

Queensland



# **CORRECTIVE SERVICES ACT 2000**

**Reprinted as in force on 29 August 2002  
(includes amendments up to Act No. 40 of 2002)**

**Reprint No. 1G**

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This page is specific to this reprint. See previous reprints for information about earlier changes made under the Reprints Act 1992. A table of earlier reprints is included in the endnotes.

**Also see endnotes for information about—**

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# Queensland



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# **CORRECTIVE SERVICES ACT 2000**

[as amended by all amendments that commenced on or before 29 August 2002]

## **An Act to provide for corrective services, and for related purposes**

### **CHAPTER 1—PRELIMINARY**

#### **1 Short title**

This Act may be cited as the *Corrective Services Act 2000*.

#### **2 Commencement**

(1) Chapter 10 commences on assent.

(2) The remaining provisions of this Act commence on a day to be fixed by proclamation.

#### **3 Purpose**

(1) The purpose of corrective services is community safety and crime prevention through the humane containment, supervision and rehabilitation of offenders.

(2) This Act recognises that every member of society has certain basic human entitlements, and that, for this reason, an offender's entitlements, other than those that are necessarily diminished because of imprisonment or another court sentence, should be safeguarded.

(3) This Act also recognises—

- (a) the need to respect an offender's dignity; and
- (b) the special needs of some offenders by taking into account—
  - (i) an offender's age, gender or race; and
  - (ii) any disability an offender has; and

- (c) the culturally specific needs of Aboriginal and Torres Strait Islander offenders.

#### **4 Definitions**

The dictionary in schedule 3 defines particular words used in this Act.

#### **5 References to person in charge or prisoner**

(1) In a provision of this Act, a reference to the person in charge is a reference to the person in charge of a corrective services facility.

(2) In a provision of this Act about a person in charge—

- (a) a reference to a corrective services facility is a reference to the facility of which the person is the person in charge; and
- (b) a reference to a prisoner is a reference to a prisoner at the corrective services facility of which the person is the person in charge.

(3) In a provision of this Act about a prisoner, a reference to a corrective services facility is a reference to the facility at which the prisoner is accommodated.

## **CHAPTER 2—PRISONERS**

### **PART 1—CUSTODY AND ADMISSION OF PRISONERS**

#### **6 Where persons to be detained**

(1) A person sentenced to a period of imprisonment, or required by law to be detained for a period of imprisonment, must be detained for the period in a corrective services facility.

(2) However—

- (a) if the period is 21 days or less—the person may be detained in a watch-house for part or all of the period; or

- (b) if the period is more than 21 days—the person may be detained in a watch-house until the person can be conveniently taken to a corrective services facility.

**(3)** This section applies subject to—

- (a) the provisions of this Act that allow a prisoner to be lawfully outside a corrective services facility; and
- (b) the Criminal Code; and
- (c) the *Juvenile Justice Act 1992*; and
- (d) the *Mental Health Act 1974*;<sup>1</sup> and
- (e) the *Parliament of Queensland Act 2001*, section 40(4)(a).<sup>2</sup>

## **7 When persons in chief executive's custody**

**(1)** If a person sentenced to a term of imprisonment or required by law to be detained in custody for a period is, while being taken to a corrective services facility for detention, under the control of a corrective services officer, the person is taken to be in the chief executive's custody.

**(2)** When admitted to a corrective services facility for detention, a person is taken to be in the chief executive's custody.

**(3)** Subsections (1) and (2) apply despite the provisions of a warrant committing the person into someone else's custody.

**(4)** Except for any time when the person is lawfully in another person's custody, the person remains in the chief executive's custody until discharged, even if the person is lawfully outside of a corrective services facility.

*Examples of when a person is lawfully outside of a corrective services facility—*

1. While the person is subject to a post-prison community based release order or a conditional release order.
2. When the person is being transferred between facilities or is attending court.

**(5)** In a warrant committing a person to a corrective services facility, or requiring a prisoner to be produced to the keeper or officer in charge of a

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1 Now see *Acts Interpretation Act 1954*, section 14H and *Mental Health Act 2000*.

2 *Parliament of Queensland Act 2001*, section 40 (Assembly proceedings on contempt)

corrective services facility, a reference to the keeper or officer in charge of the facility is a reference to the chief executive.

(6) The chief executive is taken to have custody of a person even if the person is in the physical custody of, or being supervised by, an engaged service provider.

## **8 When persons in commissioner's custody**

(1) If a person sentenced to a term of imprisonment or required by law to be detained in custody for a period is, while being taken to a corrective services facility for detention, under the control of a police officer, the person is taken to be in the commissioner's custody.

(2) When admitted to a watch-house for detention, a person is taken to be in the commissioner's custody, even if the person is lawfully outside of the watch-house, until the person—

- (a) is discharged; or
- (b) is lawfully given into another person's custody.

(3) Subsections (1) and (2) apply despite the provisions of a warrant committing the person into someone else's custody.

## **9 Authority for admission to corrective services facility**

(1) A person must not be admitted to and detained in a corrective services facility unless the corrective services officer in charge of admitting prisoners at the facility is given—

- (a) a warrant for the person's detention; or
- (b) a verdict and judgement record under the *Criminal Practice Rules 1999* containing the name of the person and particulars of the judgment pronounced on the person.

(2) Despite the provisions of a warrant committing a person to a specified corrective services facility or to a watch-house, the person may be taken to and detained in a corrective services facility specified by the chief executive.

## **10 Identification of prisoners**

(1) The chief executive must establish a record that contains each prisoner's details.

(2) For the identification of a prisoner, a corrective services officer—

- (a) may photograph the prisoner; and
- (b) may take the prisoner's fingerprints, palm prints, footprints, toe prints, eye prints or voiceprints.

(3) The photos and prints must be destroyed if—

- (a) the prisoner is found not guilty of the offence for which the prisoner is being detained in custody, other than on the grounds of unsoundness of mind; or
- (b) proceedings for the offence for which the prisoner is being detained are discontinued or dismissed.

(4) However, the photos or prints must not be destroyed if, for any part of the period of detention for the offence, the prisoner was also being detained for another offence—

- (a) of which the prisoner has been convicted; or
- (b) for which proceedings have not been discontinued or dismissed.

(5) In this section—

“**prisoner**” includes a person subject to a community based order.

## **11 Prisoner to be informed of entitlements and duties**

(1) When a prisoner is admitted to a corrective services facility for detention, the person in charge must inform the prisoner about—

- (a) the prisoner's entitlements and duties under this Act; and
- (b) the administrative policies and procedures relevant to the prisoner's entitlements and duties.

(2) If the prisoner is illiterate or does not understand English, the person in charge must take reasonable steps to ensure the prisoner understands the things mentioned in subsection (1).

(3) The person in charge—

- (a) must make a copy of this Act available to all prisoners; and
- (b) may make a copy of other legislation available to a prisoner.

## **12 Prisoner classifications**

(1) A prisoner on remand is classified as high security.

(2) When another prisoner is admitted to a corrective services facility for detention, the chief executive must classify the prisoner into 1 of the following classifications—

- (a) maximum security;
- (b) high security;
- (c) medium security;
- (d) low security;
- (e) open security.

