is released on parole after the commencement of this subsection will, unless the release is cancelled or suspended, or the sentence is extinguished, remain on parole for the remainder of the sentence.

71—Variation or revocation of parole conditions

(1) Where a person has been released on parole from a sentence other than a sentence of life imprisonment, the Board may, on the application of that person or of its own motion, vary or revoke a condition to which the parole is subject.

(2) Where a person has been released on parole from a sentence of life imprisonment, the Board may, on the application of that person or an interested person, or of its own motion, vary or revoke a condition to which the parole is subject.

(3) The Board cannot—

(a) in the case of a person released on parole from a sentence other than a sentence of life imprisonment—exercise its powers under this section of its own motion, unless it has given reasonable notice of its intention to do so to that person and has considered any submissions made by the person on the matter; or

(b) in the case of a person released on parole from a sentence of life imprisonment—exercise its powers under this section—

(i) of its own motion, unless it has given reasonable notice of its intention to do so to that person and each interested person and has considered any submissions made by any such person on the matter; or

(ii) on application from the person unless it has given reasonable notice of its intention to do so to each interested person and has considered any submissions made by any such person on the matter.

(4) The Board cannot make an order under this section in relation to a person who is under the supervision of a community corrections officer unless it has obtained and considered a report from the CE.

(5) The Board may only vary or revoke the conditions imposed by section 68(1)(a)(ia) and (iii)(C) on the release on parole of a person if the Board is satisfied that—

(a) there are cogent reasons to do so; and

(b) the possession of a firearm, ammunition or part of a firearm by the person does not represent an undue risk to the safety of the public.

(6) In this section—

interested person means any of the following persons:

(a) the Attorney-General;

(b) the Commissioner of Police;

(c) the Commissioner for Victims' Rights.

72—Discharge from parole of prisoners other than life prisoners

(1) The Board may, on the application of a person who has been released on parole (not being a person serving a sentence of life imprisonment), make an order discharging the person from parole.

(2) The Board cannot make an order under this section in relation to a person who is under the supervision of a community corrections officer unless it has obtained and considered a report from the CE.

(3) Where a person has been discharged from parole pursuant to this section, the sentence, or sentences, of imprisonment will, subject to this Part, be taken to have been wholly satisfied.

74—Board may take action for breach of parole conditions

(1) If the Board is satisfied that—

(a) in the case of a person released on parole who is serving a sentence of life imprisonment—the person has, while on parole, breached a condition of the parole; or

(b) in the case of any other person released on parole—the person has, while on parole, breached a condition of the parole that is constituted by the commission of an offence or that is, in the opinion of the Board, a serious breach,

the Board may, by order, direct that the person serve in prison the balance of the sentence, or sentences, of imprisonment in respect of which the person was on parole, being the balance unexpired as at the day on which the breach was committed.

(1a) Subsection (1) applies notwithstanding that, at the time of finding the breach proved, the parole has expired or been discharged.

(1b) Where the Board makes an order under subsection (1) in respect of a person who is still on parole, the Board must order that the person's release on parole be cancelled.

(2) The Board cannot make an order under this section in relation to a person who is under the supervision of a community corrections officer unless it has obtained and considered a report from the CE.

(3) Where the release of a person was cancelled for breach of parole conditions before the commencement of the *Prisons Act Amendment Act (No. 2) 1983* the person is (subject to any non-parole period that may have been fixed) liable to serve in prison the balance of the sentence, or sentences, unexpired as at the day on which the breach was committed.

(4a) If a person who has been returned to prison pursuant to this section commits an offence while in prison and a sentence of imprisonment is imposed for the offence, the person is liable to serve in prison the balance of the sentence, or sentences, unexpired as at the day on which the offence was committed.

(5) If a person who is returned to prison under this section is released on parole, that release will be taken to be under the order of the Board in force immediately prior to the return of the person to prison.

(6) Any period for which the person is detained in custody or in prison after breaching the condition is to be counted as or towards the period that the person is liable to serve in prison under this section (and any date on which the sentence is to be taken to have commenced will be fixed accordingly).

74AAA—Board may suspend release on parole or take other action for certain breaches of parole conditions

(1) If the Board is satisfied that a person who has been released on parole (not being a person serving a sentence of life imprisonment) has, while on parole, breached a condition of the parole (other than a breach of a kind referred to in section 74(1)(b)), the Board may, by order—

(a) direct that the person serve in prison a period of their remaining balance that the Board considers appropriate, but not exceeding—

(i) the period between the day on which the breach occurred and the date of expiry of the parole; or

(ii) 6 months,

whichever is the lesser; or

(b) vary the conditions of, or impose further conditions on, the person's release on parole.

(2) Subsection (1)(a) applies despite the fact that, at the time of finding the breach proved, the parole has expired or been discharged.

(3) Without limiting the generality of subsection (1)(b), a condition imposed under subsection (1)(b) may require the person—

(a) to reside at specified premises (including premises declared under this Act to be a probation and parole hostel); and

(b) to undertake at specified places such activities and programs as are determined by the Board from time to time.

(4) The Board cannot make an order under this section in relation to a person who is under the supervision of a community corrections officer unless it has obtained and considered a report from the CE.

(5) If a person who has been returned to prison pursuant to this section commits an offence while in prison and a sentence of imprisonment is imposed for the offence, the person is liable to serve in prison the balance of the sentence, or sentences, unexpired as at the day on which the offence was committed.

(6) The following provisions apply to the parole of a person in respect of whom the Board makes an order under subsection (1)(a):

(a) the parole is suspended for the duration of the period served in prison under the order;

(b) on release from prison, the suspension of parole ceases (so that the person will be on parole under the order of the Board in force immediately prior to the return of the person to prison).

(7) Despite subsection (6)(b), the release of a person from prison will not be release on parole if the period of their parole has expired.

(8) For the purposes of this section, a person's parole will be taken to expire if the date of expiry of the parole occurs while the person is in prison in accordance with an order made under subsection (1)(a) (despite the suspension of the parole under this section).

(9) Any period for which the person is detained in custody or in prison after breaching a condition of parole is to be counted as or towards the period that the person is liable to serve in prison under this section (and any date on which the period to be served is to be taken to have commenced will be fixed accordingly).

(10) In this section—

remaining balance, in relation to a person who has breached a condition of parole, means the balance of the sentence, or sentences, of imprisonment in respect of which the person was on parole (being the balance unexpired as at the day on which the breach was committed).

74AA—Board may impose community service for breach of conditions

(1) If the Board is satisfied that a person who is still on parole has, while on parole, breached a condition of the parole, the Board may, instead of exercising its powers under section 74 or section 74AAA, impose a further condition on the parole requiring the person to serve a specified number of hours of community service.

(2) The Board cannot exercise its powers under subsection (1) if the parole is already subject to a condition requiring performance of community service.

(3) The Board cannot exercise its powers under subsection (1) in relation to a person who is under the supervision of a community corrections officer unless it has obtained and considered a report from that community corrections officer.

(4) If the Board imposes a parole condition requiring performance of community service pursuant to this section, the following provisions apply:

(a) the number of hours of community service to be performed cannot be less than 40 or more than 200;

(b) the Board may impose ancillary conditions on the parole requiring the person—

(i) to perform the community service within a specified period;

(ii) to report to a specified place not later than two working days after the date of the hearing unless, within that period, the person receives a notice from the CE to the contrary;

(iii) to obey the lawful directions of the community corrections officer to whom the person is assigned;

(iv) to do, or refrain from doing, such other things as the Board thinks necessary for ensuring proper performance of the community service;

(c) the person is required to perform the community service for not less than 4 or more than 24 hours in any week and on such day, or days, as the community corrections officer to whom the person is assigned may direct;

(d) the person cannot, except in circumstances approved by the Minister, be required to perform the community service for a continuous period exceeding 7.5 hours;

(e) one hour of any period of community service exceeding 4 hours is to be a meal break;

(f) the person cannot be required to perform community service at a time that would interfere with his or her remunerated employment or with a course of training or instruction relating to, or likely to assist in him or her obtaining, such employment, or that would cause unreasonable disruption of the person's commitments in caring for his or her children;

(g) the person cannot be required to perform community service at a time that would cause him or her to offend against a rule of a religion that he or she practises;

(h) the attendance of the person at any educational or recreational course of instruction approved by the Minister will be taken to be performance of community service;

(i) the person will not be remunerated for the performance of the community service.

(5) A community corrections officer to whom a person is assigned—

(a) may give reasonable directions to the person requiring the person—

(i) to report to a community service centre or other place at certain times; or

(ii) to notify the officer of any change in the person's place of residence or employment; or

(iii) to obtain the officer's written permission before leaving the State for any reason; or

(iv) to carry out certain projects or tasks as community service; or

(v) to undertake, or participate in, courses of instruction at a community service centre or other place; or

(vi) to behave in a particular manner while undertaking community service; and

(b) may give the person other directions of a kind authorised by the Minister, either generally or in relation to that person.

(6) If a person who is subject to a parole condition requiring performance of community service is sentenced to imprisonment for an offence (whenever committed) or for non-payment of a pecuniary sum or is returned to prison pursuant to this Division, the parole condition will be taken to have been revoked.

74A—Suspension of parole while serving imprisonment for offence committed before release on parole

Where a person who has been released on parole is sentenced to imprisonment for an offence committed before release on parole or for non-payment of a pecuniary sum—

(a) the parole is suspended for the duration of the imprisonment actually served in prison in pursuance of the subsequent sentence; and

(b) on release from prison—

(i) the person will continue on parole in respect of the sentence that was first imposed for the balance of the period of parole remaining as at the date of the commencement of the subsequent sentence; and

(ii) if released on parole from the subsequent sentence, the person will on release also be on parole in respect of that sentence for the period of that parole.

74B—Suspension of parole if person becomes a terror suspect

(1) If a person becomes a terror suspect while on parole or a terror suspect is, while on parole, the subject of a certificate issued by the Commissioner of Police under subsection (9)—

(a) the presiding member of the Board must, on becoming aware of that fact, issue a warrant for the arrest of the person; and

(b) on the warrant being so issued, the person's parole is suspended until a determination is made under this section.

(2) A warrant issued under this section authorises the detention of the person in custody pending the making of a determination under this section.

(3) The presiding member of the Board must, as soon as practicable, determine whether there are special circumstances justifying the person's continued release on parole.

(4) A terrorism intelligence authority is entitled to be heard by the presiding member of the Board in relation to the making of a determination under this section.

(5) The presiding member of the Board is not required to provide to the person any grounds or reasons for a determination under this section.

(6) Information forming the basis for the making of a determination under this section must not be disclosed to any person (except to the Attorney-General, a court or a person to whom a terrorism intelligence authority authorises its disclosure) if, at the time at which the question of disclosure is to be decided, the information is properly classified by the terrorism intelligence authority as terrorism intelligence under section 74B of the *Police Act 1998* (whether or not the information was so classified at the time at which the determination under this section was made).

(7) If the presiding member of the Board determines that there are special circumstances justifying the person's continued release on parole, the suspension under this section is lifted and, on release from custody under this section, the person will continue on parole for the balance of the period of parole remaining as at the date on which the parole was suspended under this section.

(8) If the presiding member of the Board determines that there are not special circumstances justifying the person's continued release on parole, the person's parole is cancelled and the person is liable to serve in prison the balance of the sentence, or sentences, of imprisonment in respect of which the person was on parole, being the balance unexpired as at the day on which the parole was suspended under this section.

(9) The Commissioner of Police may issue a certificate for the purposes of this section in relation to a terror suspect who is on parole certifying that the Commissioner is satisfied that significant new information has come to light in relation to the person that should be considered by the presiding member of the Board.

(10) In any proceedings, a document that appears to be a certificate issued by the Commissioner of Police under this section may be admitted in evidence and is proof, in the absence of proof to the contrary, of the matter so certified.

75—Automatic cancellation or suspension of parole on imprisonment for offence committed while on parole

(1) Where—

(a) a person is sentenced to imprisonment for an offence committed while on parole and—

(i) the sentence is not suspended; or

(ii) the court does not order that the person serve the sentence subject to a home detention order or an intensive correction order under the *Sentencing Act 2017*; or

(b) the suspension of a sentence of imprisonment imposed for an offence committed by a person while on parole is revoked,

the person is liable to serve in prison the balance of the sentence, or sentences, of imprisonment in respect of which he or she was on parole, being the balance unexpired as at the day on which the offence was committed.

(1aa) If—

(a) a person is sentenced to imprisonment for an offence committed while on parole; and

(b) the court orders that the person serve the sentence subject to a home detention order or an intensive correction order under the *Sentencing Act 2017*,

the person is liable to serve the balance of the sentence, or sentences, of imprisonment in respect of which the person was on parole, being the balance unexpired as at the day on which the offence was committed (and the person will serve that balance subject to the conditions of the home detention order or intensive correction order (as the case requires)).

Note—

Section 45(2) of the *Sentencing Act 2017* provides that the sentence for the offence committed while on parole will be cumulative on the sentence, or sentences, in respect of which the defendant was on parole.

(1a) Subsections (1) and (1aa) apply notwithstanding that, at the time of conviction of the person or of the revocation of the suspended sentence, the parole may have expired or been discharged.

(2) Where a person referred to in subsection (1) or (1aa) is, at the time of conviction or revocation of the suspended sentence, still on parole, the parole is, by virtue of this subsection, cancelled.

(3) Any period for which the person is detained in custody or in prison after committing the offence is to be counted as or towards the period that the person is liable to serve under this section in prison or under a home detention order or intensive correction order (as the case requires) (and any date on which the sentence is to be taken to have commenced will be fixed accordingly).

76—Apprehension etc of parolees on Board warrant

(1) If the presiding member or deputy presiding member of the Board suspects on reasonable grounds that a person who has been released on parole may have breached a condition of parole, the presiding member or deputy presiding member may—

(a) summon the person to attend before the Board; or

(b) for the purpose of bringing the person before the Board, issue a warrant for the arrest of the person.

(2) If a member of the Board (other than the presiding member or deputy presiding member) suspects on reasonable grounds that a person who has been released on parole may have breached a condition of parole—

(a) the member may summon the person to attend before the Board; or

(b) for the purpose of bringing the person before the Board, the member may apply to—

(i) the presiding member or deputy presiding member of the Board for the issue of a warrant for the arrest of the person; or

(ii) a magistrate for the issue of a warrant for the arrest of the person.

(3) If a person fails to comply with a summons to attend before the Board issued under this section—

(a) the Board may proceed to deal with the matter in the person's absence; or

(b) for the purpose of bringing the person before the Board, the presiding member or deputy presiding member may issue a warrant for the arrest of the person.

(4) A warrant issued under this section authorises the detention of the person in custody pending appearance before the Board.

(5) A member of the Board may apply to the presiding member or deputy presiding member of the Board for a warrant for the arrest and return to prison of a person whose release on parole has been cancelled.

(6) The presiding member or deputy presiding member of the Board (as the case requires) must, on application under this section, issue a warrant for the arrest of a person or for the arrest and return to prison of a person (as the case may require) unless it is apparent, on the face of the application, that no reasonable grounds exist for the issue of the warrant.

(7) The Board may, if it thinks there is good reason to do so, by order, cancel a warrant issued under this section that has not been executed.

76A—Apprehension etc of parolees on application of CE

(1) If the CE or a police officer suspects on reasonable grounds that a person who has been released on parole may have breached a condition of parole, the CE or police officer may apply to—

(a) the presiding member or deputy presiding member of the Board; or

(b) if, after making reasonable efforts to contact the presiding member and deputy presiding member, neither is available—a magistrate,

for the issue of a warrant for the arrest of the person.

(2) A warrant issued under this section authorises the detention of the person in custody pending appearance before the Board.

(3) A magistrate must, on application under this section, issue a warrant for the arrest of a person or for the arrest and return to prison of a person (as the case may require) unless it is apparent, on the face of the application, that no reasonable grounds exist for the issue of the warrant.

(4) If a warrant is issued by a magistrate under this section—

(a) the CE or police officer (as the case requires) must, within 2 working days of the warrant being issued, provide the Board with a written report on the matter; and

(b) the warrant will expire at the end of the period of 2 working days after the day on which the report is provided to the Board; and

(c) the presiding member or deputy presiding member of the Board must consider the report within 2 working days after receipt and—

(i) issue a fresh warrant for the continued detention of the person pending appearance before the Board; or

(ii) cancel the warrant, order that the person be released from custody and, if appearance before the Board is required, issue a summons for the person to appear before the Board.

(5) If a warrant expires under subsection (4)(b) or a fresh warrant is not issued under subsection (4)(c)(i), the person must be released from detention.

(6) The Board may, if it thinks there is good reason to do so, by order, cancel a warrant issued under this section that has not been executed.

76B—Arrest of parolee by police officer

(1) A police officer may, on the authorisation of a senior police officer, without warrant, arrest a person who has been released on parole if the police officer suspects on reasonable grounds that the person has, while on parole, breached a condition of parole and the police officer is satisfied that—

(a) the breach is not trivial; and

(b) unless the person is immediately arrested, the person is likely to continue to breach conditions of parole, commit further breaches or commit an offence.

(2) If a person is arrested under subsection (1)—

(a) the person must be taken to the nearest police station; and

(b) within 12 hours of the arrest—the presiding member or deputy presiding member of the Board (or, if neither of those members is available, a magistrate) must be notified of the arrest; and

(c) as soon as is reasonably practicable after being so notified—the presiding member or deputy presiding member (or the magistrate) (as the case requires) must, by order, direct that the person—

(i) be detained in a correctional institution pending attendance before the Board; or

(ii) be released and summoned to attend before the Board; or

(iii) be released from detention.

(3) In this section—

senior police officer means a police officer of or above the rank of Inspector.

77—Proceedings before the Board

(1) The Board must, on receiving an application under this Part, notify the following persons of the receipt of the application and the day and time fixed for the hearing of the application:

(a) the prisoner to whom the application relates;

(b) the CE;

(c) the Commissioner of Police;

(d) if, in relation to an offence for which the prisoner was imprisoned, there is a registered victim—the registered victim;

(e) if the prisoner to whom the application relates is a terror suspect—a terrorism intelligence authority.

(1a) However, the Board is not required to notify the registered victim if the victim has indicated to the Board that he or she does not wish to be so notified.

(2) For the purposes of any proceedings under this Part—

(a) the CE, or any officer or employee of the Department authorised by the CE for the purpose, may make such submissions to the Board in writing as he or she thinks fit; and

(b) the Commissioner of Police, or any police officer authorised by the Commissioner for the purpose, may make such submissions to the Board in writing as he or she thinks fit; and

(ba) the following persons may make such submissions to the Board as they think fit in writing or, by prior arrangement with the Board, in person:

(i) the registered victim;

(ii) any other victim of an offence for which the prisoner was imprisoned; and

(c) the person to whom the proceedings relate may make such submissions to the Board in writing as he or she thinks fit.

(2a) In proceedings for the purposes of this Part relating to an alleged breach of a parole condition by a person released on parole who is serving a sentence of life imprisonment, the Board must—

(a) give notice of the date and time fixed for hearing the matter to—

(i) the Attorney-General; and

(ii) the Commissioner of Police; and

(iii) the Commissioner for Victims' Rights; and

(b) take into account any submissions made to the Board in relation to the matter by a person referred to in paragraph (a)(i) to (iii).

(3) The person to whom any proceedings before the Board relate is entitled to be represented in those proceedings by a legal practitioner but, if the person is a prisoner, the person is not entitled to be physically present in those proceedings before the Board (and the Board may deal with the proceedings in the person's absence).

(3a) Despite subsection (3), the Board may, in proceedings before the Board, if the Board considers it appropriate to do so in a particular case—

(a) receive evidence or submissions from a prisoner who is not physically present before the Board by means of an audio visual link or an audio link; or

(b) allow the prisoner to appear or be physically present before the Board.

(4) The Board may, on written request, give details of the orders made by the Board in any proceedings relating to a prisoner or parolee to—

(a) a person who made submissions to the Board in the proceedings; or

(b) a member of the prisoner's or parolee's family or a close associate of the prisoner or parolee; or

(c) a legal practitioner who represents the prisoner or parolee; or

(d) any other person who the Board thinks has a proper interest in the release of such information.

(5) The Board's decision to release or not to release information under subsection (4) is final and is not reviewable by a court.

77AA—Special procedures for terror suspects

(1) Despite any other provision of this Division, a decision of the Board relating to a terror suspect is of no effect unless it is confirmed by the presiding member of the Board in accordance with this section.

(2) The presiding member of the Board must, before confirming a decision relating to a terror suspect, invite a terrorism intelligence authority to make submissions to the presiding member in relation to the proposed decision.

(3) The presiding member of the Board—

(a) must not confirm a decision of the Board to release a prisoner who is a terror suspect on parole unless the presiding member determines that there are special circumstances justifying the prisoner's release on parole; and

(b) must not confirm any other decision of the Board relating to a terror suspect unless the presiding member is satisfied that the decision is appropriate in all the circumstances.

(4) The presiding member of the Board may determine to—

(a) confirm a decision of the Board (in which case the decision of the Board is taken to have effect immediately); or

(b) reject a decision of the Board and substitute the presiding member's own decision (in which case the Board is taken to have made the decision as so substituted and that decision is taken to have effect immediately); or

(c) refer the matter back to the Board for a further decision with any recommendations the presiding member thinks fit (in which case any further decision of the Board will be subject to the requirement for confirmation under this section in the same way as the decision at first instance).

(5) The presiding member of the Board is not required to provide to the prisoner any grounds or reasons for a determination under this section.

(6) Information forming the basis for the making of a determination under this section must not be disclosed to any person (except to the Attorney-General, a court or a person to whom a terrorism intelligence authority authorises its disclosure) if, at the time at which the question of disclosure is to be decided, the information is properly classified by the terrorism intelligence authority as terrorism intelligence under section 74B of the *Police Act 1998* (whether or not the information was so classified at the time at which the determination under this section was made).

Division 4—Review of release on parole of certain prisoners

Subdivision 1—Preliminary

77A—Interpretation

(1) In this Division—

accessory has the same meaning as in section 241(1) of the *Criminal Law Consolidation Act 1935*;

Australian Parliament means—

(a) the Parliament of this State or any other State of the Commonwealth; or

(b) the Parliament of the Commonwealth; or

(c) a Legislative Assembly of a Territory of the Commonwealth;

Commissioner means the person appointed under Subdivision 2 as the Parole Administrative Review Commissioner, or the person from time to time appointed under that Subdivision to act as the Parole Administrative Review Commissioner;

judicial body means a court, tribunal, body or person invested by law with judicial or quasi-judicial powers;

judicial officer means a person who alone or with others constitutes a judicial body;

prescribed reviewable decision means a reviewable decision of a kind referred to in paragraph (b) or (c) of the definition of ***reviewable decision***;

principal offender has the same meaning as in section 241(1) of the *Criminal Law Consolidation Act 1935*;

prisoner of a prescribed class means—

(a) a prisoner who is serving a sentence of life imprisonment for an offence; or

(b) a prisoner who is serving a sentence of imprisonment for an offence against section 12 of the *Criminal Law Consolidation Act 1935*; or

(c) a prisoner who is serving a sentence of imprisonment for an offence against section 241(1) of the *Criminal Law Consolidation Act 1935* as an accessory if the offence established as having been committed by the principal offender is the offence of murder;

reviewable decision means any of the following decisions of the Board in relation to a prisoner of a prescribed class:

(a) a decision to order the release of the prisoner on parole;

(b) a decision as to the conditions to be imposed on the parole by the Board;

(c) a decision to vary or revoke a condition to which the parole is subject.

(2) For the purposes of this Division, a reference to an ***offence of murder*** includes—

(a) an offence of conspiracy to murder; and

(b) an offence of aiding, abetting, counselling or procuring the commission of murder.

Subdivision 2—Parole Administrative Review Commissioner

77B—Appointment of Commissioner

(1) There is to be a Parole Administrative Review Commissioner.

(2) The Commissioner is to be appointed by the Governor for a term not exceeding 5 years, on terms and conditions determined by the Governor.

(3) A person appointed to be the Commissioner is, at the end of a term of appointment, eligible for reappointment.

(4) A person is only eligible for appointment as the Commissioner if the person—

(a) is a former judge of the High Court of Australia, the Federal Court of Australia or the Supreme Court or any other court of a State or Territory of the Commonwealth; and

(b) is not a judicial officer or member of an Australian Parliament.

(5) The Commissioner's appointment may be terminated by the Governor on the ground that the Commissioner—

(a) has been guilty of misconduct; or

(b) has been convicted of an offence punishable by imprisonment; or

(c) is appointed to judicial office; or

(d) is nominated for election as a member of an Australian Parliament; or

(e) becomes an insolvent under administration within the meaning of the *Corporations Act 2001* of the Commonwealth; or

(f) has, because of mental or physical incapacity, failed to carry out the duties of the Commissioner satisfactorily.

(6) The Commissioner may resign by notice in writing to the Governor.

(7) The Commissioner is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

77C—Acting Commissioner

(1) The Governor may appoint a person to act as the Parole Administrative Review Commissioner—

(a) during any period for which no person is for the time being appointed as the Commissioner or the Commissioner is absent from, or unable to discharge, official duties; or

(b) if the Commissioner is unable for any other reason to act in a matter.

(2) The eligibility criteria that apply to the appointment of the Commissioner apply to the appointment of a person as acting Commissioner.

(3) The terms and conditions of appointment of an acting Commissioner will be as determined by the Governor.

(4) The acting Commissioner is a senior official for the purposes of the *Public Sector (Honesty and Accountability) Act 1995*.

77D—Staff

The Commissioner may, under an arrangement established by a Minister administering an administrative unit of the Public Service, make use of the services or staff of that administrative unit.

Subdivision 3—Reviews by Commissioner

77E—Right of review of Board decision to release life prisoners on parole etc

(1) Any of the following persons may apply for a review by the Commissioner of a reviewable decision:

(a) the Attorney-General;

(b) the Commissioner of Police;

(c) the Commissioner for Victims' Rights.

(2) An application under this section—

(a) must be made within 60 days after notification of the reviewable decision; and

(b) must, within 3 days of being made—

(i) be served personally on—

(A) the CE; and

(B) the prisoner; and

(ii) be served in a manner determined by the Commissioner on the Board and each of the other persons who may apply under subsection (1) for a review of a reviewable decision.

(3) On a review, the Commissioner—

(a) will examine the reviewable decision on the evidence or material before the Board; and

(b) may consider further evidence or material that the Commissioner decides, in the circumstances of the particular case, to admit for the purposes of the review.

(4) The Commissioner, on a review—

(a) is not bound by the rules of evidence but may inform himself or herself as the Commissioner thinks fit; and

(b) must act according to equity, good conscience and the substantial merits of the case without regard to legal technicalities and forms.

(5) The Commissioner must, on a review, give due weight to the reviewable decision and the reasons for it and not depart from the decision except for cogent reasons.

(6) The Commissioner may, on a review under this section—

(a) affirm the reviewable decision; or

(b) vary the reviewable decision; or

(c) set aside the reviewable decision and—

(i) substitute his or her own decision; or

(ii) send the matter back to the Board for reconsideration in accordance with any directions or recommendations that the Commissioner considers appropriate,

and, in any case, may make any order the Commissioner considers appropriate (including any interim order pending the reconsideration and determination of the matter by the Board, or any ancillary or consequential order, that the Commissioner considers appropriate).

(7) The Commissioner must advise the parties to the review and the prisoner of his or her decision on the review.

(8) The Commissioner must, if required to do so by the Supreme Court, provide the Court with a copy of the reasons for his or her decision on a particular review.

77F—Effect of review proceedings on Board's decision

(1) The commencement of proceedings for the review of a reviewable decision, other than a prescribed reviewable decision, stays the operation of the decision.

(2) The commencement of proceedings for the review of a prescribed reviewable decision does not affect the operation of the decision or prevent the imposition, variation or revocation of a condition of parole (as the case requires) unless an order is made under subsection (3).

(3) On or after the commencement of proceedings for the review of a prescribed reviewable decision, the Commissioner may, on application or on his or her own initiative, make an order staying or varying the operation or the implementation of the whole or a part of the prescribed reviewable decision pending the determination of the matter, or until such time (whether before or after the determination of the matter) as the Commissioner may specify, if the Commissioner is satisfied that it is just and reasonable in the circumstances to make the order.

(4) An order by the Commissioner under this section—

(a) is subject to such conditions as are specified in the order; and

(b) may be varied or revoked by further order of the Commissioner.

77G—Proceedings to be heard in private

Proceedings for the review of a reviewable decision before the Commissioner must be heard in private.

77H—Board to assist Commissioner

(1) In proceedings for the review of a reviewable decision, the Board must use its best endeavours to help the Commissioner so that the Commissioner can make his or her decision on the review.

(2) Without limiting subsection (1), the Board must provide the following to the Commissioner within a period specified by the Commissioner (which must be reasonable):

(a) a written statement of the reasons for the reviewable decision;

(b) any document or thing in the Board's possession or control that may be relevant to the Commissioner's review of the reviewable decision.

(3) The Board must, in providing any document or thing under subsection (2), take reasonable steps to identify the documents or things that were taken into account in making the reviewable decision.

(4) If the Commissioner considers that there are additional documents or things in the Board's possession or control that may be relevant to the Commissioner's review of the reviewable decision, the Commissioner may, by written notice, require the Board to provide the documents or things.

(5) If the Commissioner considers that the statement of reasons given under subsection (2)(a) is not adequate, the Commissioner may, by written notice, require the Board to give the Commissioner an additional statement containing stated further particulars.

(6) The Board must comply with a notice given under subsection (4) or (5) within the period stated in the notice.

(7) A requirement under this section that the Board give the Commissioner information or a document or thing applies despite any provision in another Act prohibiting or restricting the disclosure of the information or the information contained in the document or thing.

(8) The Commissioner may examine any document or thing provided under this section and draw any conclusions of fact it considers proper.

77I—Parties

The applicant and the Board are the parties to proceedings for the review of a reviewable decision, and each of the other persons who may apply under section 77E(1) for a review of a reviewable decision has a right to appear and be heard in the proceedings.

77J—Compulsory conferences for prescribed reviewable decisions

(1) The Commissioner must, as soon as is reasonably practicable after the commencement of proceedings for the review of a prescribed reviewable decision, require the parties to the proceedings to attend a compulsory conference before the presiding member or deputy presiding member of the Board for the purpose of attempting to resolve the matters in dispute.

(2) A conference under this section is to be held in private.

(3) Subject to subsection (4), evidence of anything said or done in the course of a conference under this section is inadmissible in proceedings before the Commissioner except by consent of all parties to the proceedings.

(4) The presiding member or deputy presiding member of the Board who presided over a conference under this section must report to the Commissioner on whether a settlement was reached at the conference and, if so, the terms of the settlement and the Commissioner may, without further inquiry, make such determination or order as may be necessary to give effect to the settlement.

77K—Powers and procedures of Commissioner

(1) The Commissioner may, for the purposes of proceedings before the Commissioner—

(a) by summons signed by the Commissioner, require the attendance of a person before the Commissioner; or

(b) by summons signed by the Commissioner, require a person to produce any relevant documents; or

(c) require a person to furnish the Commissioner with a written report or information in relation to any aspect of a matter before the Commissioner; or

(d) require a person to make an oath or affirmation to answer truly any questions put by the Commissioner, or a person appearing before the Commissioner, that are relevant to any matter before the Commissioner; or

(e) require any written report or information to be verified by statutory declaration.

(2) A person who—

(a) having been served with a summons, fails, without reasonable excuse, to attend, or to produce documents, as required by the summons; or

(b) misbehaves before the Commissioner, wilfully insults the Commissioner, or interrupts proceedings before the Commissioner; or

(c) refuses, when required to do so by the Commissioner, to be sworn or to affirm, or to answer any relevant question that the person would be compellable to answer before a court,

is guilty of an offence.

Maximum penalty: $10 000.

(3) The Commissioner cannot allow intervention in proceedings before the Commissioner by a person who is not a party to the proceedings, other than a person who has a right to appear and be heard in the proceedings under section 77I (an ***interested person***).

(4) The Commissioner must give the parties and any interested person who has given written notice of an intention to appear in proceedings reasonable notice of the time and place of the proceedings.

(5) The Commissioner may make a determination in any proceedings in the absence of a party to the proceedings or an interested person who has given notice under subsection (4) if satisfied that the party or person (as the case requires) was given reasonable opportunity to appear but failed to do so.

(6) If proceedings on a review are part-heard when a person ceases to hold office as a Commissioner, the person may continue to act in the office of Commissioner for the purpose of completing the review.

77L—Commissioner to proceed expeditiously

The Commissioner must—

(a) commence any review as soon as possible after receipt of an application for review (taking into account section 77J (if relevant)); and

(b) proceed as quickly as a proper conduct of the review allows; and

(c) endeavour to complete any review as quickly as possible.

Subdivision 4—Other matters

77M—Immunity from liability

No liability attaches to the Commissioner for any act or omission in good faith in the exercise or purported exercise of powers or functions under this Division.

77N—Privilege and public interest immunity not affected

Nothing in this Division affects any rule or principle of law relating to—

(a) legal professional privilege; or

(b) public interest immunity.

77O—Confidentiality of information

A person must not disclose, or cause to be disclosed, information or evidence relating to a review under this Division, or details relating to proceedings conducted for the purposes of a review under this Division, except—

(a) as authorised by the Commissioner or a court; or

(b) as otherwise authorised or required by this Act, the regulations or any other Act or law.

Maximum penalty: $10 000.

77P—Proof of decision of Commissioner

An apparently genuine document purporting to be a copy of a determination, decision or finding of the Commissioner and to be certified as such by the Commissioner will be accepted in any legal proceedings, in the absence of proof to the contrary, as a true copy of a determination, decision or finding of the Commissioner.

Part 6A—Management of officers, employees of Department etc

77Q—Preliminary

This Part applies in addition to, and does not limit the operation of, the *Public Sector Act 2009*.

77R—Investigative powers of CE

(1) The CE may, for the purposes of the review or investigation of any matter relevant to the CE's powers, functions, duties or responsibilities under this or any other Act—

(a) by notice in writing—

(i) require an officer or employee of the Department to appear at a specified time and place; or

(ii) require an officer or employee of the Department to produce a specified document or object that is relevant to the subject matter of the review or investigation; and

(b) require an officer or employee of the Department to answer truthfully questions put by the CE that are relevant to the subject matter of the review or investigation.

(2) An officer or employee of the Department who fails to comply with a requirement under this section or hinders the exercise of powers under this section is guilty of misconduct for the purposes of the *Public Sector Act 2009* and any other Act.

(3) A person is not obliged to answer a question or to produce a document or object (other than a document or object of the Government) under this section if to do so would tend to incriminate the person of an offence.

77S—Removal and reassignment of duties of officer or employee working in correctional institution

(1) If the CE does not have confidence in the suitability of a prescribed employee to continue working in a correctional institution, having regard to the prescribed employee's integrity, honesty or conduct, the CE may—

(a) cause the prescribed employee to be immediately removed from the correctional institution (if necessary); and

(b) assign other duties to the prescribed employee and determine the place or places at which the duties are to be performed.

(2) In this section—

prescribed employee means an officer or employee of the Department whose usual duties involve working in a correctional institution.

Part 7—Prisoner compensation quarantine funds

Division 1—Preliminary

78—Interpretation

(1) 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 that—

(a) gives rise to a claim by a prisoner against the State; and

(b) occurred while the claimant was a prisoner; and

(c) arose out of and in connection with his or her detention in a correctional institution;

claim means a claim brought in tort, in contract or under a statute or otherwise;

criminal act—see subsections (2) and (3);

damages includes any form of monetary compensation;

initial quarantine period, in relation to a prisoner compensation quarantine fund, means the period of 12 months from the date on which the notice in respect of the fund under section 81E is published;

prisoner includes a former prisoner, but does not include a remand prisoner;

prisoner compensation quarantine fund—see section 81B(4);

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 that are commenced within the initial quarantine period and notified to the CE under section 81J(1);

State includes—

(a) the CE; and

(b) an officer of the Department;

victim includes a member of a victim's immediate family.

(2) In this Part, a ***criminal act*** means conduct that, on the balance of probabilities, would constitute an offence.

(3) 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.

79—Application

(1) This Part applies to any 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 an award of damages to a prisoner in respect of a claim of false imprisonment.

(3) This Part does not affect (and is subject to) any obligation imposed on the State or the CE 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.

Division 2—Award of damages to prisoners

80—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 of competent jurisdiction.

81—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 an amount to be specified under subsection (1), the court must determine the amounts to be specified in the agreement for the purposes of that subsection, and the agreement is varied accordingly.

81A—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 81(1) has been complied with; and

(b) that, in all the circumstances, the amounts specified for the purposes of section 81(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

81B—Damages awarded to prisoner to be paid to prisoner compensation quarantine fund

(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 CE 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 CE under subsection (1)—

(a) must be held in trust for the prisoner by the CE 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 CE 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 CE under subsection (1) does not exceed $10 000.

81C—Prisoner compensation quarantine funds

(1) A prisoner compensation quarantine fund consists of—

(a) an amount held by the CE in trust for a prisoner under this Part; and

(b) any interest earned on that money.

(2) The CE 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 a person in accordance with section 81L or 81M;

(b) amounts required to be paid out in accordance with section 81O in respect of the prisoner;

(c) the costs of administration of the fund (including any taxes payable in respect of the fund).

(4) The CE 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 CE is responsible for the administration of the prisoner compensation quarantine fund.

Division 4—Notice of prisoner compensation quarantine fund

81D—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 CE to be notified of an award of damages to the prisoner.

(2) An application must be in writing.

81E—Notice to victims to be published

(1) The CE 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 CE under section 81B.

(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); and

(b) state the name of the prisoner and any other name by which the prisoner is known; and

(c) state that money in that award has been paid to a prisoner compensation quarantine fund; and

(d) state the initial quarantine period for that fund; and

(e) invite victims in relation to criminal acts of the prisoner to seek further information from the CE about the fund; and

(f) contain contact details for seeking the further information.

(3) The CE must publish the notice in the Gazette and—

(a) on a website determined by the CE; or

(b) in a daily newspaper circulating generally in South Australia and in a daily newspaper circulating generally in Australia.

(3a) The CE must forward a copy of the notice to the Commissioner for Victims' Rights.

(4) The CE may also forward a copy of the notice to any victim who has applied to the CE under section 81D to be notified of an award of damages in respect of the prisoner.

81F—Applications for information

(1) A victim in relation to a criminal act by a prisoner may apply to the CE 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 CE may, if satisfied that the applicant is a victim in relation to a criminal act of a prisoner, disclose, by written notice, the following information to the applicant:

(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) when the initial quarantine period will end if no legal proceedings are notified under section 81J(1);

(d) whether the CE has been notified of any other claim in respect of the prisoner and, if so, the number of other such claims;

(e) any other information that the CE believes, from time to time, will assist the applicant to make an informed decision as to whether to bring proceedings against the prisoner.