(3) When deciding a prisoner's classification, the chief executive must consider all relevant factors, including for example—

- (a) the risk of the prisoner to the community;
- (b) the nature of the offence for which the prisoner is charged or has been convicted;
- (c) the period of imprisonment the prisoner is serving;
- (d) whether the prisoner has any outstanding charges and the nature of the charges;
- (e) the prisoner's criminal history (if any);
- (f) the prisoner's escape history (if any);
- (g) the prisoner's demonstrated attitude towards the sentence being served;
- (h) the likelihood of the prisoner being deported or extradited, and the prisoner's demonstrated attitude towards the deportation or extradition;
- (i) the prisoner's previous conduct in a corrective services facility, including whether the prisoner has committed an offence or breach of discipline or returned a positive test sample;
- (j) the prisoner's previous conduct while subject to a community based order or post-prison community based order;
- (k) the prisoner's medical history, including any psychological or psychiatric history;
- (l) the likely influence of the prisoner's family relationships.

(4) The chief executive must review a prisoner's classification—

- (a) for a prisoner on remand—when the prisoner is sentenced to a term of imprisonment; and
- (b) for a prisoner whose term of imprisonment is changed by a court order—when the court orders the change; and
- (c) for other prisoners—at intervals of not longer than 6 months.

(5) The chief executive may make different arrangements for the management of prisoners of different classifications.

### **13 Accommodation**

(1) Whenever practicable, each prisoner in a corrective services facility must be provided with his or her own accommodation.

(2) A prisoner who is under 18 years must be kept apart from other prisoners who are 18 years or older unless it is in the prisoner's best interests not to be kept apart.

*Examples for subsection (2)—*

- 1. A young Aboriginal prisoner may be accommodated with older prisoners to enable the young prisoner to be with a family member.
- 2. A young prisoner may be accommodated with older prisoners to allow the young prisoner to participate in a WORC program.

## **PART 2—MANAGEMENT OF PRISONERS**

### *Division 1—Management of prisoners generally*

#### **14 Directions to prisoners**

(1) A corrective services officer may give a prisoner a direction that the officer reasonably believes to be necessary—

- (a) for the welfare or safe custody of the prisoner or other prisoners;  
or
- (b) for the security or good order of a corrective services facility; or

- (c) to ensure compliance with an order given or applying to the prisoner; or

*Example—*

A corrective services officer could give a prisoner a direction the officer reasonably believes to be necessary for searching the prisoner under an order, given by a person in charge under section 26A (Strip searches generally), that applies to the prisoner.

- (d) to ensure the prisoner or another prisoner does not commit—
- (i) an offence against this Act or another Act; or
  - (ii) a breach of discipline.

(2) Directions under this section may be given in writing or orally, and may apply generally or be limited in their application.

## **15 Medical examination or treatment**

(1) A prisoner must submit to a medical examination or treatment by a doctor if the doctor considers the prisoner requires medical attention.

(2) A prisoner must submit to an examination by a doctor or psychologist if the chief executive or person in charge orders the examination to—

- (a) assign a classification to the prisoner; or
- (b) decide where to initially place the prisoner; or
- (c) decide whether to transfer the prisoner to another place; or
- (d) decide the prisoner's suitability to participate in an approved activity or program; or
- (e) decide the prisoner's suitability for leave of absence or early discharge or release.

(3) For a medical examination or treatment, a doctor may—

- (a) take a sample of a prisoner's blood or another bodily substance; or
- (b) order a prisoner to provide a sample of the prisoner's urine or another bodily substance and give the prisoner directions about the way in which the sample is to be provided.

(4) A prisoner must comply with an order made or direction given under subsection (3)(b).

(5) If a prisoner does not submit to an examination or treatment, the doctor and anyone acting at the doctor's direction may use the force that is reasonably necessary to complete the examination or treatment.

(6) A doctor may authorise another person to examine or treat a prisoner if—

- (a) the doctor—
  - (i) is authorised or required to carry out the examination or give the treatment; or
  - (ii) would, if qualified to carry out the examination or give the treatment, be so authorised or required; and
- (b) the other person is qualified to carry out the examination or give the treatment.

## **16 Private medical examination or treatment**

(1) A prisoner may apply to the chief executive in writing for approval to be examined or treated by a doctor or psychologist nominated by the prisoner.

(2) The chief executive may give the approval if satisfied—

- (a) the application is not frivolous or vexatious; and
- (b) the prisoner is able to pay for the examination or treatment and associated costs; and
- (c) the doctor or psychologist nominated by the prisoner is willing and available to examine or treat the prisoner.

(3) The prisoner must pay for the examination or treatment and associated costs.

(4) The chief executive must consider any report or recommendations made by the nominated doctor or psychologist, but is not bound by them.

## **17 Dangerously ill prisoners**

If the person in charge, or a doctor appointed to a corrective services facility, considers a prisoner to be dangerously ill or seriously injured, the person in charge must immediately notify—

- (a) the person nominated by the prisoner as the prisoner's contact person; and

- (b) a chaplain; and
- (c) for an Aboriginal or Torres Strait Islander prisoner—
  - (i) an Aboriginal or Torres Strait Islander legal service that represents the area in which the facility is located; and
  - (ii) if practicable, an elder, respected person or indigenous spiritual healer who is relevant to the prisoner.

## **18 Death of prisoner**

(1) If a prisoner dies, the person in charge must, as soon as practicable, notify—

- (a) if the corrective services facility is a prison—a doctor appointed to the facility; and
- (b) the police officer in charge of the police station nearest to the place where the prisoner died; and
- (c) the person nominated by the prisoner as the prisoner's contact person; and
- (d) a chaplain; and
- (e) for an Aboriginal or Torres Strait Islander prisoner—
  - (i) an Aboriginal or Torres Strait Islander legal service that represents the area in which the prisoner died; and
  - (ii) if practicable, an elder, respected person or indigenous spiritual healer who is relevant to the prisoner.

(2) The chief executive must keep records, prescribed under a regulation, of the prisoner's death.

## **19 Registration of birth**

(1) A birth certificate made for a child whose mother or father is, or was when the child was born, a prisoner must not—

- (a) state that fact; or
- (b) contain any information from which that fact can reasonably be inferred.

(2) If the showing of an address that is required by the *Registration of Births, Deaths and Marriages Act 1962* to be shown would contravene

subsection (1)(a), the address must be shown as the city or town in which, or nearest to which, the address is situated.

## **20 Children living in facilities**

**(1)** This section applies if a female prisoner—

- (a) gives birth to a child during her period of imprisonment; or
- (b) has custody of a child, whether or not the prisoner is the child's mother.

**(2)** On admission to the facility, the prisoner must be informed—

- (a) that she may apply to the person in charge to have the child accommodated with her; and
- (b) that if she does apply and her application is successful, she will have primary responsibility for the child's care and safety, including all costs associated with that care.

**(3)** The following persons may apply to the person in charge to have the child accommodated with a prisoner—

- (a) the prisoner;
- (b) the chief executive of the department in which the *Child Protection Act 1999* is administered.

**(4)** The person in charge may grant the application only if—

- (a) there is suitable accommodation in the facility for the child; and
- (b) the child has not started primary school; and
- (c) the child is immunised in accordance with the recommendations of the department in which the *Health Act 1937* is administered; and
- (d) the child is not subject to a court order requiring the child to live with someone else; and
- (e) if the child is under the care of the department in which the *Child Protection Act 1999* Act is administered—the chief executive of that department has consented; and
- (f) it is in the child's best interests.

**(5)** In deciding what is in the child's best interests, the person in charge must consult with—

- (a) the chief executive of the department in which the *Child Protection Act 1999* is administered; and
- (b) if the child is an Aboriginal or Torres Strait Islander person—representatives from the relevant Aboriginal or Torres Strait Islander community.