(3) The notice must include a statement advising the applicant—

(a) that the information is disclosed solely for use by the applicant in deciding whether or not to bring legal proceedings; and

(b) that the applicant should consider seeking independent legal advice; and

(c) that the information does not constitute legal advice or a recommendation to bring or not to bring legal proceedings; and

(d) of the effect of sections 81H and 81I.

81G—Disclosure of information by CE authorised

The provision of information by the CE under section 81E or 81F—

(a) is authorised despite any agreement to which the CE 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.

81H—Confidentiality of information

A person to whom information is provided under section 81E or 81F by the CE must treat the information in an appropriate manner that respects the confidentiality of the information.

81I—Offence to disclose information

(1) A person to whom information is disclosed under section 81E or 81F must not disclose the 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.

Maximum penalty: $10 000.

(2) A person (other than a person to whom information is disclosed under section 81E or 81F) who becomes aware of any information disclosed to a person under either of those sections must not use that information or disclose it to any person.

Maximum penalty: $10 000.

(3) Nothing in subsection (1) prevents a person from disclosing information to a lawyer in the course of consulting the lawyer for legal advice.

(4) Subsections (1) and (2) do not apply to information that is in the public domain.

81J—Notice to CE 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 may give written notice to the CE of that fact.

(2) A victim may, within 14 days after the final determination of legal proceedings notified by the victim under subsection (1), give the CE written notice of the final determination of, and any amount (including any legal costs) awarded to the victim in, those proceedings.

81K—Notice to CE by creditors

(1) A person who has a judgment debt against the prisoner, or 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 CE 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 CE may require a person who has given a notice under this section to provide any further information that the CE reasonably requires to substantiate the facts set out in the notice.

Division 5—Payments out of prisoner compensation quarantine fund

81L—Payments out of fund where legal proceedings notified

(1) This section applies if the CE has received a notice under section 81J(1) in respect of legal proceedings against a prisoner to whom a prisoner compensation quarantine fund relates.

(2) The CE 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 CE 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 (including any legal costs) against the prisoner that was notified to the CE under section 81J(2); and

(b) any judgment debt against, or entitlement to be paid by, the prisoner that was notified to the CE under section 81K,

that the CE 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 CE must make payments from the fund under that subsection on a proportionate basis having regard to any priority of payment required by law.

Example—

The law may require priority to be given to payment of (for example) child support.

(5) If any amount remains in the prisoner compensation quarantine fund after all amounts are paid out under subsection (3), the CE must, within or as soon as practicable after the end of the period of 45 days after the end of the quarantine period—

(a) pay half of the remaining amount into the Victims of Crime Fund under the *Victims of Crime Act 2001*; and

(b) credit the other half of the remaining amount—

(i) to the resettlement account kept in the prisoner's name in accordance with section 31; or

(ii) if the prisoner has been discharged from prison—to an account nominated by the former prisoner.

81M—Payments out of fund where notice from creditor received

(1) This section applies if the CE has been given notice by a person under section 81K and has not been notified under section 81J(1) of legal proceedings against that prisoner.

(2) The CE 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 CE 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 CE under section 81K during the initial quarantine period; and

(b) that the CE 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 CE must make payments from the fund under that subsection on a proportionate basis having regard to any priority of payment required by law.

Example—

The law may require priority to be given to payment of (for example) child support.

(5) If any amount remains in the prisoner compensation quarantine fund after all amounts are paid out under subsection (3), the CE must, within or as soon as practicable after the end of the period of 45 days after the end of the initial quarantine period—

(a) pay half of the remaining amount into the Victims of Crime Fund under the *Victims of Crime Act 2001*; and

(b) credit the other half of the remaining amount—

(i) to the resettlement account kept in the prisoner's name in accordance with section 31; or

(ii) if the prisoner has been discharged from prison—to an account nominated by the former prisoner.

81N—Restriction not to affect payment of administration costs

Sections 81L and 81M do not prevent the payment out of a prisoner compensation quarantine fund of any amount for the costs of administering the fund (including payment of taxes in respect of the fund) authorised under section 81C (and those costs are payable out of the fund before payment of any other amount under section 81L or 81M).

81O—Payments out of fund where no notice given

(1) This section applies if no notice is given to the CE under section 81J(1) or 81K in relation to the prisoner to whom a prisoner compensation quarantine fund relates within the initial quarantine period.

(2) The CE must, within or as soon as practicable after the end of the period of 45 days after the end of the initial quarantine period—

(a) pay half of the remaining amount into the Victims of Crime Fund under the *Victims of Crime Act 2001*; and

(b) credit the other half of the remaining amount—

(i) to the resettlement account kept in the prisoner's name in accordance with section 31; or

(ii) if the prisoner has been discharged from prison—to an account nominated by the former prisoner.

81P—Payments taken to be payments at direction of prisoner

The payment by the CE 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 CE to pay the amount to the prisoner as damages.

81Q—When are legal proceedings finally determined?

(1) For the purposes of this Part, legal proceedings are not finally determined if—

(a) a 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) an appeal in respect of the legal proceedings is pending.

(2) However, if legal proceedings are settled or discontinued, they will be taken to be finally determined for the purposes of this Part.

Division 6—Miscellaneous

81R—Offence to provide false or misleading information

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided to the CE under this Part.

Maximum penalty:

(a) if the person made the statement knowing that it was false or misleading—$10 000;

(b) in any other case—$2 500.

Part 7A—Drug and alcohol testing scheme

81S—Interpretation

(1) In this Part—

biological sample means a sample of blood, urine or oral fluid;

breath analysing instrument means an apparatus of a kind approved as a breath analysing instrument under the *Road Traffic Act 1961*;

breath analysis means an analysis of breath by a breath analysing instrument;

critical incident means—

(a) an incident where a person is killed or suffers serious bodily injury in a correctional institution or probation and parole hostel; or

(b) an incident, or a class of incident, in a correctional institution or probation and parole hostel determined by the CE to be a critical incident;

designated position means an appointment to a position in the Department designated by the CE for the purposes of this Part;

drug means a substance that is a controlled drug under the *Controlled Substances Act 1984*;

drug screening test means a test by means of an apparatus of a kind approved by the regulations for the conduct of drug screening tests;

forensic material means any human material from which the person from whom the material was taken could be identified;

oral fluid includes saliva;

oral fluid analysis means the analysis of a person's oral fluid to determine whether a drug is present in the oral fluid;

rules means the rules made under section 83 for the purposes of this Part.

(2) For the purposes of this Part, a person ***uses a drug*** if the person—

(a) consumes, smokes or administers the drug to themself; or

(b) permits another person to administer the drug to them.

81T—Drug and alcohol testing of officers and employees

(1) An officer or employee of the Department may, in accordance with this section, be required to do any of the following:

(a) to submit to an alcotest or breath analysis, or both, for the purpose of testing for the presence of alcohol;

(b) to submit to a drug screening test for the purpose of testing for the presence of drugs;

(c) to provide a biological sample for the purpose of a blood test, urinalysis or an oral fluid analysis to test for the presence of alcohol or drugs.

(2) An officer or employee of the Department may be required to undergo drug and alcohol testing under subsection (1), in accordance with the rules, in any of the following circumstances:

(a) if the officer or employee has, while on duty, been involved in a critical incident;

(b) if there is reasonable cause to believe that the officer or employee has recently consumed alcohol or used a drug;

(c) if the officer or employee is applying for appointment to a designated position;

(d) if the CE considers that the officer or employee should undergo drug and alcohol testing.

81U—Drug and alcohol testing of applicants to Department

(1) A person to whom this subsection applies will, in accordance with the rules, be required to do any of the following:

(a) to submit to an alcotest or breath analysis, or both, for the purpose of testing for the presence of alcohol;

(b) to submit to a drug screening test for the purpose of testing for the presence of drugs;

(c) to provide a biological sample for the purpose of a blood test, urinalysis or an oral fluid analysis to test for the presence of alcohol or drugs.

(2) Subsection (1) applies to a person applying for appointment as an officer or employee of the Department.

81V—Drug and alcohol testing of other persons

(1) The CE may, subject to the person's consent, require a person who enters a correctional institution to do any of the following in accordance with the rules:

(a) to submit to an alcotest or breath analysis, or both, for the purpose of testing for the presence of alcohol;

(b) to submit to a drug screening test for the purpose of testing for the presence of drugs;

(c) to provide a biological sample for the purpose of a blood test, urinalysis or an oral fluid analysis to test for the presence of alcohol or drugs.

(2) If a person does not consent to drug and alcohol testing under subsection (1), the CE may cause the person to be refused entry to or removed from the correctional institution, using only such force as is reasonably necessary for the purpose.

81W—Procedures for drug and alcohol testing

(1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Part.

(2) Without limiting the generality of subsection (1), the regulations may—

(a) prescribe procedures for drug and alcohol testing under this Part; and

(b) provide for the authorisation of persons to conduct drug and alcohol testing and operate equipment for that purpose; and

(c) regulate the collection of biological samples taken from persons for the purposes of drug and alcohol testing under this Part; and

(d) provide for the analysis of test results, including the accreditation of persons conducting the analysis; and

(e) provide for the approval of devices used in carrying out drug and alcohol testing and analysis; and

(f) provide for the use of results from any testing or analysis, or the steps that may be taken on account of any testing or any evidence or information produced as a result of testing; and

(g) prescribe the circumstances that amount to a defence to disciplinary proceedings under the *Public Sector Act 2009* relating to drug and alcohol testing or proceedings for a breach of the regulations; and

(h) prescribe evidentiary provisions to facilitate proof of matters for the purposes of disciplinary proceedings under the *Public Sector Act 2009* relating to drug and alcohol testing or proceedings relating to a breach of the regulations; and

(i) provide for the confidentiality of test results; and

(j) regulate the destruction of biological samples collected for testing; and

(k) provide for the protection of persons involved in taking or conducting testing from liability for acts or omissions done in good faith and in accordance with this Part.

81X—Biological samples, test results etc not to be used for other purposes

(1) A biological sample (and any other forensic material taken incidentally in the course of testing a person for the presence of drugs or alcohol) taken under this Part must not be used for any purpose other than—

(a) for a purpose contemplated by this Part; or

(b) in connection with the control and management of officers and employees of the Department; or

(c) for the purpose of disciplinary proceedings under the *Public Sector Act 2009*.

(2) The results of any drug and alcohol testing or analysis conducted under this Part, or an admission or a statement made by a person relating to such drug and alcohol testing, is not admissible in any proceedings other than disciplinary proceedings under the *Public Sector Act 2009*.

Part 8—Miscellaneous

82—Unauthorised dealings with prisoners prohibited

(1) A person to whom this section applies must not enter into a contract or other dealing of a prescribed class with a prisoner unless the person has the permission of the CE.

Maximum penalty: $10 000 or imprisonment for 2 years.

(2) A contract entered into in contravention of this section is void and of no effect.

(3) This section applies to—

(a) an officer or employee of the Department; and

(b) a police officer employed in a correctional institution; and

(c) a person of a prescribed class.

83—CE may make rules

(1) The CE may make rules for the purposes of this Act.

(2) The CE may vary or revoke any rules made under subsection (1).

(3) The *Subordinate Legislation Act 1978* does not apply to rules made under this section.

(4) The Minister must cause rules made under this section to be published for the benefit of persons affected by the rules in such manner as the Minister thinks fit and, in giving effect to this section, must ensure, as far as is reasonably practicable, that the rules are made known to any prisoner who is illiterate or whose principal language is not the English language.

84—Compliance with the execution of process

Subject to this Act, the CE and the manager of a correctional institution must comply with any order or direction lawfully given by an officer of a court or police officer for the purposes of the due execution of any process or order of a court or magistrate or issued otherwise pursuant to law.

85—Execution of warrants

An officer or employee of the Department authorised by the CE for the purpose may, on behalf of the Commissioner of Police, execute on a prisoner any warrant of a court or magistrate or other duly issued warrant.

85A—Exclusion of persons from correctional institution

(1) Despite any other provision of this Act—

(a) if the manager of a correctional institution believes on reasonable grounds that a person lawfully attending the institution in any capacity (other than a member of the staff of the institution) is interfering with or is likely to interfere with the good order or security of the institution, the manager—

(i) may cause the person to be refused entry to or removed from the institution, using only such force as is reasonably necessary for the purpose; and

(ii) may, in the case of a person who visits or proposes to visit a prisoner under section 34, by written order, exclude the person from the institution until further order or for a specified period; and

(b) if a person to whom this paragraph applies—

(i) enters or proposes to enter a correctional institution; or

(ii) visits or proposes to visit a prisoner in a correctional institution under section 34,

the CE may, by written order, direct that the person be excluded from a specified correctional institution, all correctional institutions of a specified class, or all correctional institutions, until further order or for a specified period.

(1a) Paragraph (b) of subsection (1) applies to a person who the CE believes on reasonable grounds—

(a) is interfering with or is likely to interfere with the good order or security of a correctional institution; or

(b) is a member of a criminal organisation, or associates with, or has associated with, a member of a criminal organisation.

(1b) Despite paragraph (b) of subsection (1), the CE may permit a person the subject of an order under that paragraph to visit a prisoner under section 34 (either on a particular occasion or on a regular basis (as the CE considers appropriate)).

(2) An order under subsection (1)(a) may be varied or revoked by the manager of the correctional institution and an order under subsection (1)(b) may be varied or revoked by the CE.

(3) The manager of a correctional institution may cause any person who is attempting to enter or is in the institution in contravention of an order under this section to be refused entry to or removed from the institution, using only such force as is reasonably necessary for the purpose.

85B—Power of search and arrest of non-prisoners

(1) The CE may—

(a) cause any person who enters a correctional institution to submit, subject to the person's consent, to a ***limited contact search***, and to having his or her possessions searched, for the presence of prohibited items; or

(b) if there are reasonable grounds for suspecting that a person entering or in the institution is in possession of a prohibited item, cause the person and his or her possessions to be detained and searched; or

(c) if there are reasonable grounds for suspecting that a vehicle entering or in the institution is carrying a prohibited item, cause the vehicle to be detained and searched.

(2) If a person does not consent to a limited contact search, the CE may cause the person to be refused entry to or removed from the institution, using only such force as is reasonably necessary for the purpose.

(3) Failure of a person to consent to a limited contact search does not of itself constitute grounds for suspecting that the person is in possession of a prohibited item.

(4) The following provisions apply to a limited contact search:

(a) the person cannot be required to remove any clothing or to open his or her mouth, and nothing may be introduced into an orifice of the person's body;

(b) any direct contact with the person's flesh that is necessary for the purpose of the search must be minimal and within the bounds of propriety;

(c) the person may be required to adopt certain postures or to do anything else reasonably necessary for the purposes of the search and, if the person does not comply with such a requirement, the CE may cause the person to be removed from the institution, using only such force as is reasonably necessary for the purpose;

(d) the search must be carried out expeditiously and undue humiliation of the person must be avoided.

(5) The following provisions apply to a search under subsection (1)(b):

(a) the person may be required—

(i) to remove his or her outer clothing (including footwear and headwear) but no other clothing; or

(ii) to open his or her mouth (but force cannot be applied to open the person's mouth); or

(iii) to adopt certain postures; or

(iv) to submit to being frisked; or

(v) to do anything else reasonably necessary for the purposes of the search,

and, if the person does not comply with such a requirement, the CE may cause the person to be removed from the institution, using only such force as is reasonably necessary for the purpose;

(b) nothing may be introduced into an orifice (including the mouth) of the person's body;

(c) at least 2 persons, apart from the person being searched, must be present at all times during the search;

(d) the search must be carried out expeditiously and undue humiliation of the person must be avoided.

(6) The following provisions apply to a search under subsection (1)(c):

(a) the driver of the vehicle may be required to do anything reasonably necessary for the purposes of the search;

(b) if the driver does not comply with a requirement made under paragraph (a), the CE may cause the driver and the vehicle to be refused entry to or removed from the institution, using only such force as is reasonably necessary for the purpose.

(7) If a prohibited item is found as a result of a search under this section, or a person fails to comply with a requirement lawfully made for the purposes of a search under this section—

(a) the CE may cause the person or the driver of the vehicle, as the case may be, to be handed over into the custody of a police officer as soon as reasonably practicable and to be kept in detention until that happens; and

(b) the item may be kept as evidence of an offence or otherwise dealt with in the same manner as a prohibited item under section 33A may be dealt with.

(8) If the officer or employee who carries out a search of a person under this section suspects on reasonable grounds that a prohibited item may be concealed on or in the person's body, the CE may cause the person to be handed over into the custody of a police officer as soon as reasonably practicable and to be kept in detention until that happens.

(9) On a person being detained under subsection (7) or (8), the CE must immediately cause a police officer to be notified.

(10) Despite the preceding provisions of this section, if a person or vehicle may be detained under this section for the purposes of being searched, the CE may, instead, cause the person or vehicle to be refused entry to or removed from the institution, using only such force as is reasonably necessary for the purpose.

(11) The annual report submitted under this Act by the CE in respect of a financial year must include the following particulars:

(a) the number of persons detained under subsection (7) during the year and the duration of each such detention; and

(b) the number of persons detained under subsection (8) during the year and the duration of each such detention.

(12) This section does not apply to a person who is a prisoner in the correctional institution.

(13) In this section—

prohibited item means an item—

(a) that is a prohibited item for the purposes of section 51; and

(b) permission for the introduction of which into the correctional institution has not been given by the CE.

(14) To avoid doubt, a reference in this section to a correctional institution includes a reference to all of the land identified in a proclamation under section 18(1) relating to the institution.

85C—Confidentiality

(a1) The Board must not disclose information or evidence provided by a medical practitioner or psychologist in connection with the performance of the Board's functions or powers under this Act, unless the presiding member of the Board has authorised the disclosure.

(a2) A person must not disclose—

(a) protected information; or

(b) information the disclosure of which the person reasonably believes would give rise to a serious risk to the life or safety of a person,

unless authorised to do so by the CE.

Maximum penalty: $20 000.

(1) Without limiting a preceding subsection, a person must not disclose information relating to a person who is or has been a prisoner, probationer or parolee, or derived from the Victims Register, being information obtained (whether by the person or some other person) in the administration or enforcement of this Act, except—

(a) as required or authorised by this Act or any other Act or law; or

(b) as reasonably required in connection with the administration or enforcement of this Act or any other prescribed Act; or

(ba) if, in the opinion of the CE, it is necessary to disclose the information in order to avert a serious risk to public safety; or

(c) for the purposes of legal proceedings arising out of the administration or enforcement of this Act; or

(d) to a government agency or instrumentality of this State, the Commonwealth or another State or Territory of the Commonwealth for the purposes of the proper performance of its functions; or

(e) with the consent of the prisoner, probationer, parolee or registered victim to whom the information relates; or

(f) in accordance with subsection (2).

Maximum penalty: $10 000.

(2) The Board must, in respect of a prisoner released on parole, notify the Commissioner of Police of—

(a) the place of residence of the parolee; and

(b) the conditions to which the release on parole is subject.

(3) In this section—

health practitioner means a person registered under the *Health Practitioner Regulation National Law* to practise in a health profession;

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

protected information means information—

(a) contained in a report prepared by a health practitioner for the purposes of assisting the Department in the assessment, placement or management of a prisoner; or

(b) relating to the safety or security of a correctional institution; or

(c) the disclosure of which could reasonably be expected to prejudice a criminal investigation or national security (within the meaning of the *National Security Information (Criminal and Civil Proceedings) Act 2004* of the Commonwealth);

psychologist means a person registered under the *Health Practitioner Regulation National Law* to practise in the psychology profession (other than as a student).

85CA—Disclosure of health information

(1) The—

(a) Chief Executive of the administrative unit of the Public Service that is, under a Minister, responsible for the administration of the *Health Care Act 2008*; and

(b) Chief Executive of the administrative unit of the Public Service that is, under a Minister, responsible for the administration of the *Mental Health Act 2009*,

must disclose to the CE such personal information about a prisoner as is reasonably required for the treatment, care or rehabilitation of the prisoner.

(2) Protocols or guidelines may be established for the purposes of this section.

(3) In this section—

personal information means information or an opinion, whether true or not, relating to a prisoner whose identity is apparent, or can reasonably be ascertained, from the information or opinion.

85CB—Disclosure of information relating to criminal history

(1) The CE may request the Commissioner of Police to provide to the CE any prescribed information about a relevant person to which the Commissioner has access.

(2) Nothing in subsection (1) is to be taken to require the Commissioner of Police to provide information that the Commissioner considers—

(a) may prejudice or otherwise hinder an investigation to which the information may be relevant; or

(b) may lead to the identification of an informant; or

(c) may affect the safety of a police officer, complainant or other person.

(3) To avoid doubt, a request may be made and prescribed information may be provided under this section without the consent of the relevant person to whom the information relates.

(4) Without limiting section 6 but despite any other Act or law, if, in relation to an application of—

(a) a person applying for appointment as an officer or employee of the Department; or

(b) an officer or employee of the Department applying for appointment to a designated position,

the CE refuses the application on the basis of prescribed information provided under this section, the CE is not required to provide to the applicant any grounds or reasons for the refusal other than that it was made in the public interest or that it would be contrary to the public interest if the application were not refused.

(5) In this section—

designated position means an appointment to a position in the Department designated by the CE;

prescribed information, in relation to a relevant person, means the following information:

(a) information or a report about the person's criminal history;

(b) other information that relates to whether the person is suitable—

(i) to be, or to continue to be, employed or engaged by the Department or a service provider; or

(ii) to perform voluntary work or other activities in a correctional institution;

relevant person means any of the following persons:

(a) an officer or employee of the Department;

(b) a person applying for appointment as an officer or employee of the Department;

(c) any other person who performs a function under this Act;

(d) a service provider;

(e) a person who performs or seeks to perform voluntary work or other activities in a correctional institution;

service provider—if services are to be provided by a person or body in connection with the performance of functions of the Minister, CE or Department under an agreement or arrangement with the Minister, CE or Department, the person or body who provides the services is a service provider.

85D—Release of information to eligible persons

(1) An eligible person may apply to the CE for the release to him or her of any of the following information relating to a prisoner:

(a) the name and address of the correctional institution in which the prisoner is for the time being imprisoned;

(b) details of any transfer of the prisoner from one correctional institution to another;

(c) details of the sentence or sentences of imprisonment that the prisoner is liable to serve;

(d) the date on which and circumstances under which the prisoner was, is to be or is likely to be released from the correctional institution for any reason (for example, on bail, leave of absence, home detention, parole);

(e) details of any escape from custody by the prisoner.

(2) A person is an eligible person if he or she is—

(a) a registered victim in relation to an offence for which the prisoner is imprisoned; or

(b) a member of the prisoner's immediate family; or

(c) a legal practitioner who represents the prisoner; or

(d) any other person who the CE thinks has a proper interest in the release of such information.

(3) The CE has an absolute discretion to grant or refuse an application for release of information to an eligible person.

(4) A decision of the CE as to whether a person is an eligible person or to grant or refuse an application under this section is final and is not reviewable by a court.

(5) The CE must not release information relating to a prisoner's release on parole without the consent of the Parole Board (but the Board may waive this requirement in such circumstances as it thinks fit).

85E—Confidentiality of biometric data

(1) A person must not use or disclose biometric data derived from a biometric identification procedure relating to a visitor to a prison except as is reasonably required for the purposes of carrying out the biometric identification procedure.

Maximum penalty: $10 000 or imprisonment for 2 years.

(2) A person must not use or disclose biometric data derived from a biometric identification procedure relating to a prisoner except as is reasonably required—

(a) for the purposes of carrying out the biometric identification procedure; or

(b) in connection with the control and management of a correctional institution; or

(c) for any other purpose contemplated by this Act.

Maximum penalty: $10 000 or imprisonment for 2 years.

(3) In this section—

biometric data means fingerprint data, iris scan data, or any other prescribed data or data of a prescribed kind that describes physical characteristics of a person or part of a person that may be used to identify the person;

biometric identification procedure means a procedure in which biometric data relating to a person is obtained by means of photograph or scan and compared with other biometric data for the purposes of identifying the person.

86—Prison officers may use reasonable force in certain cases

Subject to this Act, an officer or employee of the Department or a police officer employed in a correctional institution may, for the purposes of exercising powers or discharging duties under this Act, use such force against any person as is reasonably necessary in the circumstances of the particular case.

86AA—Prohibition on use of spit hoods

(1) An officer or employee of the Department or a police officer employed in a correctional institution must not place a spit hood on the head of a person.

Maximum penalty: Imprisonment for 2 years.

(2) Subsection (1) applies despite any other provision of this Act or any other Act or law.

(3) In this section—

spit hood means a covering (however described) that is intended to be placed over a person's head to prevent the person from spitting on, or biting, another person.

86A—Prison officer may carry prescribed weapon

(1) The CE may authorise an officer or employee of the Department to carry a prescribed weapon while on duty for purposes specified by the CE.

(2) An officer or employee authorised to carry a prescribed weapon under this section must comply with any requirements of the CE in relation to the handling, storage and responsible use of the weapon.

(3) In this section—

prescribed weapon means a weapon prescribed by the regulations for the purposes of this section.

86B—Use of correctional services dogs

(1) The CE may authorise an officer or employee of the Department to use a correctional services dog at a correctional institution or probation and parole hostel to assist in the maintenance of the good order or security of the institution or hostel.

(2) Without limiting subsection (1), a correctional services dog may be used for any of the following purposes:

(a) to carry out a search at a correctional institution or probation and parole hostel (including a search of an officer or employee of the Department) for any reason;

(b) to track an escaped prisoner;

(c) to patrol a correctional institution or probation and parole hostel;

(d) to restrain a prisoner;

(e) to assist a police officer in the execution of the police officer's functions at a correctional institution or probation and parole hostel.

87—Certain persons may enter and inspect correctional institutions

Any judge of the Supreme Court, District Court judge or magistrate may, at any reasonable time, enter and inspect any correctional institution.

87A—Operation of remotely piloted aircraft

(1) A person must not operate a remotely piloted aircraft within 100 metres of a correctional institution except with the permission of the CE.

Maximum penalty: $10 000 or imprisonment for 2 years.

(2) In this section—

aircraft has the same meaning as in the *Civil Aviation Act 1988* of the Commonwealth but does not include an aircraft of a prescribed kind.

87B—Remotely piloted aircraft—special powers

(1) The CE may cause a remotely piloted aircraft to be seized and retained if the CE reasonably suspects that the remotely piloted aircraft has been operated in contravention of section 87A or affords evidence as to the commission of an offence against that section.

(2) If the Magistrates Court, on application by the CE, or any court hearing proceedings for an offence against section 87A, finds that a remotely piloted aircraft seized under subsection (1) (a ***seized remotely piloted aircraft***) was the subject of an offence against section 87A, the court may, by order, forfeit the seized remotely piloted aircraft to the Crown.

(3) A seized remotely piloted aircraft that is the subject of an order for forfeiture under this section may be sold, destroyed or otherwise disposed of as the CE directs.

(4) Subject to subsection (5), if a seized remotely piloted aircraft has not been forfeited to the Crown in proceedings commenced within the prescribed period after its seizure, a person from whose lawful possession the remotely piloted aircraft was seized, or a person with legal title to it, is entitled to recover the seized remotely piloted aircraft from the CE (if necessary, by action in a court of competent jurisdiction).

(5) Despite subsection (4), a court hearing proceedings under that subsection in relation to a seized remotely piloted aircraft may, if it thinks fit, make an order under subsection (2) for forfeiture of the seized remotely piloted aircraft to the Crown.

(6) Nothing in this section affects the operation of the *Criminal Assets Confiscation Act 2005*.

(7) In this section—

aircraft has the meaning given by section 87A(2);

prescribed period means 2 years or such longer period as the Magistrates Court may, on application by the CE, allow.

88—Minister may acquire land

The Minister may, for the purposes of this Act, acquire land in accordance with the *Land Acquisition Act 1969*.

88A—Summary offences

Offences against this Act (not being indictable offences) are summary offences.

88B—Evidentiary provision

(1) In any proceedings against a prisoner for being unlawfully at large after expiry of leave of absence from prison, or for contravention of or failure to comply with a condition to which the leave was subject, a document purporting to be the order of the CE (or his or her delegate) by which the leave of absence was granted or revoked or a condition was varied, will, in the absence of proof to the contrary, be taken to be proof of the order.

(2) In any proceedings, an apparently genuine document purporting to be a certificate signed by the CE (or a delegate of the CE), and certifying that a dog used during a specified period for a specified purpose under section 86B within a specified area, or at a specified correctional institution, was a correctional services dog constitutes proof, in the absence of proof to the contrary, of the matters so certified.

89—Regulations

(1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.

(2) Without limiting the generality of subsection (1), regulations may be made—

(a) providing for the treatment of remand prisoners; and

(b) providing for the treatment of contempt prisoners; and

(c) providing for the treatment of prisoners, or any particular class of prisoners, other than remand or contempt prisoners; and

(e) regulating the conduct of prisoners, or of prisoners of a particular class; and

(eaa) prohibiting, restricting or regulating the supply or administration to prisoners of drugs (including prescription drugs under the *Controlled Substances Act 1984*); and

(ea) for the purposes of section 37AA, including regulations—

(i) prescribing procedures for drug testing; and

(ii) regulating the collection of biological samples from prisoners for the purposes of drug testing; and

(iii) prescribing the directions that can be given to a prisoner for the purpose of conducting an alcotest or collecting and authenticating a biological sample; and

(iv) prescribing higher maxima for the penalties prescribed by sections 43 and 44 if a prisoner breaches regulations made under this subsection, provided that those higher maxima do not exceed by more than 3 times the maxima prescribed in those sections; and

(f) prescribing the practice and procedure, and any powers, of Visiting Tribunals; and

(g) prescribing the practice and procedure, and any powers, of the CE in dealing with breaches of the regulations; and

(h) prescribing the duties of officers or employees of the Department or members of the police force employed in correctional institutions; and

(ha) regulating the times at which and procedure by which persons may be admitted to correctional institutions for detention; and

(i) prescribing the weapons or any other thing that may be carried or used by officers or employees of the Department or police officers employed in correctional institutions, and the purposes for which and the manner in which any such weapon or thing may, or may not, be used; and

(j) prohibiting or regulating the holding or investing of money by or on behalf of prisoners, or of prisoners of a particular class; and

(ja) prohibiting, restricting or regulating the holding or acquisition of personal property (other than money) of prisoners, or of prisoners of a particular class, (including the transfer, storage or disposal of such property); and

(jb) prescribing matters to be included in applications and notices under Part 7; and

(ka) prohibiting, restricting or regulating the entering into of contracts between prisoners; and

(l) prescribing directions that community corrections officers may give to persons under their supervision while on parole; and

(m) imposing fines, not exceeding $5 000, for offences against the regulations.

(3) Regulations under this Act may—

(a) be of general application or limited application; and

(b) make different provision according to the persons, things or circumstances to which they are expressed to apply; and

(c) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or the CE; and

(d) include evidentiary provisions to facilitate proof of contraventions of the regulations for the purposes of proceedings for offences.

Schedule 1—Application of Truth in Sentencing Act amendments

1—Interpretation

In this Schedule—

subsequent amending Act means an Act (other than the *Correctional Services (Application of Truth in Sentencing) Amendment Act 2008*) brought into operation after the commencement of the Truth in Sentencing Act that amends or substitutes a provision of this Act;

Truth in Sentencing Act means the *Statutes Amendment (Truth in Sentencing) Act 1994*.

2—Truth in sentencing clarification

(1) The amendments to this Act made by the Truth in Sentencing Act apply, and have always applied, in respect of all prisoners serving sentences of imprisonment immediately before the commencement of those amendments, regardless of when the prisoners were sentenced.

(2) It follows that anything done or omitted to have been done in relation to such prisoners before the commencement of this clause on the basis referred to in subclause (1) has been, and has always been, validly done or omitted to have been done.

(3) This clause affects rights and liabilities arising between parties to proceedings initiated before the commencement of this clause to the extent to which those rights and liabilities arise from, or are affected by, an act or omission referred to in subclause (2); however, this clause does not affect any such rights or liabilities arising between parties to proceedings heard and finally determined before the commencement of this clause.

(4) Nothing in this clause affects the operation of a subsequent amending Act (and any such Act has effect according to its terms).

Legislative history

Notes

- This version is comprised of the following:

Part 1	19.1.2022
Part 2	8.4.2023
Part 3	19.1.2022
Part 4	25.11.2023
Part 5	3.6.2021
Part 6	8.4.2023
Part 6A	8.4.2023
Part 7	1.11.2021
Part 7A	3.6.2021
Part 8	25.11.2021
Schedules	31.8.2012

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Legislation repealed by principal Act

The *Correctional Services Act 1982* repealed the following:

Prisons Act 1936

Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
1982	48	*Correctional Services Act 1982*	29.4.1982	19.8.1985 (*Gazette 8.8.1985 p334*)
1983	67	*Correctional Services Act Amendment Act 1983*	13.10.1983	19.8.1985 (*Gazette 8.8.1985 p336*)
1984	94	*Correctional Services Act Amendment Act 1984*	20.12.1984	19.8.1985 (*Gazette 8.8.1985 p336*)
1985	66	*Correctional Services Act Amendment Act 1985*	6.6.1985	19.8.1985 (*Gazette 8.8.1985 p336*)
1986	69	*Statutes Amendment (Parole) Act 1986*	20.11.1986	8.12.1986 (*Gazette 27.11.1986 p1700*)
1986	98	*Correctional Services Act Amendment Act 1986*	11.12.1986	1.1.1987 (*Gazette 18.12.1986 p1876*)

1987	22	*Correctional Services Act Amendment Act 1987*	16.4.1987	16.4.1987
1988	36	*Correctional Services Act Amendment Act 1988*	28.4.1988	28.4.1988
1988	51	*Statutes Amendment and Repeal (Sentencing) Act 1988*	5.5.1988	ss 13, 14 & 21—12.5.1988 (*Gazette 12.5.1988 p1181*), ss 15—20, 22 & 23—1.1.1989 (*Gazette 15.12.1988 p2009*)
1989	39	*Statute Law Revision Act 1989*	4.5.1989	Sch 1—19.6.1989 (*Gazette 25.5.1989 p1395*)
1990	30	*Correctional Services Act Amendment Act 1990*	26.4.1990	17.5.1990 (*Gazette 17.5.1990 p1359*)
1990	54	*Statute Law Revision Act (No. 2) 1990*	22.11.1990	Sch 1—22.11.1990: s 2
1990	76	*Correctional Services Act Amendment Act (No. 2) 1990*	20.12.1990	21.12.1990 (*Gazette 20.12.1990 p1841*)
1991	52	*Correctional Services (Drug Testing) Amendment Act 1991*	28.11.1991	19.12.1991 (*Gazette 19.12.1991 p1903*)
1992	34	*Statutes Amendment (Sentencing) Act 1992*	21.5.1992	30.9.1992 (*Gazette 24.9.1992 p1150*)
1992	35	*Statutes Amendment and Repeal (Public Offences) Act 1992*	21.5.1992	6.7.1992 (*Gazette 2.7.1992 p209*)
1993	65	*Correctional Services (Control of Prisoners' Spending) Amendment Act 1993*	26.8.1993	26.8.1993
1993	75	*Statutes Amendment (Abolition of Compulsory Retirement) Act 1993*	21.10.1993	1.1.1994: s 2
1994	4	*Correctional Services (Prisoners' Goods) Amendment Act 1994*	31.3.1994	31.3.1994
1994	35	*Statutes Amendment (Truth in Sentencing) Act 1994*	2.6.1994	1.8.1994 (*Gazette 14.7.1994 p69*)
1995	21	*Statutes Amendment (Correctional Services) Act 1995*	20.4.1995	ss 1—3 and 5—20.4.1995: s 2
1995	51	*Statutes Amendment (Paedophiles) Act 1995*	27.7.1995	30.10.1995 (*Gazette 21.9.1995 p783*)
1996	12	*Correctional Services (Miscellaneous) Amendment Act 1996*	24.4.1996	8.8.1996 (*Gazette 1.8.1996 p220*)
1998	60	*Statutes Amendment (Fine Enforcement) Act 1998*	3.9.1998	Pt 2 (ss 4—6)—6.3.2000 (*Gazette 18.11.1999 p2358*)
1999	42	*Statutes Amendment and Repeal (Justice Portfolio) Act 1999*	5.8.1999	Pt 5 (ss 25—32)—3.10.1999 (*Gazette 23.9.1999 p1208*)
2000	18	*Statutes Amendment (Warrants of Apprehension) Act 2000*	1.6.2000	Pt 2 (s 4)—1.7.2000 (*Gazette 15.6.2000 p3131*)
2000	57	*Statutes Amendment and Repeal (Attorney-General's Portfolio) Act 2000*	20.7.2000	Pt 3 (ss 5 & 6)—14.8.2000 (*Gazette 10.8.2000 p444*)
2001	58	*Victims of Crime Act 2001*	15.11.2001	Sch 2 (cl 1)—1.1.2003 (*Gazette 19.12.2002 p4736*)