## **21 Removing child from facility**

(1) The person in charge may remove a child being accommodated with a prisoner from the facility if—

- (a) a court orders that the child live with another person; or
- (b) it is in the child's best interest; or
- (c) the prisoner with whom the child is accommodated requests it; or
- (d) the child starts primary school; or
- (e) the prisoner with whom the child is accommodated is transferred to another facility and the other facility can not provide appropriate accommodation for the child; or
- (f) it is in the interests of the good order and management of the facility.

(2) However, separation of a child from a prisoner with whom the child is accommodated must not be used as a form of discipline.

## **22 Reviewing decisions about children**

A female prisoner may apply to the chief executive to review a decision of a person in charge to—

- (a) refuse the prisoner's application to have a child accommodated with her in a corrective services facility; or
- (b) remove a child being accommodated with the prisoner from the facility.

## **23 Marriage**

(1) A person in the chief executive's custody must notify the chief executive, in writing, before lodging a notice of intention to marry under the *Marriage Act 1961* (Cwlth).

Maximum penalty—20 penalty units.

(2) A prisoner may be married in a corrective services facility only with the chief executive's approval and the marriage must be conducted in the way decided by the chief executive.

## **24 Change of name**

A person in the chief executive's custody must notify the chief executive, in writing, before changing his or her name by deed poll.

Maximum penalty—20 penalty units or 6 months imprisonment.

### *Division 2—Search of prisoners*

## **25 Power to search**

(1) The person in charge may, at any time, order a corrective services officer—

- (a) to conduct a scanning search, general search or personal search of a prisoner; or
- (b) to search a prisoner's accommodation.

(2) Also, a corrective services officer may conduct a scanning search, general search or personal search of a prisoner if the officer reasonably suspects the prisoner possesses something that jeopardises or is likely to jeopardise—

- (a) the security or good order of the corrective services facility; or
- (b) the safety of persons in the corrective services facility.

(3) A power under this Act to search a prisoner in any way includes a power to search anything in the prisoner's possession.

(4) A power under this Act to search a prisoner in any way may be exercised on the day on which the prisoner is discharged or released.

## **26 Personal searches**

(1) The person in charge of a secure facility may give an order for the personal searching of prisoners whenever they leave a part of the facility,

stated in the order, where prisoners have access to concealable prohibited things.

*Example of part of a facility—*

A kitchen or workshop.

(2) A search may be carried out only by a corrective services officer of the same gender as the prisoner.

### **26A Strip searches generally**

(1) The chief executive is authorised to give directions, by instrument in writing, to a person in charge of a corrective services facility requiring the strip searching of prisoners as stated in the directions, including, for example, at the times stated in the directions.

(2) The person in charge must order prisoners to be strip searched as required under the directions.

(3) An order under subsection (2) does not apply to a prisoner if, because of the prisoner's exceptional circumstances, the person in charge considers it unnecessary for the prisoner to be strip searched.

*Example of operation of subsection (3)—*

An instrument under subsection (1) directs, as 1 of the times when prisoners must be strip searched, the time when a prisoner enters a corrective services facility that is a secure facility. A pregnant prisoner returns to a secure facility from an escorted antenatal visit, and the officer who escorted the prisoner advises that the prisoner had no likely opportunity to obtain a prohibited thing while on the visit. The person in charge may direct that the prisoner not be strip searched.

(4) The person in charge of a corrective services facility may give an order for the strip searching of a prisoner if either or both of the following apply—

- (a) the person in charge is satisfied that the strip searching is necessary for the security or good order of the facility;
- (b) the person in charge is satisfied that the strip searching is necessary for the safe custody and welfare of prisoners at the facility.

*Example—*

A knife is missing from the kitchen of a secure facility. The person in charge may be satisfied that the strip searching of each prisoner who worked in the kitchen that day is

necessary for the security or good order of the corrective services facility or for the safe custody and welfare of prisoners at the facility.

(5) A strip search may be preceded by another less intrusive search.

## **27 Strip searches on reasonable suspicion**

The person in charge of a corrective services facility may order a prisoner to be strip searched if the person in charge reasonably suspects the prisoner has a prohibited thing concealed on the prisoner's person.

### **27A Strip search requirements**

(1) A strip search must be carried out—

- (a) only by a corrective services officer of the same gender as the prisoner; and
- (b) by at least 2 corrective services officers, but by no more officers than are reasonably necessary to carry out the search.

(2) A corrective services officer carrying out the search—

- (a) must ensure, as far as reasonably practicable, that the way in which the prisoner is searched causes minimal embarrassment to the prisoner; and
- (b) must take reasonable care to protect the prisoner's dignity; and
- (c) must carry out the search as quickly as reasonably practicable; and
- (d) must allow the prisoner to dress as soon as the search is finished.

(3) A regulation may prescribe other requirements and procedures for ensuring the effective carrying out of strip searches.

## **28 Body searches**

(1) The person in charge may authorise a doctor to conduct a body search of a prisoner if the person in charge reasonably believes—

- (a) the prisoner has ingested something that may jeopardise the prisoner's health or well being; or

- (b) the prisoner has a prohibited thing concealed within his or her person that may potentially be used in a way that may pose a risk to the security or good order of the corrective services facility; or
- (c) the search may reveal evidence of the commission of an offence or breach of discipline by the prisoner.

(2) A nurse must be present during the body search, and if the doctor is not of the same gender as the prisoner, the nurse must be of the same gender.

(3) If the doctor reasonably requires help to conduct the body search, the doctor may ask another person to help the doctor.

(4) The other person must, except in an emergency, be of the same gender as the prisoner.

(5) The doctor may seize anything discovered during the body search if—

- (a) seizing the thing would not be likely to cause grievous bodily harm to the prisoner; and
- (b) the doctor reasonably believes the thing may be evidence of the commission of an offence or breach of discipline by the prisoner.

(6) The doctor must give a seized thing, as soon as practicable, to a corrective services officer.

## **29 Register of searches**

The person in charge must establish a register that records the details of each strip or body search, including for example—

- (a) the names of the persons present; and
- (b) details of anything seized from the prisoner.

## **30 Who may be required to give test sample**

(1) The chief executive may require the following persons to give a test sample of the type the chief executive requires—

- (a) a prisoner;
- (b) an offender, if it is required by—
  - (i) a conditional release order; or

- (ii) post-prison community based release order; or
- (iii) a court order.

(2) The chief executive must give the person the results of any tests conducted on the test sample as soon as practicable after the chief executive receives them.

### **31 Random testing**

(1) The chief executive may require a number of randomly selected prisoners at a corrective services facility to give test samples.

(2) No record must be made to identify the donor of a test sample.

(3) The results of any tests conducted on the test samples must be used only for statistical purposes.

(4) In this section—

**“randomly selected prisoners”** means prisoners selected by a computer programmed to make a random selection of names from prisoner records.

**“test sample”** means a sample of breath or urine.

### **32 Giving test samples**

(1) The person in charge, a doctor or a nurse may give a prisoner directions about the way the prisoner must give a test sample required by the chief executive.

(2) Only a doctor or nurse may take a blood sample.

(3) A doctor or nurse, and anyone acting in good faith at the direction of the doctor or nurse, may use the force that is reasonably necessary to enable the doctor or nurse to take the sample.

### **33 Consequences of positive test samples**

(1) If a prisoner gives a positive test sample—

- (a) the test result may be considered when assessing the prisoner’s classification; and
- (b) the prisoner may be required to undertake a medical or behavioural treatment program.