2003	33	*Coroners Act 2003*	31.7.2003	Sch (cl 6)—1.7.2005 (*Gazette 23.6.2005 p1899*)
2005	1	*Correctional Services (Miscellaneous) Amendment Act 2005*	24.2.2005	17.11.2005 (*Gazette 17.11.2005 p3972*)
2005	46	*Correctional Services (Parole) Amendment Act 2005*	6.10.2005	16.2.2006 (*Gazette 16.2.2006 p577*)
2005	56	*Justices of the Peace Act 2005*	17.11.2005	Sch 2 (cll 8—15)—1.7.2006 (*Gazette 22.6.2006 p2012*)
2005	80	*Controlled Substances (Serious Drug Offences) Amendment Act 2005*	8.12.2005	Sch 1 (cll 1 & 6)—3.12.2007 (*Gazette 22.11.2007 p4294*)
2006	17	*Statutes Amendment (New Rules of Civil Procedure) Act 2006*	6.7.2006	Pt 20 (s 79)—4.9.2006 (*Gazette 17.8.2006 p2831*)
2006	43	*Statutes Amendment (Domestic Partners) Act 2006*	14.12.2006	Pt 19 (s 60)—1.6.2007 (*Gazette 26.4.2007 p1352*)
2006	44	*Statutes Amendment (Justice Portfolio) Act 2006*	14.12.2006	Pt 9 (ss 13 & 14)—18.1.2007 (*Gazette 18.1.2007 p234*)
2007	26	*Correctional Services (Miscellaneous) Amendment Act 2007*	2.8.2007	23.11.2007 (*Gazette 22.11.2007 p4294*)
2007	48	*Statutes Amendment (Victims of Crime) Act 2007*	8.11.2007	Pt 3 (s 5)—17.7.2008 (*Gazette 17.7.2008 p3372*)
2008	10	*Criminal Law Consolidation (Rape and Sexual Offences) Amendment Act 2008*	17.4.2008	Sch 1 (cl 2)—23.11.2008 (*Gazette 20.11.2008 p5171*)
2008	31	*Correctional Services (Application of Truth in Sentencing) Amendment Act 2008*	23.7.2008	23.7.2008
2009	63	*Correctional Services (Miscellaneous) Amendment Act 2009*	26.11.2009	Pt 2 (ss 4—22) & Sch 2—1.1.2010 (*Gazette 10.12.2009 p6167*)
2009	84	*Statutes Amendment (Public Sector Consequential Amendments) Act 2009*	10.12.2009	Pt 39 (ss 71—73)—1.2.2010 (*Gazette 28.1.2010 p320*)
2012	24	*Correctional Services (Miscellaneous) Amendment Act 2012*	7.6.2012	Pt 2 (ss 4—20, 21(3), (4), 22—41, 42(3), 43—50, 52—63, 64(1), (2), (4))—31.8.2012 (*Gazette 23.8.2012 p3827*); ss 21(1), (2), (5), 42(1), (2), 51, 64(3) & Sch 1 (cl 2)—9.11.2012 (*Gazette 8.11.2012 p4955*)
2012	33	*Statutes Amendment (Serious Firearm Offences) Act 2012*	27.9.2012	Pt 3 (ss 9—13)—4.3.2013 (*Gazette 21.2.2013 p485*); s 8 impliedly repealed by 24/2012 s 4(3)—the definition amended was subsequently deleted
2012	52	*Independent Commissioner Against Corruption Act 2012*	6.12.2012	Sch 3 (cll 8—10)—1.9.2013 (*Gazette 23.5.2013 p2006*)
2013	31	*Statutes Amendment (Fines Enforcement and Recovery) Act 2013*	1.8.2013	Pt 2 (s 4)—3.2.2014 (*Gazette 30.1.2014 p422*)

2013	78	*Statutes Amendment (Electronic Monitoring) Act 2013*	5.12.2013	Pt 2 (ss 4—7)—5.12.2015 (s 7(5) *Acts Interpretation Act 1915*)
2015	8	*Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015*	18.6.2015	Pt 9 (ss 59—61)—1.7.2015 (*Gazette 25.6.2015 p3076*)
2015	13	*Criminal Law (High Risk Offenders) Act 2015*	9.7.2015	Sch 1 (cl 3)—25.1.2016 (*Gazette 11.11.2015 p4886*)
2015	17	*Correctional Services (Parole) Amendment Act 2015*	6.8.2015	Pt 2 (ss 4—11) & Sch 1 (cl 2)—11.2.2016 (*Gazette 11.2.2016 p450*)
2015	46	*Firearms Act 2015*	17.12.2015	Sch 1 (cll 3 & 4)—1.7.2017 (*Gazette 27.6.2017 p2619*)
2016	20	*Statutes Amendment (Home Detention) Act 2016*	26.5.2016	Pt 3 (ss 8(1), 10, 14 & 15)—10.6.2016; ss 8(2), (3), 9 & 11—13—1.9.2016 (*Gazette 9.6.2016 p2057*)
2016	35	*Statutes Amendment (Gender Identity and Equity) Act 2016*	4.8.2016	Pt 3 (ss 7 & 8)—8.9.2016 (*Gazette 8.9.2016 p3676*)
2016	60	*Police Complaints and Discipline Act 2016*	8.12.2016	Sch 1 (cl 4)—4.9.2017 (*Gazette 29.8.2017 p3794*)
2017	18	*Summary Procedure (Indictable Offences) Amendment Act 2017*	14.6.2017	Sch 2 (cll 3 & 41)—5.3.2018 (*Gazette 12.12.2017 p4961*)
2017	41	*Statutes Amendment (Attorney-General's Portfolio) (No 2) Act 2017*	24.10.2017	Pt 3 (s 4)—24.10.2017
2017	53	*Statutes Amendment (Sentencing) Act 2017*	28.11.2017	Pt 6 (ss 9 to 12)—30.4.2018 (*Gazette 6.2.2018 p612*)
2017	69	*Statutes Amendment (Terror Suspect Detention) Act 2017*	12.12.2017	Pt 3 (ss 11 to 17)—26.2.2018 (*Gazette 13.2.2018 p733*)
2018	28	*Correctional Services (Miscellaneous) Amendment Act 2018*	15.11.2018	25.3.2019 (*Gazette 7.3.2019 p809*) except ss 4, 8 & 9—9.4.2020 (*Gazette 9.4.2020 p700*)
2019	11	*Sentencing (Suspended and Community Based Custodial Sentences) Amendment Act 2019*	23.5.2019	Sch 1 (cll 1 & 2)—23.5.2019 (*Gazette 23.5.2019 p1351*)
2019	25	*Statutes Amendment and Repeal (Simplify) Act 2019*	3.10.2019	Pt 10 (s 20)—3.10.2019: s 2(1)
2021	12	*Correctional Services (Accountability and Other Measures) Amendment Act 2021*	8.4.2021	Pt 2 (ss 6 to 8, 12(1), (2) & (4), 14 to 25, 32, 41, 43, 47) & Sch 1 (cll 3 & 5(1))—3.6.2021 (*Gazette 3.6.2021 p1819*); ss 10, 26(1) & (3), 27 to 31, 33 to 35, 37 to 40, 42, 44 to 46 & Sch 1 (cll 4 & 5(2))—1.11.2021 (*Gazette 21.10.2021 p3789*); ss 5, 9, 11, 12(3) & Sch 1 (cl 2)—19.1.2022 (*Gazette 23.12.2021 p4618*); ss 4, 13, 26(2), 36 & Sch 1 (cl 6)—8.4.2023 (s 27(6) *Legislation Interpretation Act 2021*)
2021	38	*Independent Commissioner Against Corruption (CPIPC Recommendations) Amendment Act 2021*	7.10.2021	Sch 1 (cll 8, 9 & 76)—7.10.2021: s 2

2021	47	*Statutes Amendment (Spit Hood Prohibition) Act 2021*	25.11.2021	Pt 2 (s 3)—25.11.2021
2021	**45**	***Unclaimed Money Act 2021***	**25.11.2021**	**Sch 1 (cl 2)—25.11.2023 (s 27(6) *Legislation Interpretation Act 2021*)**
2022	20	*Statutes Amendment (Attorney-General's Portfolio) Act 2022*	24.11.2022	Pt 4 (s 8)—8.4.2023 immediately after s 26(2) of 12/2021: s 2(3)

Provisions amended

Certain textual alterations were made to this Act by the Commissioner of Statute Revision when preparing the reprint of the Act that incorporated all amendments in force as at 19 August 1985 and as at 19 June 1989. Schedules of these alterations were laid before Parliament on 1 August 1985 and 3 August 1989 respectively.

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 28/2018 s 4	9.4.2020
	amended by 12/2021 s 4	8.4.2023
Pt 1		
s 2	*deleted in pursuance of the Acts Republication Act 1967 as its function is now exhausted*	*19.6.1989*
s 3 before insertion by 12/2021	*amended by 94/1984 s 3*	*19.8.1985*
	deleted by 66/1985 Sch	*19.8.1985*
s 3	inserted by 12/2021 s 5	19.1.2022
s 4		
s 4(1)	s 4 redesignated as s 4(1) by 34/1992 s 45	30.9.1992
Aboriginal people	*inserted by 76/1990 s 3(a)*	*21.12.1990*
	deleted by 20/2016 s 8(1)	*10.6.2016*
Aboriginal or Torres Strait Islander person	inserted by 12/2021 s 6(1)	3.6.2021
Aborigine	*inserted by 76/1990 s 3(a)*	*21.12.1990*
	deleted by 20/2016 s 8(1)	*10.6.2016*
the Advisory Council	*deleted by 8/2015 s 59*	*1.7.2015*
alcotest	inserted by 1/2005 s 4(1)	17.11.2005
	substituted by 28/2018 s 5(1)	25.3.2019
analyst	inserted by 1/2005 s 4(1)	17.11.2005
the Assessment Committee	*deleted by 94/1984 s 4(a)*	*19.8.1985*
biological sample	inserted by 1/2005 s 4(1)	17.11.2005
the Chief Executive Officer	*inserted in pursuance of the Acts Republication Act 1967*	*19.6.1989*
	deleted by 24/2012 s 4(1)	*31.8.2012*

CE	inserted by 24/2012 s 4(1)	31.8.2012
child sexual offence	inserted by 51/1995 s 7	30.10.1995
	amended by 44/2006 s 13(1), (2)	18.1.2007
	amended by 10/2008 Sch 1 cl 2(1)—(3)	23.11.2008
	amended by 41/2017 s 4(1)	24.10.2017
CIC levy	*inserted by 60/1998 s 4*	*6.3.2000*
	deleted by 58/2001 Sch 2 cl 1(a)	*1.1.2003*
Commonwealth Criminal Code	inserted by 69/2017 s 11(1)	26.2.2018
community corrections officer	inserted by 42/1999 s 25(a)	3.10.1999
conditional release	*deleted by 94/1984 s 4(b)*	*19.8.1985*
correctional services dog	inserted by 24/2012 s 4(2)	31.8.2012
criminal intelligence	inserted by 28/2018 s 5(2)	25.3.2019
criminal organisation	inserted by 28/2018 s 5(2)	25.3.2019
the Department	*amended by 35/1994 s 16 (Sch)*	*1.8.1994*
	deleted by 84/2009 s 71	*1.2.2010*
Department	inserted by 84/2009 s 71	1.2.2010
	amended by 12/2021 s 6(2)	3.6.2021
designated condition	*inserted by 69/1986 s 4*	*8.12.1986*
	deleted by 24/2012 s 4(3)	*31.8.2012*
designated part	*inserted by 94/1984 s 4(c)*	*19.8.1985*
	deleted by 76/1990 s 3(b)	*21.12.1990*
domestic partner	inserted by 43/2006 s 60(1)	1.6.2007
drug	inserted by 52/1991 s 3	19.12.1991
	substituted by 1/2005 s 4(2)	17.11.2005
	substituted by 80/2005 Sch 1 cl 1	3.12.2007
drug test	inserted by 1/2005 s 4(2)	17.11.2005
electronic device	inserted by 78/2013 s 4	5.12.2015
home detention	inserted by 20/2016 s 8(2)	1.9.2016
home detention order	inserted by 20/2016 s 8(2)	1.9.2016
	amended by 53/2017 s 9	30.4.2018
immediate family	inserted by 46/2005 s 4(1)	16.2.2006
	amended by 43/2006 s 60(2)	1.6.2007
	amended by 12/2021 s 6(3)	3.6.2021
injury	inserted by 46/2005 s 4(1)	16.2.2006
Magistrate	amended by 94/1984 s 4(d)	19.8.1985
manager	inserted by 94/1984 s 4(e)	19.8.1985

member	inserted by 28/2018 s 5(3)	25.3.2019
nearest police station	inserted by 1/2005 s 4(3)	17.11.2005
parent	inserted by 46/2005 s 4(2)	16.2.2006
parole officer	*deleted by 42/1999 s 25(b)*	*3.10.1999*
the Permanent Head	*deleted in pursuance of the Acts Republication Act 1967*	*19.6.1989*
prescribed procedure	inserted by 1/2005 s 4(4)	17.11.2005
prisoner	amended by 94/1984 s 4(f)	19.8.1985
probation and parole hostel	inserted by 24/2012 s 4(4)	31.8.2012
registered victim	inserted by 46/2005 s 4(3)	16.2.2006
the repealed Act	*deleted in pursuance of the Acts Republication Act 1967 as its function is now exhausted*	*19.6.1989*
sentence of indeterminate duration	substituted by 51/1988 s 14	12.5.1988
sexual offence	inserted by 46/2005 s 4(4)	16.2.2006
	amended by 44/2006 s 13(3)	18.1.2007
	amended by 10/2008 Sch 1 cl 2(4)—(6)	23.11.2008
	amended by 41/2017 s 4(2)	24.10.2017
spouse	inserted by 43/2006 s 60(3)	1.6.2007
superintendent	*deleted by 94/1984 s 4(g)*	*19.8.1985*
terrorism intelligence authority	inserted by 69/2017 s 11(2)	26.2.2018
terrorism notification	inserted by 69/2017 s 11(2)	26.2.2018
terrorist offence	inserted by 69/2017 s 11(2)	26.2.2018
terror suspect	inserted by 69/2017 s 11(2)	26.2.2018
VIC levy	inserted by 58/2001 Sch 2 cl 1(b)	1.1.2003
victim	inserted by 35/1994 s 4(a)	1.8.1994
	substituted by 46/2005 s 4(5)	16.2.2006
Victims Register	inserted by 46/2005 s 4(5)	16.2.2006
s 4(2)	inserted by 34/1992 s 45	30.9.1992
	deleted by 35/1994 s 4(b)	1.8.1994
	inserted by 63/2009 s 4	1.1.2010
s 4(3)	inserted by 20/2016 s 8(3)	1.9.2016
s 4(4) and (5)	inserted by 69/2017 s 11(3)	26.2.2018
s 4A	inserted by 63/2009 s 5	1.1.2010
s 5	deleted in pursuance of the *Acts Republication Act 1967* as its function is now exhausted	19.6.1989
	inserted by 46/2005 s 5	16.2.2006
s 5(1)	amended by 24/2012 s 5	31.8.2012
s 5(2)	amended by 48/2007 s 5(1)	17.7.2008

	amended by 24/2012 s 5	31.8.2012
s 5(3) and (5)	amended by 24/2012 s 5	31.8.2012
s 5(6)	inserted by 48/2007 s 5(2)	17.7.2008
s 6	deleted in pursuance of the *Acts Republication Act 1967* as its function is now exhausted	19.6.1989
	inserted by 28/2018 s 6	25.3.2019
s 6(1)	amended by 12/2021 s 7(1)	3.6.2021
s 6(2a)	inserted by 12/2021 s 7(2)	3.6.2021
s 6(3a)	inserted by 12/2021 s 7(3)	3.6.2021
Pt 2		
Pt 2 Div 1		
s 7		
s 7(1)	amended by 51/1988 s 15(a)	1.1.1989
	amended by 24/2012 s 6	31.8.2012
s 7(2)	amended by 94/1984 s 5(a)	19.8.1985
	amended by 51/1988 s 15(b)	1.1.1989
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 6	31.8.2012
	amended by 12/2021 s 8(1), (2)	3.6.2021
s 7(2a)	inserted by 94/1984 s 5(b)	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 6	31.8.2012
	amended by 12/2021 s 8(1)	3.6.2021
s 7(3)	amended by 24/2012 s 6	31.8.2012
s 7(4)	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 6	31.8.2012
	amended by 12/2021 s 8(2)	3.6.2021
s 9		
s 9(1)	substituted by 24/2012 s 7	31.8.2012
Pt 2 Div 2 before deletion by 8/2015		
s 10		
s 10(1)	*substituted by 66/1985 Sch*	*19.8.1985*
s 10(2)	*amended by 35/1994 s 16 (Sch)*	*1.8.1994*
s 10(3)	*amended by 94/1984 s 6*	*19.8.1985*
s 11		
s 11(1) and (2)	*amended by 35/1994 s 16 (Sch)*	*1.8.1994*
s 14		
s 14(1) and (2)	*amended by 35/1994 s 16 (Sch)*	*1.8.1994*
Pt 2 Div 2	*deleted by 8/2015 s 60*	*1.7.2015*
Pt 2 Div 3		
s 17		
s 17(2)	substituted by 94/1984 s 7	19.8.1985

	amended by 56/2005 Sch 2 cl 8	1.7.2006
	(c) deleted by 56/2005 Sch 2 cl 8	1.7.2006
s 17(3)	*deleted by 94/1984 s 7*	*19.8.1985*
Pt 2 Div 4	inserted by 51/1988 s 16	1.1.1989
s 17B	*deleted by 63/2009 s 6*	*1.1.2010*
s 17C before deletion by 63/2009		
s 17C(2)	*amended by 76/1990 s 4*	*21.12.1990*
s 17C(3)	*amended by 35/1994 s 16 (Sch)*	*1.8.1994*
s 17C	*deleted by 63/2009 s 6*	*1.1.2010*
s 17D		
s 17D(1)	amended by 30/1990 s 3	17.5.1990
s 17D(2)	amended by 54/1990 s 3(1) (Sch 1)	22.11.1990
Pt 2 Div 5	inserted by 51/1988 s 16	1.1.1989
Pt 3		
Pt 3 Div 1		
s 19		
s 19(1)	s 19 redesignated as s 19(1) by 94/1984 s 8	19.8.1985
s 19(2)	*inserted by 94/1984 s 8*	*19.8.1985*
	deleted by 76/1990 s 5	*21.12.1990*
Pt 3 Div 2 before substitution by 12/2021		
s 20	*substituted by 94/1984 s 9*	*19.8.1985*
s 20(2)	*amended by 76/1990 s 6(a)*	*21.12.1990*
	substituted by 63/2009 s 7	*1.1.2010*
s 20(2a)	*inserted by 76/1990 s 6(b)*	*21.12.1990*
	deleted by 63/2009 s 7	*1.1.2010*
s 20(3)	*amended by 56/2005 Sch 2 cl 9*	*1.7.2006*
Pt 3 Div 2	substituted by 12/2021 s 9	19.1.2022
Pt 4		
Pt 4 Div 1	heading deleted by 51/1988 s 17	1.1.1989
	heading inserted by 51/1988 s 18	1.1.1989
s 21	*amended by 94/1984 s 10*	*19.8.1985*
	amended by 66/1985 s 3	*19.8.1985*
	deleted by 51/1988 s 17	*1.1.1989*
s 21A	inserted by 94/1984 s 11	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
s 22		
s 22(1)	amended by 94/1984 s 12(a)	19.8.1985
	amended by 76/1990 s 7(a)	21.12.1990
	amended by 24/2012 s 8	31.8.2012
s 22(2)	amended by 94/1984 s 12(b)	19.8.1985
	amended by 76/1990 s 7(b)	21.12.1990

	amended by 24/2012 s 8	31.8.2012
s 22(4)	inserted by 51/1988 s 20	1.1.1989
Pt 4 Div 2	*heading deleted by 51/1988 s 19*	*1.1.1989*
Pt 4 Div 3	substituted by 94/1984 s 13	19.8.1985
s 23		
s 23(1)	amended by 76/1990 s 8(a)	21.12.1990
	amended by 24/2012 s 9	31.8.2012
s 23(2)	substituted by 63/2009 s 8	1.1.2010
	amended by 24/2012 s 9	31.8.2012
s 23(3)	amended by 76/1990 s 8(b)	21.12.1990
	amended by 24/2012 s 9	31.8.2012
	amended by 35/2016 s 7(1)	8.9.2016
s 23(4)	amended by 24/2012 s 9	31.8.2012
	amended by 35/2016 s 7(2)	8.9.2016
s 23(5) and (6)	amended by 24/2012 s 9	31.8.2012
Pt 4 Div 4		
s 24		
s 24(1)	s 24 redesignated as s 24(1) by 76/1990 s 9	21.12.1990
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 10	31.8.2012
s 24(2)	inserted by 76/1990 s 9	21.12.1990
	amended by 63/2009 s 9(1)	1.1.2010
	amended by 24/2012 s 10	31.8.2012
s 24(3)	inserted by 63/2009 s 9(2)	1.1.2010
Pt 4 Div 5		
s 25		
s 25(1)	amended by 94/1984 s 14(a)	19.8.1985
	amended by 76/1990 s 10(a)	21.12.1990
	amended by 24/2012 s 11	31.8.2012
s 25(2)	amended by 94/1984 s 14(b)	19.8.1985
	amended by 76/1990 s 10(b)	21.12.1990
	amended by 24/2012 s 11	31.8.2012
s 27		
s 27(1)	amended by 12/1996 s 3(a)	8.8.1996
	amended by 24/2012 s 12(1)	31.8.2012
s 27(1a)	inserted by 1/2005 s 5(1)	17.11.2005
s 27(2)	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 1/2005 s 5(2)	17.11.2005
	amended by 24/2012 s 12(1)	31.8.2012
	substituted by 78/2013 s 5	5.12.2015
s 27(2a)	inserted by 12/1996 s 3(b)	8.8.1996
	amended by 60/1998 s 5	6.3.2000
	amended by 58/2001 Sch 2 cl 1(c)	1.1.2003