(2) Subsection (1) may apply in addition to the prisoner being dealt with for the commission of an offence or a breach of discipline.

(3) When acting under subsection (1), a corrective services officer must take into account the circumstances of the case and the prisoner's needs.

(4) A prisoner is taken to have given a positive test sample if the prisoner—

- (a) refuses to supply a test sample within a reasonable time; or
- (b) alters or invalidates the results of a test sample; or
- (c) attempts to alter or invalidate the results of a test sample; or
- (d) tampers, or attempts to tamper, with a test sample.

### *Division 3—Mail and phone calls*

#### **34 Prisoner's mail at prisoner's own expense**

(1) A prisoner must purchase anything required for the prisoner's mail.

(2) However, if the person in charge is satisfied that a prisoner does not have enough money to pay the postage costs, the costs may be paid for by the chief executive.

(3) In this case, the prisoner may post a letter no more than twice a week, unless otherwise approved by the person in charge.

(4) If a prisoner is participating in an approved program that requires the prisoner to send things by mail, the postage costs must be paid for by the chief executive.

#### **35 Opening, searching and censoring mail**

(1) The person in charge may open, search and censor a prisoner's mail, other than privileged mail.

(2) The person in charge may open and search a prisoner's privileged mail, in the prisoner's presence, if the person in charge reasonably suspects the mail contains—

- (a) something that may physically harm the person to whom it is addressed; or
- (b) a prohibited thing.

(3) However, the person in charge must not read the privileged mail without the prisoner's written consent.

(4) Once searched, a prisoner's mail must be immediately delivered to the person to whom it is addressed.

(5) If a search of a prisoner's mail reveals information about the commission of an offence, the person in charge must give the information to the relevant law enforcement agency.

(6) In this section—

“**search**” means search by—

- (a) an electronic scanning device; or
- (b) a physical search.

### **36 Phone calls**

(1) A prisoner may—

- (a) make 1 phone call on admission to a corrective services facility, at the chief executive's expense; and
- (b) phone approved persons at approved numbers, at the prisoner's own expense.

(2) However, the chief executive may pay for a call mentioned in subsection (1)(b) if the person in charge considers there is sufficient reason to do so.

(3) The person in charge may decide the length and frequency of phone calls.

(4) A prisoner at a prison must not receive phone calls from outside the prison, except in the event of a family or other personal emergency and with the consent of the person in charge.

(5) A prisoner must not—

- (a) call an approved number knowing that the call will be diverted to another number to allow the prisoner to contact someone other than an approved person; or
- (b) intentionally continue with a call that—
  - (i) the prisoner knows is diverted from an approved number to another number; and

- (ii) allows the prisoner to contact someone other than an approved person; or
- (c) call an approved number and ask the person called to make a conference call to someone else.

Maximum penalty for subsection (5)—6 months imprisonment.

(6) In this section—

“**approved**” means approved by the person in charge.

### **37 Recording or monitoring phone calls and electronic communications**

(1) A corrective services officer may record or monitor a phone call or electronic communication to or from a prisoner.

(2) However, a corrective services officer must not record or monitor an authorised call or communication between a prisoner and—

- (a) the prisoner’s lawyer; or
- (b) an officer of a law enforcement agency; or
- (c) the ombudsman.

(3) The parties to each phone call or electronic communication to or from a prisoner, other than an authorised call or communication, must be advised that the call or communication might be recorded and monitored.

(4) A corrective services officer may end a phone call or electronic communication if the officer reasonably considers it constitutes—

- (a) an offence; or
- (b) a breach of a court order; or
- (c) a threat to the security or good order of a corrective services facility.

(5) If a phone call or electronic communication reveals information about the commission of an offence, the person in charge must give the information to the relevant law enforcement agency.

(6) In this section—

“**authorised call or communication**” means a phone call or electronic communication that the chief executive has authorised to be made.

***Division 4—Special treatment orders*****38 Special treatment orders**

(1) The person in charge may make an order (a “**special treatment order**”) that a prisoner receive special treatment.

(2) The person in charge may make a special treatment order only if it is for—

- (a) the prisoner’s safety; or
- (b) the security or good order of the corrective services facility.

(3) The order must—

- (a) specify the conditions, prescribed under a regulation, that apply to the prisoner’s treatment; and
- (b) be for a period of no more than 7 days, unless the chief executive otherwise approves.

(4) While a prisoner is receiving special treatment under the order—

- (a) the prisoner does not forfeit any privileges, other than the privileges that the prisoner can not practicably receive while receiving special treatment; and
- (b) there must be as little change as possible to the conditions of the prisoner’s imprisonment.

**39 Review of special treatment orders**

(1) If a prisoner is ordered to receive special treatment for a period of more than 1 month, the official visitor must review the order—

- (a) as near as practicable to the end of the first month; and
- (b) then, at intervals of not more than 1 month until the period ends.

(2) If a prisoner is ordered to receive special treatment for a period of more than 3 days, the prisoner may ask the person in charge to refer the order to an official visitor for review.

(3) The person in charge must refer the order to an official visitor as soon as practicable.

(4) The official visitor must review the order as soon as practicable.

(5) When reviewing an order, the official visitor may exercise the powers mentioned in section 215.<sup>3</sup>

(6) After completing a review, the official visitor must—

- (a) recommend to the person in charge whether the order should be confirmed, amended or cancelled; and
- (b) if the official visitor recommends that the order be amended by reducing the period of special treatment, or that the order be cancelled—recommend to the person in charge what should be done about any privileges forfeited by the prisoner while receiving special treatment.

(7) On receiving the official visitor's recommendation, the person in charge must—

- (a) consider the recommendation; and
- (b) either—
  - (i) confirm the order; or
  - (ii) amend the order; or
  - (iii) cancel the order and substitute another order.

(8) To remove doubt, it is declared that the person in charge is not bound by the official visitor's recommendation.

#### **40 Medical examination**

A doctor must examine a prisoner ordered to receive a period of special treatment—

- (a) as soon as practicable after the period starts; and
- (b) after the first examination, at intervals that are, to the greatest practicable extent, of not more than 7 days; and
- (c) as soon as practicable after the period ends.

#### **41 Records**

(1) The person in charge must record the details of each prisoner who is subject to a special treatment order.

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3 Section 215 (Official visitor's powers)

(2) The details must include—

- (a) the prisoner's name, identification number and age; and
- (b) the dates the prisoner was examined under section 40; and
- (c) if the order was reviewed—
  - (i) the date when the review was undertaken; and
  - (ii) the name of the official visitor who reviewed the order; and
  - (iii) the decision of the person in charge.

### *Division 5—Crisis support orders*

## **42 Crisis support orders**

(1) The person in charge may make an order (a “**crisis support order**”) that a prisoner be admitted to a crisis support unit or health centre in the corrective services facility only if—

- (a) a corrective services officer advises the person in charge that the officer reasonably believes there is a risk that the prisoner may harm himself or herself; or
- (b) a doctor or psychologist advises the person in charge that the doctor or psychologist reasonably believes there is a risk that the prisoner may harm himself, herself or someone else.

(2) The order must not be for a term longer than—

- (a) if made under subsection (1)(a)—5 days or a shorter time it takes for a doctor or psychologist to examine the prisoner; or
- (b) if made under subsection (1)(b)—3 months.

(3) The prisoner may be segregated from other prisoners who are in the crisis support unit or health centre if it is reasonably necessary to reduce the risk of the prisoner harming—

- (a) himself or herself; or
- (b) someone else, including other prisoners.

**43 Consecutive crisis support orders**

(1) The person in charge may make another crisis support order for a prisoner to take effect at the end of an existing crisis support order.

(2) However, if the existing order was made on the advice of a corrective services officer, another order may be made only on the advice of a doctor or psychologist.

(3) The order must be made no earlier than 14 days before the end of existing order.

(4) However, the person in charge must not make the order unless—

- (a) not more than 28 days before the end of the existing order, the person in charge gives written notice to the prisoner advising the prisoner that—
  - (i) the person in charge is about to consider whether another order should be made; and
  - (ii) the prisoner may, within 14 days after receiving the written notice, make submissions to the person in charge about anything relevant to the decision about making the order; and
- (b) the person in charge considers any submission the prisoner makes under paragraph (a)(ii).

**44 Review of crisis support orders**

(1) If the term of a crisis support order is longer than 2 months, the prisoner may ask the person in charge to review the order.

(2) The person in charge must refer the order to a doctor or psychologist, other than a doctor or psychologist on whose advice the order was made, for review as soon as practicable.

(3) The doctor or psychologist must review the order as soon as practicable.

(4) After completing the review, the doctor or psychologist must recommend to the person in charge whether the order should be confirmed or cancelled.

(5) On receiving the recommendation of the doctor or psychologist, the person in charge must—

- (a) consider the recommendation; and
- (b) confirm or cancel the order.

#### **45 Medical examination**

A doctor must examine a prisoner accommodated in a crisis support unit or health centre—

- (a) as soon as practicable after the prisoner is admitted to the crisis support unit or health centre; and
- (b) after the first examination, at intervals that are, to the greatest practicable extent, of not more than 7 days.

#### **46 Records**

(1) The person in charge must record the details of each prisoner who has been admitted to a crisis support unit or health centre.

(2) The details must include—

- (a) the prisoner's name, identification number and age; and
- (b) the name of any doctor or psychologist on whose advice the prisoner was accommodated in the crisis support unit or health centre; and
- (c) the dates the prisoner was examined under section 45; and
- (d) the dates the prisoner was admitted and discharged from the crisis support unit or health centre; and
- (e) if the crisis support order was reviewed—
  - (i) the date when the review was undertaken; and
  - (ii) the name of the doctor or psychologist who reviewed the order; and
  - (iii) the decision of the person in charge.

*Division 6—Maximum security orders***47 Maximum security orders**

(1) The chief executive may make an order (a “**maximum security order**”) that a prisoner be accommodated in a maximum security facility.

(2) The order may be made only if—

- (a) the prisoner is classified as maximum security; and
- (b) the chief executive considers, on reasonable grounds, that 1 or more of the following apply—
  - (i) there is a high risk the prisoner will escape, or attempt to escape;
  - (ii) there is a high risk the prisoner will inflict death or serious injury on other prisoners or other persons with whom the prisoner may come into contact;
  - (iii) generally, the prisoner is a substantial threat to the security or good order of the facility.

(3) The term of the order must not be longer than 6 months.

**48 Consecutive maximum security orders**

(1) The chief executive may make another maximum security order for a prisoner to take effect at the end of an existing maximum security order.

(2) The order must be made no earlier than 14 days before the end of the existing order.

(3) However, the chief executive must not make the order unless—

- (a) not more than 28 days before the end of the existing order, the chief executive gives written notice to the prisoner advising the prisoner that—
  - (i) the chief executive is about to consider whether another order should be made; and
  - (ii) the prisoner may, within 14 days after receiving the written notice, make submissions to the chief executive about anything relevant to the decision about making the order; and

- (b) the chief executive considers any submission the prisoner makes under paragraph (a)(ii).

#### **49 Other matters about maximum security orders**

(1) A maximum security order for a prisoner must include, to the extent it is practicable, directions about the extent to which—

- (a) the prisoner is to be segregated from other prisoners accommodated in the maximum security facility; and
- (b) the prisoner is to receive privileges.

(2) The privileges the prisoner may receive while under the maximum security order must be limited to privileges—

- (a) that can be enjoyed within the maximum security facility; and
- (b) the enjoyment of which, in the circumstances of the order, may reasonably be expected not to pose a risk to the security or good order of the facility.

(3) A maximum security order may include directions about the prisoner's access, within the maximum security facility, to programs and services, including training and counselling.

#### **50 Review of maximum security orders**

(1) A prisoner accommodated in a maximum security facility under a maximum security order may ask the person in charge to refer the order to an official visitor for review.

(2) The person in charge must refer the order to an official visitor as soon as practicable.

(3) The official visitor must review the order as soon as practicable.

(4) If the term of the order is 3 months or less, the prisoner may not ask for the order to be referred more than once.

(5) If the term of the order is more than 3 months, the prisoner may not ask for the order to be referred more than twice.

(6) Despite subsections (4) and (5), the prisoner may also ask for the order to be referred to an official visitor if the chief executive amends the order, other than under subsection (9).

(7) When reviewing the order, the official visitor may exercise the powers mentioned in section 215.<sup>4</sup>

(8) After completing the review, the official visitor must recommend to the chief executive whether the order should be confirmed, amended or cancelled.

(9) On receiving the recommendation of the official visitor, the chief executive must—

- (a) consider the recommendation; and
- (b) confirm, amend or cancel the order.

(10) To remove doubt, it is declared that the chief executive is not bound by the official visitor's recommendation.

## **51 Medical examination**

(1) A doctor must examine a prisoner accommodated in a maximum security facility under a maximum security order—

- (a) as soon as practicable after the order takes effect; and
- (b) after the first examination, at intervals that are, to the greatest practicable extent, of not more than 28 days; and
- (c) as soon as practicable after the order ceases to have effect.

(2) For subsection (1), 2 or more orders running consecutively are taken to be 1 order.

## **52 Records**

(1) The chief executive must record the details of each prisoner who is subject to a maximum security order.

(2) The details must include—

- (a) the prisoner's name, identification number and age; and
- (b) the dates the prisoner was examined under section 51; and
- (c) if the order was reviewed—
  - (i) the date when the review was undertaken; and

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4 Section 215 (Official visitor's powers)

- (ii) the name of the official visitor who reviewed the order; and
- (iii) the decision of the chief executive.

### *Division 7—Transfer and removal of prisoners*

#### **53 Transfer to another facility or a health institution**

(1) A corrective services officer may make an order that transfers a prisoner from a corrective services facility to—

- (a) another corrective services facility; or
- (b) a place for—
  - (i) medical or psychological examination or treatment; or
  - (ii) the examination or treatment of substance dependent persons.

(2) The order may include the conditions the officer considers reasonably necessary to effect the transfer.

(3) The prisoner must be escorted by a corrective services officer or police officer.

(4) The prisoner may be detained in a place for as long as is necessary or convenient to give effect to the order.

(5) A prisoner who has been or is about to be transferred from a corrective services facility to another corrective services facility, other than a prisoner transferred as an initial placement after admission, may ask the chief executive to review the decision.

(6) The chief executive may confirm, amend or cancel the decision.

(7) The chief executive's decision is not subject to appeal or further review under this Act.

(8) If a prisoner is transferred to a security patients' hospital, or an authorised mental health service, under the *Mental Health Act 1974*,<sup>5</sup> the prisoner is taken to be in the custody of the hospital administrator.

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5 Now see *Acts Interpretation Act 1954*, section 14H and *Mental Health Act 2000*.

**54 Transfer to court**

(1) The chief executive must produce a prisoner at the time and place, and for the purpose, stated in a court order.