	amended by 24/2012 s 12(1)	31.8.2012
s 27(3)	substituted by 1/2005 s 5(3)	17.11.2005
	amended by 24/2012 s 12(1)	31.8.2012
s 27(4)	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 1/2005 s 5(4)	17.11.2005
	amended by 24/2012 s 12(2)	31.8.2012
s 27(6)	inserted by 76/1990 s 11	21.12.1990
s 27A	inserted by 1/2005 s 6	17.11.2005
s 27A(1)	amended by 24/2012 s 13(1)	31.8.2012
s 27A(2)	amended by 24/2012 s 13(2)	31.8.2012
s 28		
s 28(1)	amended by 56/2005 Sch 2 cl 10(1)	1.7.2006
	amended by 18/2017 Sch 2 cl 3	5.3.2018
s 28(2)	amended by 94/1984 s 15	19.8.1985
	amended by 33/2003 Sch (cl 6)	1.7.2005
	amended by 56/2005 Sch 2 cl 10(2)	1.7.2006
	amended by 24/2012 s 14(1)	31.8.2012
s 28(2a)	inserted by 52/2012 Sch 3 cl 8	1.9.2013
	amended by 38/2021 Sch 1 cl 8	7.10.2021
s 28(3)	amended by 35/1994 s 16 (Sch)	1.8.1994
s 28(4)	inserted by 76/1990 s 12	21.12.1990
	substituted by 24/2012 s 14(2)	31.8.2012
Pt 4 Div 6		
s 29		
s 29(1)	amended by 94/1984 s 16	19.8.1985
	amended by 66/1985 Sch	19.8.1985
	amended by 76/1990 s 13	21.12.1990
	amended by 24/2012 s 15(1)	31.8.2012
	amended by 12/2021 s 10(1)	1.11.2021
s 29(2)	*amended by 94/1984 s 16*	*19.8.1985*
	amended by 24/2012 s 15(2)	*31.8.2012*
	deleted by 12/2021 s 10(2)	*1.11.2021*
s 29(4)	amended by 94/1984 s 16	19.8.1985
	amended by 24/2012 s 15(3)	31.8.2012
s 29(5)	inserted by 1/2005 s 7	17.11.2005
	amended by 24/2012 s 15(4)	31.8.2012
s 30	amended by 24/2012 s 16	31.8.2012
s 31		
s 31(1)	amended by 66/1985 s 4(a)	19.8.1985
	amended by 76/1990 s 4	21.12.1990
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 17(1)	31.8.2012
s 31(2)	amended by 1/2005 s 8	17.11.2005

	amended by 24/2012 s 17(2)	31.8.2012
s 31(2a)	inserted by 30/1990 s 4(a)	17.5.1990
	amended by 24/2012 s 17(3)—(5)	31.8.2012
s 31(3)	substituted by 65/1993 s 2(a)	26.8.1993
	amended by 24/2012 s 17(6)	31.8.2012
s 31(4)	amended by 30/1990 s 4(b)	17.5.1990
	amended by 24/2012 s 17(7)	31.8.2012
s 31(4a)	inserted by 30/1990 s 4(c)	17.5.1990
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 17(8)	31.8.2012
s 31(4b)	inserted by 30/1990 s 4(c)	17.5.1990
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 17(9)	31.8.2012
s 31(5)	amended by 24/2012 s 17(10)	31.8.2012
s 31(5a)	inserted by 65/1993 s 2(b)	26.8.1993
	substituted by 26/2007 s 4	23.11.2007
	amended by 24/2012 s 17(11)	31.8.2012
	amended by 45/2021 Sch 1 cl 2	**25.11.2023**
s 31(5b) and (5c)	inserted by 24/2012 s 17(12)	31.8.2012
s 31(6)	inserted by 66/1985 s 4(b)	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 17(13), (14)	31.8.2012
s 31(6a)	inserted by 60/1998 s 6	6.3.2000
	amended by 58/2001 Sch 2 cl 1(d)	1.1.2003
	amended by 24/2012 s 17(15)—(17)	31.8.2012
s 31(6b)	inserted by 60/1998 s 6	6.3.2000
	amended by 58/2001 Sch 2 cl 1(e)	1.1.2003
s 31(6c)	inserted by 60/1998 s 6	6.3.2000
	amended by 58/2001 Sch 2 cl 1(f), (g)	1.1.2003
	amended by 24/2012 s 17(18)	31.8.2012
s 31(7)	inserted by 65/1993 s 2(c)	26.8.1993
	amended by 24/2012 s 17(19), (20)	31.8.2012
s 32	amended by 94/1984 s 17	19.8.1985
	amended by 66/1985 Sch	19.8.1985
	amended by 65/1993 s 3	26.8.1993
	substituted by 24/2012 s 18	31.8.2012
s 32A	inserted by 24/2012 s 18	31.8.2012
s 33		
s 33(1)	amended by 4/1994 s 2(a)	31.3.1994
	substituted by 12/1996 s 4(a)	8.8.1996
s 33(2)	*amended by 94/1984 s 18(a)*	*19.8.1985*
	amended by 4/1994 s 2(b)	*31.3.1994*
	deleted by 12/1996 s 4(a)	*8.8.1996*

s 33(3)	amended by 94/1984 s 18(a)	19.8.1985
	amended by 4/1994 s 2(c)	31.3.1994
	amended by 1/2005 s 9	17.11.2005
	amended by 24/2012 s 19(1)	31.8.2012
	amended by 12/2021 s 11(1)	19.1.2022
s 33(3a)	inserted by 12/2021 s 11(2)	19.1.2022
s 33(4)	amended by 94/1984 s 18(a)	19.8.1985
	substituted by 4/1994 s 2(d)	31.3.1994
	amended by 12/1996 s 4(b), (c)	8.8.1996
	amended by 24/2012 s 19(2)	31.8.2012
s 33(5)	*amended by 94/1984 s 18(b), (c)*	*19.8.1985*
	deleted by 12/1996 s 4(d)	*8.8.1996*
s 33(7)	amended by 94/1984 s 18(d)	19.8.1985
	amended by 24/2012 s 19(3)	31.8.2012
	amended by 52/2012 Sch 3 cl 9(1)	1.9.2013
	amended by 17/2015 s 4	11.2.2016
	(aa) deleted by 60/2016 Sch 1 cl 4(1)	4.9.2017
	amended by 12/2021 s 11(3), (4)	19.1.2022
s 33(7a)	inserted by 66/1985 s 5(a)	19.8.1985
s 33(8)	amended by 94/1984 s 18(e)	19.8.1985
	amended by 52/2012 Sch 3 cl 9(2)	1.9.2013
	amended by 60/2016 Sch 1 cl 4(2)	4.9.2017
	amended by 12/2021 s 11(5), (6)	19.1.2022
s 33(9)	*amended by 4/1994 s 2(e), (f)*	*31.3.1994*
	deleted by 12/1996 s 4(e)	*8.8.1996*
s 33(10)	amended by 94/1984 s 18(f)	19.8.1985
	amended by 4/1994 s 2(g), (h)	31.3.1994
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 12/1996 s 4(f)	8.8.1996
	amended by 24/2012 s 19(1), (4)	31.8.2012
s 33(10a)	inserted by 24/2012 s 19(5)	31.8.2012
s 33(11)	amended by 94/1984 s 18(f)	19.8.1985
	amended by 66/1985 s 5(b)	19.8.1985
	amended by 4/1994 s 2(i), (j)	31.3.1994
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 12/1996 s 4(g)	8.8.1996
	amended by 24/2012 s 19(1)	31.8.2012
s 33(12)	amended by 94/1984 s 18(f)	19.8.1985
	amended by 4/1994 s 2(k)	31.3.1994
	amended by 24/2012 s 19(1), (6)	31.8.2012
s 33(14)		
authorised officer	amended by 94/1984 s 18(g)	19.8.1985
	amended by 12/1996 s 4(h)	8.8.1996

	amended by 84/2009 s 72(1), (2)	1.2.2010
	amended by 24/2012 s 19(7)	31.8.2012
nominated legal practitioner	inserted by 12/2021 s 11(7)	19.1.2022
s 33A	inserted by 4/1994 s 3	31.3.1994
s 33A(1)	amended by 26/2007 s 5(1)	23.11.2007
	amended by 24/2012 s 20	31.8.2012
s 33A(2) and (3)	substituted by 26/2007 s 5(2)	23.11.2007
	amended by 24/2012 s 20	31.8.2012
s 33A(4)	amended by 26/2007 s 5(3)	23.11.2007
	amended by 24/2012 s 20	31.8.2012
s 33A(5)	substituted by 26/2007 s 5(4)	23.11.2007
	amended by 24/2012 s 20	31.8.2012
s 33A(6)	substituted by 26/2007 s 5(4)	23.11.2007
s 33A(8)	amended by 26/2007 s 5(5)	23.11.2007
	amended by 24/2012 s 20	31.8.2012
s 33A(9)	amended by 26/2007 s 5(6), (7)	23.11.2007
	amended by 24/2012 s 20	31.8.2012
s 34		
s 34(1)	amended by 76/1990 s 15	21.12.1990
	amended by 24/2012 s 21(1)	9.11.2012
s 34(2)	amended by 24/2012 s 21(2)	9.11.2012
s 34(3)	amended by 94/1984 s 19	19.8.1985
	amended by 24/2012 s 21(3), (4)	31.8.2012
s 34(4)	inserted by 24/2012 s 21(5)	9.11.2012
	amended by 28/2018 s 7(1), (2)	25.3.2019
s 35AA	inserted by 52/2012 Sch 3 cl 10	1.9.2013
	substituted by 38/2021 Sch 1 cl 9	7.10.2021
s 35A	inserted by 24/2012 s 22	31.8.2012
s 35A(2)	substituted by 12/2021 s 12(1)	3.6.2021
s 35A(3)	amended by 12/2021 s 12(2)	3.6.2021
	amended by 12/2021 s 12(3)	19.1.2022
s 35A(5a) and (5b)	inserted by 12/2021 s 12(1)	3.6.2021
s 36	amended by 94/1984 s 20	19.8.1985
	amended by 66/1985 Sch	19.8.1985
	amended by 36/1988 s 2	28.4.1988
	amended by 39/1989 s 3(1) (Sch 1)	19.6.1989
	substituted by 76/1990 s 16	21.12.1990
s 36(2)	amended by 24/2012 s 23	31.8.2012
s 36(3)	amended by 12/2021 s 13(1)	8.4.2023
s 36(4)	amended by 24/2012 s 23	31.8.2012
	substituted by 12/2021 s 13(2)	8.4.2023
s 36(4a)	inserted by 12/2021 s 13(2)	8.4.2023

s 36(6)	amended by 24/2012 s 23	31.8.2012
	amended by 12/2021 s 13(3)	8.4.2023
s 36(7)	amended by 12/2021 s 13(4), (5)	8.4.2023
s 36(8)	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 23	31.8.2012
	amended by 12/2021 s 13(6)	8.4.2023
s 36(9)	substituted by 63/2009 s 10	1.1.2010
	amended by 24/2012 s 23	31.8.2012
s 36(9a)	inserted by 12/2021 s 13(7)	8.4.2023
s 36(10)	amended by 12/2021 s 13(8), (9)	8.4.2023
s 36(11)	inserted by 12/2021 s 13(10)	8.4.2023
s 36A	inserted by 12/2021 s 14	3.6.2021
s 37	amended by 94/1984 s 21	19.8.1985
	substituted by 22/1987 s 2	16.4.1987
s 37(1)	amended by 76/1990 s 17	21.12.1990
	amended by 52/1991 s 4	19.12.1991
	amended by 1/2005 s 10(1)	17.11.2005
	amended by 24/2012 s 24(1)—(3)	31.8.2012
s 37(1a)	inserted by 1/2005 s 10(2)	17.11.2005
	amended by 24/2012 s 24(4)—(6)	31.8.2012
s 37(2)	amended by 35/2016 s 8(1)	8.9.2016
s 37(2a)	inserted by 35/2016 s 8(2)	8.9.2016
s 37(6)	inserted by 1/2005 s 10(3)	17.11.2005
s 37AA before substitution by 1/2005	*inserted by 52/1991 s 5*	*19.12.1991*
s 37AA(2a)	*inserted by 21/1995 s 3(a)*	*20.4.1995*
s 37AA	substituted by 1/2005 s 11	17.11.2005
s 37AA(1)	amended by 24/2012 s 25(1)—(4), (6)	31.8.2012
	(c) deleted by 24/2012 s 25(5)	31.8.2012
s 37AA(1a)	inserted by 24/2012 s 25(7)	31.8.2012
Pt 4 Div 6A	inserted by 98/1986 s 3	1.1.1987
Pt 4 Div 6A Subdiv 1		
heading	inserted by 20/2016 s 9	1.9.2016
s 37A		
s 37A(1)	amended by 76/1990 s 18(a)	21.12.1990
	amended by 35/1994 s 5(a)	1.8.1994
	amended by 63/2009 s 11	1.1.2010
	amended by 24/2012 s 26	31.8.2012
s 37A(1a)	*inserted by 76/1990 s 18(b)*	*21.12.1990*
	deleted by 1/2005 s 12	*17.11.2005*
s 37A(2) before substitution by 1/2005	*amended by 76/1990 s 18(c)*	*21.12.1990*

	(b) deleted by 76/1990 s 18(c)	*21.12.1990*
	amended by 35/1994 s 5(b)	*1.8.1994*
s 37A(2)	substituted by 1/2005 s 12	17.11.2005
	amended by 24/2012 s 26	31.8.2012
	(b) and (c) deleted by 20/2016 s 10(1)	10.6.2016
s 37A(3)	amended by 76/1990 s 18(d)	21.12.1990
	amended by 24/2012 s 26	31.8.2012
	amended by 33/2012 s 9(1)	4.3.2013
	amended by 46/2015 Sch 1 cl 3	1.7.2017
	amended by 20/2016 s 10(2)	10.6.2016
	amended by 11/2019 Sch 1 cl 1(1), (2)	23.5.2019
s 37A(4)	substituted by 76/1990 s 18(e)	21.12.1990
	amended by 35/1994 s 5(c)	1.8.1994
s 37A(5)	amended by 24/2012 s 26	31.8.2012
s 37A(5a)	inserted by 33/2012 s 9(2)	4.3.2013
s 37A(6)	inserted by 76/1990 s 18(f)	21.12.1990
	substituted by 12/1996 s 5	8.8.1996
residence	substituted by 20/2016 s 10(3)	10.6.2016
	amended by 12/2021 s 15	3.6.2021
s 37B—see s 37CA		
s 37C		
s 37C(1)	amended by 24/2012 s 28(1)	31.8.2012
s 37C(3)	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 28(2)	31.8.2012
s 37C(4)	amended by 76/1990 s 19	21.12.1990
s 37C(6)	amended by 35/1994 s 16 (Sch)	1.8.1994
Pt 4 Div 6A Subdiv 2		
heading	inserted by 20/2016 s 12	1.9.2016
s 37CA	s 37B redesignated as s 37CA by 20/2016 s 11(7)	1.9.2016
s 37CA(1)	amended by 20/2016 s 11(1), (2)	1.9.2016
	amended by 53/2017 s 10	30.4.2018
s 37CA(2)	s 37B(2) amended by 35/1994 s 16 (Sch)	1.8.1994
	s 37B(2) amended by 24/2012 s 27	31.8.2012
	substituted by 20/2016 s 11(3)	1.9.2016
s 37CA(3)	amended by 20/2016 s 11(4)	1.9.2016
s 37CA(4)	amended by 20/2016 s 11(5)	1.9.2016
s 37CA(5)	s 37B(5) amended by 39/1989 s 3(1) (Sch 1)	19.6.1989
	s 37B(5) amended by 12/1996 s 9 (Sch)	8.8.1996
	s 37B(5) amended by 63/2009 s 12	1.1.2010
	amended by 20/2016 s 11(6)	1.9.2016
s 37D	substituted by 76/1990 s 20	21.12.1990
	amended by 20/2016 s 13	1.9.2016