(2) A party to a civil proceeding who requires a prisoner to attend court must pay the chief executive the expenses for the prisoner's attendance.

(3) The transfer of a prisoner to a court must be authorised by an order of the chief executive, even if it is required by a court order.

(4) In this section—

“**civil proceeding**” does not include—

- (a) a criminal proceeding; or
- (b) a proceeding relating to official misconduct alleged against an officer of the department.

“**court**” includes a tribunal or person with power to compel persons to attend before it, him or her.

**55 Removal of prisoner for law enforcement purposes**

(1) A person may apply to the chief executive, in the approved form, for a prisoner to be removed from a corrective services facility to another place to enable—

- (a) the prisoner to provide information to a law enforcement agency to help the agency discharge its law enforcement functions; or
- (b) a law enforcement agency to question the prisoner about an indictable offence alleged to have been committed by the prisoner.

(2) The chief executive may allow the prisoner to be removed only if the prisoner, in the presence of an official visitor, agrees in writing.

(3) The prisoner may be removed only by a corrective services officer or police officer.

(4) While the prisoner is absent from the corrective services facility, the prisoner is taken to be in the custody of the chief executive of the law enforcement agency.

***Division 8—WORC and WCC programs*****56 WORC and WCC programs**

(1) The chief executive may approve a program as a WORC or WCC program.

(2) The chief executive may, by written order (a “**community work order**”), grant approval for a prisoner to participate in—

- (a) for a male prisoner—a WORC program; or
- (b) for a female prisoner—a WCC program.

(3) A prisoner participating in a WORC or WCC program must perform community service as directed by a corrective services officer.

(4) A community work order may include a condition that the chief executive considers reasonably necessary to—

- (a) help the prisoner’s reintegration into the community; or
- (b) ensure the prisoner’s good conduct; or
- (c) stop the prisoner committing an offence.

(5) The chief executive must give a copy of the order to the prisoner.

(6) The prisoner must—

- (a) keep the copy of the order in the prisoner’s possession while participating in the program; and
- (b) produce the copy of the order for inspection by a police officer or a corrective services officer if the officer asks the prisoner to do so.

**57 Eligibility for WORC and WCC programs**

(1) A prisoner is not eligible to participate in a WORC or WCC program if—

- (a) the prisoner has been charged with an offence that has not been dealt with; or
- (b) the chief executive is aware of an unexecuted warrant relating to the prisoner; or
- (c) a deportation or extradition order has been made against the prisoner; or

- (d) the State has appealed against the prisoner's sentence; or
- (e) for a WORC program—
  - (i) the prisoner has been convicted of an offence against a provision mentioned in schedule 1;<sup>6</sup> or
  - (ii) the prisoner has been—
    - (A) convicted of an offence against the Criminal Code<sup>7</sup>—
      - section 328A; or
      - section 419(1) and the circumstances mentioned in section 419(3)(b)(iii) or (iv) applied; or
      - section 421(2); and
    - (B) the conviction is, under the *Penalties and Sentences Act 1992*, section 161A, a conviction of a serious violent offence.

(2) When deciding whether to allow a prisoner to participate in a WORC or WCC program, the chief executive must consider—

- (a) any recommendation of the sentencing court; and
- (b) the risk the prisoner may pose to the community, including for example, by considering—
  - (i) whether the prisoner is likely to escape; and
  - (ii) the risk of physical or psychological harm to a member of the community and the degree of risk; and
  - (iii) the prisoner's classification; and
- (c) anything else the chief executive considers relevant.

### *Division 9—Leave of absence*

## **58 Leave of absence**

(1) The chief executive may, by written order, grant a prisoner—

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6 Schedule 1 (Ineligibility offences)

7 Criminal Code, section 328A (Dangerous operation of a vehicle), section 419 (Burglary) or section 421 (Entering or being in premises and committing indictable offences)

- (a) leave for community service (“**community service leave**”); or
- (b) leave for compassionate reasons (“**compassionate leave**”); or
- (c) leave for educational or vocational activities (“**educational leave**”); or
- (d) leave for medical, dental or optical treatment (“**health leave**”); or
- (e) leave for resettlement purposes (“**resettlement leave**”); or
- (f) leave for another purpose that justifies the granting of leave.

(2) The chief executive may grant leave on reasonable conditions stated in the order.

(3) The chief executive may order that the prisoner remain in the physical custody of, or be supervised by, a corrective services officer during the leave.

## **59 Compassionate leave**

(1) Compassionate leave may be granted to enable a prisoner—

- (a) to visit a relative who is seriously ill; or
- (b) to attend a relative’s funeral; or
- (c) for a female prisoner who is the mother of a young child—to establish the child with a replacement primary care giver; or
- (d) for a prisoner who, before being imprisoned, was the primary care giver of a child under 17 years—to maintain the relationship with the child.

(2) The prisoner must prove the need for the leave to the chief executive’s satisfaction.

(3) In this section—

“**primary care giver**”, for a child, means a person who—

- (a) has sole custody of the child; or
- (b) is the sole provider of ongoing daily care for the child.

**60 Resettlement leave**

(1) Resettlement leave may only be granted to a prisoner prescribed under a regulation.

(2) If the chief executive decides to refuse to grant resettlement leave to a prescribed prisoner, the chief executive must advise the prisoner of the decision.

**61 Leave of absence available to serious violent offenders**

(1) This section applies to the grant of any of the following leave to a prisoner who has been convicted of a serious violent offence—

- (a) community service leave;
- (b) educational leave;
- (c) resettlement leave.

(2) If a court has ordered that the prisoner serve a stated period before being granted leave, the chief executive must not grant leave unless the prisoner has served at least the stated period.

(3) Otherwise, the chief executive must not grant leave unless the prisoner has served at least—

- (a) if the prisoner is serving life imprisonment—15 years; or
- (b) if the prisoner is serving another period of imprisonment—15 years, or 80% of the sentence imposed, whichever is less.

(4) In deciding whether to grant leave, the chief executive must consider any recommendation of the court about the prisoner.

(5) It is a condition of the leave that the prisoner remain in the physical custody of a corrective services officer during the leave.

**62 Leave of absence available to certain other prisoners**

(1) The following prisoners may be granted compassionate or health leave—

- (a) a prisoner detained on remand for an offence;
- (b) a prisoner detained under the *Migration Act 1958* (Cwlth);
- (c) a prisoner imprisoned for an indefinite period for contempt;

(d) a prisoner detained under the *Criminal Law Amendment Act 1945*, part 3.<sup>8</sup>

(2) The prisoner must remain in the physical custody of a corrective services officer during the leave.

### **63 Prisoner's expenses while on leave of absence**

(1) The chief executive may authorise a prisoner who has been granted leave of absence to be given money or something else that the chief executive considers necessary to meet the prisoner's requirements while on the leave.

(2) The prisoner must return to the chief executive the unused portion of money given to the prisoner.

### **64 Prisoner's duties while on leave of absence**

(1) The chief executive must give a prisoner who is granted leave of absence a copy of the order granting leave.

(2) While on the leave, the prisoner must—

- (a) keep the copy of the order in the prisoner's possession; and
- (b) produce the copy of the order for inspection by a police officer or corrective services officer if the officer asks the prisoner to do so.

(3) The prisoner must comply with the conditions stated in the order, unless the prisoner has a reasonable excuse.

Maximum penalty for subsection (3)—6 months imprisonment.

(4) If the chief executive reasonably suspects the prisoner has not complied with a condition, the chief executive may—

- (a) suspend the operation of the order; and
- (b) require the prisoner to return to a corrective services facility.

(5) The chief executive need not notify the prisoner of the suspension of the order before requiring the prisoner to return, if the chief executive reasonably suspects the prisoner poses a serious and immediate risk of harm either to himself, herself or someone else.

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<sup>8</sup> *Criminal Law Amendment Act 1945*, part 3 (Indeterminate detention of offenders convicted of sexual offences)

**65 Leave of absence is part of term of imprisonment**

The time spent by a prisoner on leave of absence counts as time served under the prisoner's period of imprisonment.

**66 What is not leave of absence**

Leave of absence is not required to authorise the transfer of a prisoner from a corrective services facility—

- (a) to another part of the facility; or
- (b) to another corrective services facility, if the prisoner does not go anywhere else on the way to the facility.

*Division 10—Interstate leave of absence***67 Interstate leave permits**

(1) The chief executive may, by written order (an “**interstate leave permit**”) issued to a prisoner, grant leave to the prisoner to travel to and from, and remain in, a participating State for a stated period of not more than 7 days for a purpose prescribed under a regulation.

(2) The chief executive may nominate, in the permit, a corrective services officer to escort the prisoner while on leave.

(3) The permit is subject to the conditions, including conditions about escorting the prisoner, the chief executive states in the permit.

(4) A prisoner must comply with the conditions of an interstate leave permit, unless the prisoner has a reasonable excuse.

Maximum penalty for subsection (4)—6 months imprisonment.

**68 Effect of interstate leave permit**

(1) An interstate leave permit issued to a prisoner authorises the prisoner to be absent from the corrective services facility for the purpose and for the period stated in the permit, either—

- (a) unescorted; or
- (b) while being escorted by a nominated corrective services officer.

(2) If a corrective services officer is nominated to escort the prisoner, the permit authorises the officer to escort the prisoner—

- (a) to the participating State, whether or not across another State, and within the participating State; and
- (b) back to the corrective services facility.

(3) While a prisoner is on leave under an interstate leave permit, the prisoner remains in the chief executive's custody.

(4) The time spent by a prisoner on leave under an interstate leave permit counts as time served under the prisoner's period of imprisonment, but only if the prisoner does not breach a condition of the permit.

## **69 Amending or repealing permits**

(1) The chief executive may, by signed instrument, amend or repeal an interstate leave permit.

(2) The amendment or repeal takes effect immediately the chief executive signs the instrument.

## **70 Notice to participating State**

On the granting of an interstate leave permit, the chief executive must give written notice of the issue, and period, of the permit to—

- (a) the corresponding chief executive and chief officer of police of the participating State; and
- (b) the chief officer of police of any other State through which the prisoner is to travel to reach the participating State.

## **71 Effect of corresponding interstate leave permit**

(1) This section applies to a person who is authorised to escort an interstate prisoner under a corresponding interstate leave permit (the “**interstate escort**”).

(2) The interstate escort is authorised, in Queensland, to escort the prisoner—

- (a) for the purposes stated in the permit, including for the purpose of returning the interstate prisoner to the participating State; and
- (b) for the period stated in the permit.

## **72 Escape of interstate prisoner**

(1) This section applies to an interstate prisoner who is in Queensland under a corresponding interstate leave permit.

(2) If the prisoner escapes from custody, the prisoner may be arrested without warrant by the prisoner's escort, a police officer or another person.

(3) If the prisoner has escaped and been arrested, or has attempted to escape, the prisoner may be taken before a magistrate.

(4) Despite the terms of the corresponding interstate leave permit, the magistrate may, by warrant, order the prisoner—

- (a) to be returned to the participating State; and
- (b) to be delivered to an interstate escort.

(5) The warrant may be executed according to its terms.

(6) The prisoner mentioned in the warrant may be detained as a prisoner of the State—

- (a) for 14 days after the warrant is issued; or
- (b) until the prisoner is delivered into the custody of an interstate escort, if that happens before the end of the 14 days.

(7) If the prisoner is not delivered into the custody of an interstate escort within 14 days after the warrant is issued, the warrant ceases to have effect.

## **73 Liability for damage**

(1) The State is liable for any damage or loss sustained by anyone in a participating State that is caused by the act or omission of a prisoner, or the corrective services officer escorting the prisoner, while in the participating State because of an interstate leave permit.

(2) Nothing in this section affects any right of action the State may have against a prisoner or corrective services officer for the damage or loss concerned.

## **74 Corresponding laws**

The Governor in Council may, by regulation, declare a law of another State to be a corresponding law for this division, if satisfied the law substantially corresponds to the provisions of this division.

***Division 11—Remission and conditional release*****75 Eligibility for remission**

(1) A prisoner is eligible for remission only if—

- (a) the prisoner is serving a term of imprisonment, as defined in this Act, imposed for an offence committed before the commencement of this section; and
- (b) the term of imprisonment is 2 months or more; and
- (c) during the prisoner's period of imprisonment, the prisoner has not been—
  - (i) granted leave of absence, under the *Corrective Services Act 1988*, section 61(1)(b) or (c),<sup>9</sup> to engage in or seek employment; or
  - (ii) released, under the *Corrective Services Act 1988*, section 86,<sup>10</sup> to serve a period of home detention; or
  - (iii) released on parole under an order made under the *Corrective Services Act 1988*, section 165;<sup>11</sup> or
  - (iv) released under a post-prison community based release order.

(2) Subject to subsections (3) and (4), the chief executive may grant remission of up to one-third of the term of imprisonment if satisfied—

- (a) that the prisoner's discharge does not pose an unacceptable risk to the community; and
- (b) that the prisoner has been of good conduct and industry; and
- (c) of anything else prescribed under a regulation.

(3) If, before the chief executive has granted remission, the prisoner is charged with an offence allegedly committed during the term of imprisonment, the chief executive must not grant remission until after the charge is decided.

(4) If the prisoner is convicted of any offence committed during the term of imprisonment, the chief executive may grant remission of up to

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9 *Corrective Services Act 1988*, section 61 (Leave of absence)

10 *Corrective Services Act 1988*, section 86 (Release of prisoner to home detention)

11 *Corrective Services Act 1988*, section 165 (Release on parole)

one-third of the balance of the term after the offence was committed if satisfied—

- (a) that the prisoner's discharge does not pose an unacceptable risk to the community; and
- (b) that the prisoner has been of good conduct and industry since the offence was committed; and
- (c) of anything else prescribed under a regulation.

(5) Subsection (6) applies for the purposes of granting remission of a term of imprisonment if a prisoner has been sentenced to serve the term of imprisonment cumulatively with 1 or more other terms of imprisonment still to be served.

(6) The chief executive must consider whether the prisoner's discharge poses an unacceptable risk to the community as if—

- (a) the term were the only term of imprisonment the prisoner was serving; and
- (b) the prisoner could be released if remission were granted.

## **76 Eligibility for conditional release**

(1) A prisoner is eligible for conditional release only if—

- (a) the prisoner is serving a period of imprisonment for an offence or offences that the prisoner committed after the commencement of this section; and
- (b) the period of imprisonment is 2 years or less; and
- (c) the prisoner has served two-thirds of the period of imprisonment; and
- (d) the prisoner has not been convicted of an offence committed during the period of imprisonment.

(2) A default period of imprisonment for the non-payment of a fine or restitution, that is ordered to be served cumulatively with another period of imprisonment, is not to be taken into account when calculating the period of imprisonment for subsection (1)(a).