Pt 4 Div 7		
heading	amended by 20/2016 s 14	10.6.2016
s 38		
s 38(1)	s 38 redesignated as s 38(1) by 76/1990 s 21	21.12.1990
s 38(2)	inserted by 76/1990 s 21	21.12.1990
	amended by 34/1992 s 46(a)	30.9.1992
	amended by 24/2012 s 29	31.8.2012
s 38(3)	inserted by 34/1992 s 46(b)	30.9.1992
s 38(3a)	inserted by 63/2009 s 13	1.1.2010
	amended by 24/2012 s 29	31.8.2012
s 38(4)	inserted by 34/1992 s 46(b)	30.9.1992
pecuniary sum	amended by 53/2017 s 11	30.4.2018
s 39		
s 39(1)	amended by 66/1985 Sch	19.8.1985
s 39(2)	*substituted by 94/1984 s 22*	*19.8.1985*
	deleted by 76/1990 s 22	*21.12.1990*
s 39(3)	substituted by 94/1984 s 22	19.8.1985
s 39(4) and (5)	*deleted by 94/1984 s 22*	*19.8.1985*
s 39A	inserted by 94/1984 s 23	19.8.1985
	amended by 66/1985 s 6	19.8.1985
	amended by 76/1990 s 23	21.12.1990
	amended by 42/1999 s 26	3.10.1999
	amended by 24/2012 s 30	31.8.2012
s 39B	inserted by 94/1984 s 23	19.8.1985
s 39B(1)	amended by 24/2012 s 31(1)	31.8.2012
s 39B(2)	amended by 24/2012 s 31(2)—(4)	31.8.2012
s 39C	inserted by 94/1984 s 23	19.8.1985
Pt 5		
Pt 5 Div 1	heading amended by 94/1984 s 24	19.8.1985
s 40	*deleted by 94/1984 s 25*	*19.8.1985*
s 41		
s 41(1)	amended by 56/2005 Sch 2 cl 11(1)—(4)	1.7.2006
s 41(2)	amended by 39/1989 s 3(1) (Sch 1)	19.6.1989
	amended by 12/1996 s 9 (Sch)	8.8.1996
	amended by 56/2005 Sch 2 cl 11(5)	1.7.2006
	amended by 63/2009 s 14	1.1.2010
s 42	s 42(1) redesignated as s 42 in pursuance of the *Acts Republication Act 1967*	19.8.1985
	amended by 56/2005 Sch 2 cl 12(1), (2)	1.7.2006
s 42(2)	*deleted by 94/1984 s 26*	*19.8.1985*
Pt 5 Div 2		
s 42A	inserted by 35/1994 s 6	1.8.1994
s 42A(1)	amended by 24/2012 s 32(1)—(3)	31.8.2012

s 42A(2)	amended by 63/2009 s 15(1), (2)	1.1.2010
	amended by 24/2012 s 32(4), (5)	31.8.2012
	amended by 12/2021 s 16	3.6.2021
s 43		
s 43(1)	amended by 94/1984 s 27(a)	19.8.1985
	amended by 24/2012 s 33(1)	31.8.2012
s 43(2)	amended by 94/1984 s 27(b)—(e)	19.8.1985
	amended by 66/1985 Sch	19.8.1985
	amended by 35/1994 ss 7, 16 (Sch)	1.8.1994
	amended by 63/2009 s 16(1), (2)	1.1.2010
	amended by 24/2012 s 33(2)	31.8.2012
s 43(3)	inserted by 94/1984 s 27(f)	19.8.1985
	amended by 24/2012 s 33(3)	31.8.2012
s 44		
s 44(1)	amended by 94/1984 s 28(a)	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 34(1)	31.8.2012
s 44(2)	amended by 67/1983 s 3	19.8.1985
	amended by 94/1984 s 28(b)—(f)	19.8.1985
	(a) deleted by 94/1984 s 28(d)	19.8.1985
	amended by 66/1985 Sch	19.8.1985
	amended by 35/1994 ss 8(b), 16 (Sch)	1.8.1994
	(b) deleted by 35/1994 s 8(a)	1.8.1994
	amended by 24/2012 s 34(2)	31.8.2012
s 44(3)	*deleted by 94/1984 s 28(g)*	*19.8.1985*
s 44(4)	amended by 94/1984 s 28(h)	19.8.1985
	amended by 35/1994 s 8(c)	1.8.1994
	amended by 24/2012 s 34(3)	31.8.2012
s 44(5)	inserted by 94/1984 s 28(i)	19.8.1985
s 45	amended by 94/1984 s 29	19.8.1985
	amended by 66/1985 s 7	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 17/2006 s 79	4.9.2006
	amended by 24/2012 s 35	31.8.2012
	amended by 12/2021 s 17	3.6.2021
s 46		
s 46(1)	amended by 94/1984 s 30	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 36(1)	31.8.2012
s 46(3)	amended by 35/1994 s 16 (Sch)	1.8.1994
s 46(4)	amended by 94/1984 s 30	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 24/2012 s 36(2)	31.8.2012

s 46(5)	amended by 35/1994 s 16 (Sch)	1.8.1994
s 47		
s 47(1)	amended by 76/1990 s 24(a)	21.12.1990
s 47(1a)	inserted by 76/1990 s 24(b)	21.12.1990
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 56/2005 Sch 2 cl 13	1.7.2006
	amended by 44/2006 s 14	18.1.2007
s 47(2a)	inserted by 76/1990 s 24(c)	21.12.1990
s 47(4)	amended by 76/1990 s 24(d), (e)	21.12.1990
s 47(5)	amended by 76/1990 s 24(f)	21.12.1990
s 48	amended by 35/1994 s 16 (Sch)	1.8.1994
s 49	*deleted by 94/1984 s 31*	*19.8.1985*
	inserted by 35/1994 s 9	*1.8.1994*
	deleted by 24/2012 s 37	*31.8.2012*
Pt 5 Div 3 before insertion by 12/2021	*heading deleted by 94/1984 s 31*	*19.8.1985*
Pt 5 Div 3	inserted by 12/2021 s 18	3.6.2021
Pt 5 Div 4	heading substituted by 35/1992 s 11	6.7.1992
	heading amended by 57/2000 s 5	14.8.2000
s 50		
s 50(1)	*amended by 39/1989 s 3(1) (Sch 1)*	*19.6.1989*
	substituted by 35/1992 s 12	*6.7.1992*
	deleted by 57/2000 s 6	*14.8.2000*
s 50(2)	*substituted by 94/1984 s 32*	*19.8.1985*
	deleted by 35/1992 s 12	*6.7.1992*
s 50A	inserted by 94/1984 s 33	19.8.1985
s 50A(1)	amended by 39/1989 s 3(1) (Sch 1)	19.6.1989
	amended by 12/1996 s 9 (Sch)	8.8.1996
	amended by 24/2012 s 38	31.8.2012
s 51		
s 51(1)	s 51 amended by 39/1989 s 3(1) (Sch 1)	19.6.1989
	s 51 amended and redesignated as s 51(1) by 12/1996 s 6	8.8.1996
	amended by 63/2009 s 17	1.1.2010
	amended by 24/2012 s 39(1), (2)	31.8.2012
	amended by 12/2021 s 19(1), (2)	3.6.2021
s 51(2)	*inserted by 12/1996 s 6(c)*	*8.8.1996*
	deleted by 24/2012 s 39(3)	*31.8.2012*
s 51(2)—(6)	inserted by 12/2021 s 19(3)	3.6.2021
s 52		
s 52(1)	substituted by 35/1992 s 13	6.7.1992
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 1/2005 s 13(1)—(3)	17.11.2005

s 52(1a)	inserted by 12/2021 s 20(1)	3.6.2021
s 52(2)	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 1/2005 s 13(4)	17.11.2005
	amended by 12/2021 s 20(2)—(4)	3.6.2021
s 53	*amended by 39/1989 s 3(1) (Sch 1)*	*19.6.1989*
	deleted by 35/1992 s 14	*6.7.1992*
s 54	*deleted by 98/1986 s 4*	*1.1.1987*
Pt 6		
Pt 6 Div 1		
s 55		
s 55(2)	amended by 94/1984 s 34(a)—(c)	19.8.1985
	amended by 75/1993 s 7	1.1.1994
	amended by 35/1994 s 16 (Sch)	1.8.1994
	substituted by 46/2005 s 6	16.2.2006
	amended by 12/2021 s 21(1)	3.6.2021
s 55(3)	amended by 94/1984 s 34(d)	19.8.1985
	substituted by 46/2005 s 6	16.2.2006
	amended by 12/2021 s 21(2)	3.6.2021
s 55(3a)	inserted by 94/1984 s 34(e)	19.8.1985
	substituted by 46/2005 s 6	16.2.2006
s 55(4)	amended by 35/1994 s 16 (Sch)	1.8.1994
s 56		
s 56(1)	*substituted by 35/1994 s 10*	*1.8.1994*
	deleted by 46/2005 s 7(1)	*16.2.2006*
s 56(2)	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 46/2005 s 7(2)	16.2.2006
s 56(3)	amended by 35/1994 s 16 (Sch)	1.8.1994
s 57		
s 57(1)	s 57 amended and redesignated as s 57(1) by 12/2021 s 22(1), (2)	3.6.2021
s 57(2)—(5)	inserted by 12/2021 s 22(2)	3.6.2021
s 58		
s 58(3)	amended by 35/1994 s 16 (Sch)	1.8.1994
s 59		
s 59(1)	substituted by 94/1984 s 35	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 46/2005 s 8(1)—(3)	16.2.2006
	amended by 12/2021 s 23(1)	3.6.2021
s 59(2)	amended by 12/2021 s 23(2)	3.6.2021
s 59(2a)	inserted by 12/2021 s 23(3)	3.6.2021
s 59(3)	inserted by 69/2017 s 12	26.2.2018
s 60	substituted by 94/1984 s 36	19.8.1985
s 60(2)	amended by 35/1994 s 16 (Sch)	1.8.1994

s 60(3)	amended by 35/1994 s 16 (Sch)	1.8.1994
	substituted by 46/2005 s 9(1)	16.2.2006
	amended by 12/2021 s 24(1)	3.6.2021
s 60(4)	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 46/2005 s 9(2), (3)	16.2.2006
s 60(5)	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 46/2005 s 9(4), (5)	16.2.2006
	amended by 12/2021 s 24(2)	3.6.2021
s 60A	inserted by 94/1984 s 36	19.8.1985
s 60A(2) and (3)	*deleted by 84/2009 s 73*	*1.2.2010*
s 63		
s 63(1)	amended by 66/1985 Sch	19.8.1985
	amended by 30/1990 s 5	17.5.1990
s 63(2)	amended by 39/1989 s 3(1) (Sch 1)	19.6.1989
	amended by 12/1996 s 9 (Sch)	8.8.1996
s 63(3)	inserted by 69/1986 s 5	8.12.1986
	amended by 36/1988 s 3(a)	28.4.1988
s 63(4)	inserted by 69/1986 s 5	8.12.1986
s 63(5)	inserted by 36/1988 s 3(b)	28.4.1988
s 64		
s 64(1)	amended by 94/1984 s 37(a)—(c)	19.8.1985
	(b) and (c) deleted by 94/1984 s 37(b)	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 46/2005 s 10(1)	16.2.2006
s 64(1a)	inserted by 46/2005 s 10(2)	16.2.2006
s 64(2)	amended by 94/1984 s 37(d)	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
	amended by 12/2021 s 25(1)	3.6.2021
s 64(3a)	*inserted by 94/1984 s 37(e)*	*19.8.1985*
	deleted by 69/1986 s 6	*8.12.1986*
s 64(4)	*amended by 94/1984 s 37(f)*	*19.8.1985*
	deleted by 17/2015 s 5	*11.2.2016*
s 64(5)	deleted by 51/1988 s 21	12.5.1988
	inserted by 13/2015 Sch 1 cl 3	25.1.2016
s 64(6)	inserted by 12/2021 s 25(2)	3.6.2021
Pt 6 Div 2	*amended by 94/1984 s 38*	*19.8.1985*
	amended by 69/1986 s 7	*8.12.1986*
	deleted by 51/1988 s 22	*1.1.1989*
Pt 6 Div 3		
s 66		
s 66(1)	s 66 substituted by 94/1984 s 39	19.8.1985
	s 66 amended by 69/1986 s 8	8.12.1986
	s 66 amended by 76/1990 s 25	21.12.1990

	s 66 substituted by 35/1994 s 11	1.8.1994
	s 66 amended and redesignated as s 66(1) by 46/2005 s 11(1), (2)	16.2.2006
	substituted by 12/2021 s 26(1)	1.11.2021
s 66(1a)	inserted by 12/2021 s 26(1)	1.11.2021
s 66(2)	inserted by 46/2005 s 11(2)	16.2.2006
	amended by 63/2009 s 18(1)	1.1.2010
	amended by 24/2012 s 40(1), (2)	31.8.2012
	amended by 33/2012 s 10	4.3.2013
	amended by 69/2017 s 13	26.2.2018
	amended by 53/2017 s 12	30.4.2018
	amended by 12/2021 s 26(3)	1.11.2021
	amended by 12/2021 s 26(2)	8.4.2023
	amended by 20/2022 s 8(1)	8.4.2023
s 66(3)	inserted by 63/2009 s 18(2)	1.1.2010
serious drug offence	inserted by 20/2022 s 8(2)	8.4.2023
s 67	deleted by 94/1984 s 39	19.8.1985
	inserted by 35/1994 s 11	1.8.1994
s 67(1)	substituted by 46/2005 s 12(1)	16.2.2006
s 67(2)	substituted by 46/2005 s 12(1)	16.2.2006
	amended by 24/2012 s 41(1)	31.8.2012
	amended by 12/2021 s 27(1)	1.11.2021
s 67(3a)	inserted by 46/2005 s 12(2)	16.2.2006
s 67(4)	amended by 46/2005 s 12(3)—(6)	16.2.2006
	amended by 24/2012 s 41(2)	31.8.2012
	amended by 78/2013 s 6	5.12.2015
	amended by 12/2021 s 27(2)	1.11.2021
s 67(4a)	inserted by 12/2021 s 27(3)	1.11.2021
s 67(5)—(7)	substituted by 17/2015 s 6(1)	11.2.2016
s 67(7a)	inserted by 24/2012 s 41(3)	31.8.2012
	substituted by 17/2015 s 6(1)	11.2.2016
	amended by 12/2021 s 27(4)	1.11.2021
s 67(7ab)	inserted by 12/2021 s 27(5)	1.11.2021
s 67(7b)	inserted by 24/2012 s 41(3)	31.8.2012
	substituted by 17/2015 s 6(1)	11.2.2016
	amended by 12/2021 s 27(6)	1.11.2021
s 67(7c)	*inserted by 24/2012 s 41(3)*	*31.8.2012*
	deleted by 17/2015 s 6(1)	*11.2.2016*
s 67(8)	amended by 17/2015 s 6(2)	11.2.2016
s 67(11)	inserted by 17/2015 s 6(3)	11.2.2016
	amended by 12/2021 s 27(7)	1.11.2021
s 67(12)	inserted by 12/2021 s 27(8)	1.11.2021

s 68	deleted by 94/1984 s 39	19.8.1985
	inserted by 35/1994 s 11	1.8.1994
s 68(1)	amended by 42/1999 s 27	3.10.1999
	substituted by 24/2012 s 42(1)	9.11.2012
	amended by 33/2012 s 11(1), (2)	4.3.2013
	amended by 46/2015 Sch 1 cl 4	1.7.2017
	amended by 17/2015 s 7(1)—(3)	11.2.2016
s 68(1aaa)	inserted by 17/2015 s 7(4)	11.2.2016
s 68(1aa)	inserted by 24/2012 s 42(1)	9.11.2012
	amended by 12/2021 s 28(1)	1.11.2021
s 68(1a)	inserted by 51/1995 s 8	30.10.1995
	amended by 24/2012 s 42(2)	9.11.2012
	amended by 78/2013 s 7	5.12.2015
s 68(1ab) and (1ac)	inserted by 12/2021 s 28(2)	1.11.2021
s 68(1b)	inserted by 46/2005 s 13(1)	16.2.2006
	amended by 17/2015 s 7(5)	11.2.2016
s 68(2)	amended by 46/2005 s 13(2)—(4)	16.2.2006
	amended by 17/2015 s 7(5)	11.2.2016
	amended by 12/2021 s 28(3)	1.11.2021
s 68(2a)	*inserted by 33/2012 s 11(3)*	*4.3.2013*
	deleted by 12/2021 s 28(4)	*1.11.2021*
s 68(3)	*deleted by 24/2012 s 42(3)*	*31.8.2012*
s 68(3)	inserted by 12/2021 s 28(4)	1.11.2021
s 68(4)	substituted by 21/1995 s 3(b)	20.4.1995
	amended by 12/2021 s 28(5), (6)	1.11.2021
s 68(4a)	inserted by 12/2021 s 28(7)	1.11.2021
s 68(5)	inserted by 21/1995 s 3(b)	20.4.1995
	amended by 12/2021 s 28(8), (9)	1.11.2021
s 68(6)—(8)	inserted by 12/2021 s 28(10)	1.11.2021
s 68A	inserted by 33/2012 s 12	4.3.2013
s 69		
s 69(1)	s 69 amended by 94/1984 s 40	19.8.1985
	s 69 redesignated as s 69(1) by 17/2015 s 8	11.2.2016
s 69(2)	inserted by 17/2015 s 8	11.2.2016
s 70 before deletion by 17/2015		
s 70(1)	*substituted by 94/1984 s 41*	*19.8.1985*
	amended by 35/1994 s 12	*1.8.1994*
s 70(2)	*amended by 69/1986 s 9*	*8.12.1986*
	amended by 35/1994 s 16 (Sch)	*1.8.1994*
s 70	*deleted by 17/2015 s 9*	*11.2.2016*
s 71	substituted by 94/1984 s 42	19.8.1985

s 71(1)	amended by 35/1994 s 16 (Sch)	1.8.1994
s 71(2)	amended by 35/1994 s 16 (Sch)	1.8.1994
	substituted by 17/2015 s 10(1)	11.2.2016
s 71(3)	substituted by 17/2015 s 10(1)	11.2.2016
s 71(4)	amended by 42/1999 s 28	3.10.1999
	amended by 24/2012 s 43	31.8.2012
	amended by 17/2015 s 10(2)	11.2.2016
s 71(5)	inserted by 33/2012 s 13	4.3.2013
s 71(6)	inserted by 17/2015 s 10(3)	11.2.2016
s 72		
s 72(1)	amended by 35/1994 s 16 (Sch)	1.8.1994
s 72(2)	amended by 42/1999 s 29	3.10.1999
	amended by 24/2012 s 44	31.8.2012
s 72(3)	substituted by 94/1984 s 43	19.8.1985
	amended by 69/1986 s 10	8.12.1986
s 73	*deleted by 94/1984 s 44*	*19.8.1985*
	inserted by 69/1986 s 11	*8.12.1986*
	deleted by 24/2012 s 45	*31.8.2012*
s 74		
s 74(1)	amended by 94/1984 s 45(a)	19.8.1985
	substituted by 69/1986 s 12(a)	8.12.1986
	substituted by 30/1990 s 6	17.5.1990
	substituted by 24/2012 s 46(1)	31.8.2012
	substituted by 12/2021 s 29(1)	1.11.2021
s 74(1a) and (1b)	inserted by 69/1986 s 12(b)	8.12.1986
s 74(2)	amended by 42/1999 s 30	3.10.1999
	amended by 24/2012 s 46(2)	31.8.2012
s 74(3)	substituted by 94/1984 s 45(b)	19.8.1985
s 74(4)	*inserted by 94/1984 s 45(b)*	*19.8.1985*
	substituted by 69/1986 s 12(c)	*8.12.1986*
	amended by 24/2012 s 46(3)	*31.8.2012*
	deleted by 12/2021 s 29(2)	*1.11.2021*
s 74(4a)	inserted by 69/1986 s 12(c)	8.12.1986
s 74(4b)	*inserted by 69/1986 s 12(c)*	*8.12.1986*
	deleted by 12/2021 s 29(3)	*1.11.2021*
s 74(5)	inserted by 94/1984 s 45(b)	19.8.1985
	substituted by 12/2021 s 29(3)	1.11.2021
s 74(6)	inserted by 24/2012 s 46(4)	31.8.2012
s 74AAA	inserted by 12/2021 s 30	1.11.2021
s 74AA	inserted by 30/1990 s 7	17.5.1990
s 74AA(1)	amended by 24/2012 s 47(1)	31.8.2012
	amended by 12/2021 s 31	1.11.2021
s 74AA(3)	amended by 42/1999 s 31(a)	3.10.1999

s 74AA(4)	amended by 34/1992 s 47	30.9.1992
	amended by 42/1999 s 31(b), (c)	3.10.1999
	amended by 24/2012 s 47(2)	31.8.2012
	amended by 31/2013 s 4	3.2.2014
s 74AA(5)	amended by 42/1999 s 31(c)	3.10.1999
s 74A	inserted by 94/1984 s 46	19.8.1985
	amended by 35/1994 s 16 (Sch)	1.8.1994
s 74B	inserted by 69/2017 s 14	26.2.2018
s 75		
s 75(1)	substituted by 94/1984 s 47(a)	19.8.1985
	substituted by 30/1990 s 8(a)	17.5.1990
	amended by 11/2019 Sch 1 cl 2(1)	23.5.2019
s 75(1aa)	inserted by 11/2019 Sch 1 cl 2(2)	23.5.2019
s 75(1a)	inserted by 94/1984 s 47(a)	19.8.1985
	amended by 30/1990 s 8(b)	17.5.1990
	amended by 11/2019 Sch 1 cl 2(3)	23.5.2019
s 75(2)	amended by 30/1990 s 8(c)	17.5.1990
	amended by 54/1990 s 3(1) (Sch 1)	22.11.1990
	amended by 11/2019 Sch 1 cl 2(4)	23.5.2019
s 75(3)	inserted by 94/1984 s 47(b)	19.8.1985
	deleted by 69/1986 s 13	8.12.1986
	inserted by 24/2012 s 48	31.8.2012
	amended by 11/2019 Sch 1 cl 2(5)	23.5.2019
s 76 before substitution by 24/2012		
s 76(1)	*amended by 18/2000 s 4(a)*	*1.7.2000*
s 76(2)	*amended by 18/2000 s 4(b)*	*1.7.2000*
s 76(2a)	*inserted by 36/1988 s 4*	*28.4.1988*
s 76(3a)	*inserted by 18/2000 s 4(c)*	*1.7.2000*
s 76(4)	*inserted by 94/1984 s 48*	*19.8.1985*
s 76	substituted by 24/2012 s 49	31.8.2012
s 76(5)	amended by 12/2021 s 32(1)	3.6.2021
s 76(6)	amended by 12/2021 s 32(2)	3.6.2021
ss 76A and 76B	inserted by 24/2012 s 49	31.8.2012
s 77		
s 77(1) before substitution by 46/2005	*deleted by 94/1984 s 49(a)*	*19.8.1985*
	inserted by 35/1994 s 13(a)	*1.8.1994*
	amended by 58/2001 Sch 2 cl 1(h)	*1.1.2003*
s 77(1)	substituted by 46/2005 s 14(1)	16.2.2006
	amended by 24/2012 s 50(1)	31.8.2012
	amended by 69/2017 s 15	26.2.2018

s 77(1a)	inserted by 46/2005 s 14(1)	16.2.2006
s 77(2)	amended by 94/1984 s 49(b)	19.8.1985
	amended by 35/1994 s 13(b)	1.8.1994
	amended by 58/2001 Sch 2 cl 1(i)	1.1.2003
	amended by 46/2005 s 14(2)	16.2.2006
	amended by 24/2012 s 50(1), (2)	31.8.2012
	amended by 12/2021 s 33(1), (2)	1.11.2021
s 77(2a)	inserted by 12/2021 s 33(3)	1.11.2021
s 77(3)	substituted by 94/1984 s 49(c)	19.8.1985
	amended by 30/1990 s 9	17.5.1990
	amended by 12/2021 s 33(4)	1.11.2021
s 77(3a)	inserted by 12/2021 s 33(5)	1.11.2021
s 77(4) and (5)	inserted by 12/1996 s 7	8.8.1996
s 77AA	inserted by 69/2017 s 16	26.2.2018
s 78	*deleted by 94/1984 s 50*	*19.8.1985*
Pt 6 Div 4	inserted by 17/2015 s 11	11.2.2016
heading	amended by 12/2021 s 34	1.11.2021
s 77A		
s 77A(1)	s 77A redesignated as s 77A(1) by 12/2021 s 35(4)	1.11.2021
accessory	inserted by 12/2021 s 35(1)	1.11.2021
principal offender	inserted by 12/2021 s 35(2)	1.11.2021
prisoner of a prescribed class	inserted by 12/2021 s 35(2)	1.11.2021
reviewable decision	amended by 12/2021 s 35(3)	1.11.2021
s 77A(2)	inserted by 12/2021 s 35(4)	1.11.2021
Pt 6A	inserted by 12/2021 s 36	8.4.2023
Pt 7	*substituted by 94/1984 s 51*	*19.8.1985*
	amended by 66/1985 s 8, Sch	*19.8.1985*
	amended by 69/1986 ss 14, 15	*8.12.1986*
	amended by 34/1992 s 48	*30.9.1992*
	deleted by 35/1994 s 14	*1.8.1994*
Pt 7	inserted by 24/2012 s 51	9.11.2012
s 81E		
s 81E(3)	substituted by 25/2019 s 20	3.10.2019
s 81E(3a)	inserted by 12/2021 s 37	1.11.2021
s 81E(4)	substituted by 25/2019 s 20	3.10.2019
s 81L		
s 81L(5)	amended by 12/2021 s 38	1.11.2021
s 81M		
s 81M(5)	amended by 12/2021 s 39	1.11.2021
s 81O		
s 81O(2)	amended by 12/2021 s 40	1.11.2021

Pt 7A	inserted by 28/2018 s 8	9.4.2020
s 81T		
s 81T(2)	amended by 12/2021 s 41	3.6.2021
Pt 8		
s 82	inserted by 26/2007 s 6	23.11.2007
s 82(1)	amended by 63/2009 s 19(1)	1.1.2010
	amended by 24/2012 s 52(1)	31.8.2012
s 82(3)	amended by 63/2009 s 19(2)	1.1.2010
	amended by 24/2012 s 52(2)	31.8.2012
s 83		
s 83(1)	amended by 94/1984 s 52(a)	19.8.1985
	amended by 24/2012 s 53(1), (2)	31.8.2012
	amended by 28/2018 s 9(1)	9.4.2020
s 83(2)	amended by 94/1984 s 52(a)	19.8.1985
	amended by 24/2012 s 52(3)	31.8.2012
s 83(4)	inserted by 94/1984 s 52(b)	19.8.1985
	amended by 28/2018 s 9(2)	9.4.2020
s 84	amended by 94/1984 s 53	19.8.1985
	substituted by 54/1990 s 3(1) (Sch 1)	22.11.1990
	amended by 34/1992 s 49	30.9.1992
	substituted by 24/2012 s 54	31.8.2012
s 85	deleted by 94/1984 s 54	19.8.1985
	inserted by 21/1995 s 3(c)	20.4.1995
	amended by 1/2005 s 14	17.11.2005
	amended by 24/2012 s 55(1), (2)	31.8.2012
s 85A	inserted by 94/1984 s 55	19.8.1985
	substituted by 1/2005 s 15	17.11.2005
s 85A(1)	amended by 24/2012 s 56	31.8.2012
	amended by 28/2018 s 10(1)	25.3.2019
s 85A(1a) and (1b)	inserted by 28/2018 s 10(2)	25.3.2019
s 85A(2)	amended by 24/2012 s 56	31.8.2012
s 85B	inserted by 94/1984 s 55	19.8.1985
	amended by 39/1989 s 3(1) (Sch 1)	19.6.1989
	amended by 35/1994 s 16 (Sch)	1.8.1994
	substituted by 12/1996 s 8	8.8.1996
	substituted by 1/2005 s 15	17.11.2005
s 85B(1)	amended by 24/2012 s 57(1), (2)	31.8.2012
s 85B(2)	amended by 24/2012 s 57(3)	31.8.2012
s 85B(4)—(10)	amended by 24/2012 s 57(4)	31.8.2012
s 85B(13)		
prohibited item	amended by 24/2012 s 57(4)	31.8.2012
s 85B(14)	inserted by 24/2012 s 57(5)	31.8.2012
s 85C		

s 85C(a1) and (a2)	inserted by 12/2021 s 42(1)	1.11.2021
s 85C(1)	s 85C inserted by 12/1996 s 8	8.8.1996
	s 85C amended by 46/2005 s 15(1), (2)	16.2.2006
	s 85C amended and redesignated as s 85C(1) by 24/2012 s 58(1)—(4)	31.8.2012
	amended by 12/2021 s 42(2)	1.11.2021
s 85C(2)	inserted by 24/2012 s 58(4)	31.8.2012
s 85C(3)	inserted by 12/2021 s 42(3)	1.11.2021
s 85CA	inserted by 24/2012 s 59	31.8.2012
s 85CB	inserted by 12/2021 s 43	3.6.2021
s 85D	inserted by 12/1996 s 8	8.8.1996
s 85D(1)	amended by 24/2012 s 60	31.8.2012
	amended by 12/2021 s 44(1)	1.11.2021
s 85D(2)	amended by 46/2005 s 16	16.2.2006
	amended by 24/2012 s 60	31.8.2012
	amended by 12/2021 s 44(2)	1.11.2021
s 85D(3)—(5)	amended by 24/2012 s 60	31.8.2012
s 85E	inserted by 12/2021 s 45	1.11.2021
s 86	amended by 63/2009 s 20	1.1.2010
	amended by 24/2012 s 61	31.8.2012
s 86AA	inserted by 47/2021 s 3	25.11.2021
s 86A before insertion by 24/2012	*inserted by 51/1988 s 23*	*1.1.1989*
	deleted by 63/2009 s 21	*1.1.2010*
s 86A	inserted by 24/2012 s 62	31.8.2012
s 86B	inserted by 24/2012 s 62	31.8.2012
s 86B(2)	amended by 12/2021 s 46	1.11.2021
ss 87A and 87B	inserted by 12/2021 s 47	3.6.2021
s 88A	inserted by 98/1986 s 5	1.1.1987
s 88B	inserted by 76/1990 s 26	21.12.1990
s 88B(1)	s 88B amended and redesignated as s 88B(1) by 24/2012 s 63(1), (2)	31.8.2012
s 88B(2)	inserted by 24/2012 s 63(2)	31.8.2012
s 89		
s 89(2)	amended by 94/1984 s 56	19.8.1985
	amended by 30/1990 s 10	17.5.1990
	amended by 52/1991 s 6	19.12.1991
	(k) deleted by 65/1993 s 4	26.8.1993
	amended by 35/1994 s 15	1.8.1994
	amended by 42/1999 s 32	3.10.1999
	amended by 1/2005 s 16	17.11.2005
	amended by 56/2005 Sch 2 cl 14	1.7.2006
	amended by 26/2007 s 7(1), (2)	23.11.2007
	(d) deleted by 63/2009 s 22(1)	1.1.2010

	amended by 63/2009 s 22(2)—(5)	1.1.2010
	amended by 24/2012 s 64(1), (2)	31.8.2012
	amended by 24/2012 s 64(3)	9.11.2012
s 89(3)	inserted by 26/2007 s 7(3)	23.11.2007
	amended by 63/2009 s 22(6)	1.1.2010
	amended by 24/2012 s 64(4)	31.8.2012
Sch 1	inserted by 31/2008 s 3	23.7.2008

Transitional etc provisions associated with Act or amendments

Statutes Amendment (Truth in Sentencing) Act 1994, ss 20 and 21, as amended by Statutes Amendment (Correctional Services) Act 1995, s 4

20—Reduction of existing sentences and non-parole periods

(1) Subject to subsection (2), a sentence of imprisonment (including a suspended sentence) imposed before the commencement of this Act and a non-parole period imposed before the commencement of this Act are, on the commencement of this Act, reduced—

(a) by the number of days of remission credited to the prisoner or youth; and

(b) by the maximum number of days of remission that the prisoner or youth could have earned after the commencement of this Act had this Act not repealed Part 7 of the *Correctional Services Act 1982*.

(2) If a prisoner or youth becomes liable to serve the unexpired balance of a term of imprisonment imposed before the commencement of this Act, no reduction of that balance is to be made under this section.

(3) In subsection (1), the ***maximum number of days of remission***, in relation to a sentence of imprisonment (including a suspended sentence) in respect of which a non-parole period has been fixed, means the maximum number of days of remission that the prisoner or youth could have earned in respect of that non-parole period assuming that he or she was released in accordance with section 66(1) of the *Correctional Services Act 1982* (as in force before the commencement of this Act), whether or not he or she is in fact released at the end of the non-parole period (as reduced under this section).

21—Sentences imposed after commencement of this Act

(1) A court, in fixing the term of a sentence of imprisonment or in fixing or extending a non-parole period, must, when considering sentences imposed before the commencement of this Act (but after the commencement of the *Prisons Act Amendment Act (No. 2) 1983*) for comparable offences, take into account the abolition of the previous statutory scheme for remission of sentence.

(2) This section applies whether the offence to which the sentence or non-parole period relates was committed before or after the commencement of this Act.

Statutes Amendment (Correctional Services) Act 1995

5—Transitional provision

Nothing in section 4 of this Act affects a decision or order of a court or the Parole Board made before the commencement of this Act.

Correctional Services (Parole) Amendment Act 2005, Sch 1

1—Transitional provision

(1) A member of the Board holding office under the *Correctional Services Act 1982* (the ***principal Act***) immediately before the commencement of this Schedule will, on that commencement, continue in office for the balance of the person's term, subject to section 58 of the principal Act.

(2) The amendments made by Part 2 of this Act to Part 6 Division 3 of the principal Act are intended to apply in respect of prisoners serving sentences of imprisonment immediately before the commencement of this Schedule regardless of when the prisoners were sentenced.

(3) However, if, before the commencement of this Schedule, the Board had, under section 66 of the principal Act, ordered a prisoner to be released from prison or home detention on parole, the prisoner is, subject to the provisions of Part 6 Division 3 of that Act as in force immediately before that commencement, to be released on parole.

Justices of the Peace Act 2005, Sch 2

15—Transitional provision

An amendment made by Schedule 2 of the *Justices of the Peace Act 2005* to the *Correctional Services Act 1982* does not apply in respect of proceedings commenced before the commencement of the amending provision (and those proceedings may continue as if the amending provision had not been enacted).

Controlled Substances (Serious Drug Offences) Amendment Act 2005, Sch 1

6—Transitional provision

An amendment to the principal Act effected by a provision of this Act only applies in relation to an offence if the offence is committed on or after the commencement of the provision.

Correctional Services (Miscellaneous) Amendment Act 2009, Sch 2

1—Transitional provision

(1) The amendments made by Part 2 of this Act to section 66 of the *Correctional Services Act 1982* (the ***principal Act***) are intended to apply in respect of prisoners serving sentences of imprisonment immediately before the commencement of this clause regardless of when the prisoners were sentenced.

(2) However, if, before the commencement of this clause, the Board had, under section 66 of the principal Act, ordered a prisoner to be released from prison or home detention on parole, the prisoner is, subject to the provisions of Part 6 Division 3 of the principal Act as in force immediately before that commencement, to be released on parole.

Correctional Services (Miscellaneous) Amendment Act 2012, Sch 1 Pt 2

2—Transitional provision

(1) Part 7 of the *Correctional Services Act 1982* (as inserted by section 51 of this Act) applies to an award of damages to a prisoner on or after the commencement of this clause in respect of a claim made by or on behalf of the prisoner against the State for a civil wrong regardless of when legal proceedings in respect of the civil wrong commenced.

(2) Words used in subclause (1) have the same meaning as in Part 7 of the *Correctional Services Act 1982*.

Statutes Amendment (Boards and Committees—Abolition and Reform) Act 2015

61—Transitional provision

A member of the Correctional Services Advisory Council ceases to hold office on the commencement of this section.

Correctional Services (Parole) Amendment Act 2015, Sch 1 Pt 2

2—Transitional provision

(1) The amendments to the *Correctional Services Act 1982* made by Part 2 of this Act do not apply to a prisoner who has been sentenced to life imprisonment if, prior to the commencement of this clause—

(a) the prisoner has been released on parole; or

(b) the Governor has ordered that the prisoner be released on parole; or

(c) the Board has recommended to the Governor that the prisoner be released on parole but the Governor has not, as at that commencement, made a decision as to whether or not to approve the recommendation.

(2) However, if, after the commencement of this clause—

(a) the release on parole of a prisoner who has been sentenced to life imprisonment is cancelled; or

(b) the Governor does not approve the recommendation of the Board that a prisoner who has been sentenced to life imprisonment be released on parole,

the amendments to the *Correctional Services Act 1982* made by Part 2 of this Act will apply to the prisoner (including any application for release on parole made by the prisoner after that commencement).

Statutes Amendment (Home Detention) Act 2016

15—Transitional provision

The amendments to the *Correctional Services Act 1982* made by this Part apply in respect of all prisoners serving sentences of imprisonment on the commencement of this Part, regardless of when the prisoners were sentenced.

Statutes Amendment (Terror Suspect Detention) Act 2017, Pt 3

17—Transitional provision

(1) The amendments to the *Correctional Services Act 1982* effected by this Act apply in relation to—

(a) a prisoner who is serving a sentence of imprisonment (including a prisoner who has been released on home detention); or

(b) a person who is on parole,

on or after the commencement of this Part (regardless of when the relevant offence was committed).

(2) The reference in section 74B of the *Correctional Services Act 1982* (as amended by this Act) to a person becoming a terror suspect includes a person who, on the commencement of this Part, becomes a terror suspect because they are a person to whom section 4(4) of the *Correctional Services Act 1982* (as amended by this Act) applies.

Summary Procedure (Indictable Offences) Amendment Act 2017, Sch 2 Pt 14

41—Transitional provision

The amendments made by this Act apply to proceedings relating to an offence that are commenced after the commencement of this Act, regardless of when the offence occurred (and the Acts amended by this Act, as in force before the commencement of this Act, continue to apply to proceedings that were commenced before the commencement of this Act).

Correctional Services (Accountability and Other Measures) Amendment Act 2021, Sch 1 Pt 2—Transitional provisions

2—Visiting inspectors

A visiting inspector holding office on the commencement of this clause will cease to hold office on that commencement.

3—Allowances and expenses of members of Parole Board to continue

On the commencement of this clause, the allowances and expenses payable to a member of the Parole Board will continue to be determined in accordance with the *Correctional Services Act 1982* as if this Act had not been enacted until any required determinations of the Remuneration Tribunal have come into operation.

4—Review of release on parole relating to prisoners of a prescribed class

(1) The amendments to the *Correctional Services Act 1982* made by sections 27(4) and (6) to (8) (inclusive), 34 and 35 of this Act do not apply to a prisoner of a prescribed class if, prior to the commencement of this clause, the prisoner has been released on parole.

(2) However, if, after the commencement of this clause, the release on parole of a prisoner of a prescribed class is cancelled, the amendments to the *Correctional Services Act 1982* made by sections 27(4) and (6) to (8) (inclusive), 34 and 35 of this Act will apply to the prisoner (including any application for release on parole made by the prisoner after that commencement).

(3) For the purposes of this clause—

prisoner of a prescribed class has the same meaning as in Part 6 Division 4 of the *Correctional Services Act 1982* (as amended by section 35 of this Act).

5—General

(1) An amendment effected by a provision of this Act (other than a provision referred to in clause 4) applies in relation to a prisoner serving a sentence of imprisonment or on parole on or after the commencement of the provision (regardless of when the prisoner was sentenced).

(2) However, section 68(1aa)(b)(i) of the *Correctional Services Act 1982* (as inserted by section 28(1) of this Act) does not affect the conditions of parole of a prisoner released on parole prior to the commencement of section 28(1).

6—Other matters

To avoid doubt, Part 6A of the *Correctional Services Act 1982* (as inserted by section 36 of this Act) applies on and after the commencement of this clause to a person appointed as an officer or employee of the Department (regardless of when the officer or employee was appointed).

Independent Commissioner Against Corruption (CPIPC Recommendations) Amendment Act 2021, Sch 1 Pt 21

76—Savings and transitional regulations

Regulations may be made under any Act amended by this Act (including under the *Independent Commission Against Corruption Act 2012* as in force after the commencement of this Act) to make provisions of a saving or transitional nature consequent on the enactment of this Act or on the commencement of specified provisions of this Act.

Historical versions

Reprint No 1—1.7.1991
Reprint No 2—19.12.1991
Reprint No 3—6.7.1992
Reprint No 4—30.9.1992
Reprint No 5—26.8.1993
Reprint No 6—1.1.1994
Reprint No 7—31.3.1994
Reprint No 8—1.8.1994
Reprint No 9—20.4.1995
Reprint No 10—30.10.1995
Reprint No 11—8.8.1996
Reprint No 12—3.10.1999
Reprint No 13—6.3.2000
Reprint No 14—1.7.2000
Reprint No 15—14.8.2000
Reprint No 16—1.1.2003

1.7.2005
17.11.2005
16.2.2006
1.7.2006
4.9.2006
18.1.2007
1.6.2007
23.11.2007 (electronic only)
3.12.2007
17.7.2008 (electronic only)
23.7.2008
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1.1.2010
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9.11.2012
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8.4.2023