(3) The chief executive may make an order (a “**conditional release order**”) granting a prisoner conditional release if satisfied—

- (a) that the prisoner's release does not pose an unacceptable risk to the community; and
- (b) that the prisoner has been of good conduct and industry; and
- (c) of anything else prescribed under a regulation.

(4) A conditional release order may contain a condition that the chief executive considers reasonably necessary to—

- (a) help the prisoner's reintegration into the community; or
- (b) secure the prisoner's good conduct; or
- (c) stop the prisoner committing an offence.

(5) The chief executive must give a copy of any conditional release order made to the prisoner on or before the day on which the prisoner is released.

## **77 Risk to community**

In deciding whether a prisoner's discharge or release poses an unacceptable risk to the community, the chief executive must consider, but is not limited to considering, the following—

- (a) the possibility of the prisoner committing further offences;
- (b) the risk of physical or psychological harm to a member of the community and the degree of risk;
- (c) the prisoner's past offences and any patterns of offending;
- (d) whether the circumstances of the offence or offences for which the prisoner was convicted were exceptional when compared with the majority of offences committed of that kind;
- (e) whether there are any other circumstances that may increase the risk to the community when compared with the risk posed by an offender committing offences of that kind;
- (f) any remarks made by the sentencing court;
- (g) any medical or psychological report relating to the prisoner;
- (h) any behavioural report relating to the prisoner;
- (i) anything else prescribed under a regulation.

**78 Good conduct and industry**

In deciding whether a prisoner has been of good conduct and industry, the chief executive must consider, but is not limited to considering, the following—

- (a) whether the prisoner has complied with all requirements to which the prisoner was subject;
- (b) whether the prisoner has undergone separate confinement for a major breach of discipline;
- (c) whether the prisoner has participated in approved activities or programs to the best of the prisoner's ability;
- (d) anything else prescribed under a regulation.

**79 Refusing remission or conditional release**

(1) This section applies if the chief executive is considering refusing—

- (a) to grant remission; or
- (b) to make a conditional release order.

(2) The chief executive must give the prisoner a notice—

- (a) stating that the chief executive is considering refusing to grant remission or make the order; and
- (b) outlining the reason for the proposed refusal; and
- (c) inviting the prisoner to show cause, by written submissions given to the chief executive within 21 days after the notice is given, why the remission or conditional release order should not be refused.

(3) The chief executive must consider all written submissions made within the 21 days and inform the prisoner, by written notice, whether the remission or conditional release is refused.

**80 Cancellation of conditional release orders**

(1) A conditional release order is automatically cancelled if the prisoner, during the term of the order, commits an offence for which the prisoner is sentenced to a term of imprisonment that is not suspended.

(2) The time for which the prisoner was released before committing the offence counts as time served for the prisoner's period of imprisonment.

### **81 Effect of remission on cumulative sentences**

If a prisoner is ordered to serve a term of imprisonment (the “**second term**”) cumulatively with another term of imprisonment (the “**first term**”), the second term starts at the end of the first term, taking into account any remission granted in relation to the first term.

## *Division 12—Discharge or release*

### **82 Discharge or release of prisoner**

(1) On a prisoner's release day, the prisoner must be discharged or released at the time decided by the chief executive.

(2) If the prisoner's release day would, apart from this subsection, be—

- (a) a Saturday or Sunday; or
- (b) a public holiday throughout Queensland; or
- (c) a public holiday at the place where the prisoner is held in custody;

the prisoner must be discharged or released on the last day before the release day that is not a day mentioned in paragraph (a), (b) or (c).

(3) The chief executive may give a prisoner help when the prisoner is discharged or released.

(4) In this section—

“**release day**” means the day on which a prisoner is to be—

- (a) released on home detention; or
- (b) conditionally released; or
- (c) released on parole; or
- (d) discharged.

### **83 Early discharge**

(1) This section applies to a person if—

- (a) the person has served at least half of the person's period of imprisonment; and
  - (b) the person is—
    - (i) a prisoner; or
    - (ii) a sentenced person in the custody of the commissioner.
- (2) The chief executive may order that the person be discharged—
- (a) if the person's period of imprisonment is less than 1 year—within 7 days immediately before the day on which the person would otherwise be discharged; or
  - (b) if the person's period of imprisonment is 1 year or more—within 14 days immediately before the day on which the person would otherwise be discharged.

#### **84 Remaining in facility after being eligible for discharge**

(1) A prisoner may apply in writing to the chief executive for permission to remain in a corrective services facility after the prisoner is eligible to be discharged.

(2) The chief executive may grant or refuse the application.

(3) If the chief executive grants the application, the prisoner—

- (a) is taken to have completed the prisoner's term of imprisonment at the time at which the prisoner is eligible to be discharged; and
- (b) must be discharged within 4 days after the day on which the prisoner is eligible to be discharged.

(4) While a person who was a prisoner remains in a corrective services facility after discharge, a corrective services officer may give the person a direction that the officer considers reasonably necessary for the security or good order of the corrective services facility or a person's safety.

(5) The person must comply with the direction, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units.

(6) If the person fails to comply with the direction—

- (a) the officer may direct the person to leave the facility; and

- (b) if the person fails to leave the facility—a corrective services officer may, using reasonable and necessary force, remove the person from the facility.

(7) Subsection (6) applies whether or not a person is charged with an offence against subsection (5).

### *Division 13—Arrest of prisoners*

#### **85 Arresting prisoners unlawfully at large**

(1) If a prisoner is unlawfully at large, a corrective services officer may—

- (a) arrest the prisoner without warrant; or  
(b) apply in writing to an authorised person for the issue of a warrant for the prisoner’s arrest.

(2) The authorised person may issue the warrant only if satisfied the prisoner is unlawfully at large.

(3) The warrant may be directed to all corrective services officers and may be executed by any of them.

(4) A warrant may be issued and a prisoner may be arrested even if at the time of issue or arrest the prisoner could, if granted full remission for the prisoner’s term of imprisonment, have been lawfully discharged.

(5) The period during which a prisoner is unlawfully at large does not count as part of the prisoner’s term of imprisonment.

(6) In this section—

**“authorised person”** means—

- (a) if a prisoner is unlawfully at large after a post-prison community based release order has been cancelled—a corrections board; or  
(b) in any case—the chief executive or a magistrate.

**“unlawfully at large”**, for a prisoner, includes when—

- (a) the prisoner has been mistakenly discharged before the prisoner was eligible to be discharged; or  
(b) the prisoner has escaped from lawful custody.

## **CHAPTER 3—BREACHES AND OFFENCES**

### **PART 1—BREACHES OF DISCIPLINE BY PRISONERS**

#### **86 Breaches of discipline**

(1) A regulation may prescribe an act or omission to be a breach of discipline.

(2) If an act or omission of a prisoner could be dealt with either as an offence or as a breach of discipline, the chief executive must immediately advise the commissioner of the act or omission.

(3) The time allowed for deciding a breach of discipline for the prisoner's act or omission does not start to run until the commissioner has advised the chief executive whether the act or omission will be prosecuted as an offence.

(4) The chief executive must forward the commissioner's advice to the person in charge of the corrective services facility at which the prisoner is accommodated.

(5) A corrective services officer need not start proceedings against a prisoner for a breach of discipline if the officer considers the proceedings should not be started having regard to—

- (a) the trivial nature of the breach; or
- (b) the circumstances surrounding the commission of the breach; or
- (c) the previous conduct of the prisoner.

(6) If the officer decides to start proceedings against a prisoner for a breach of discipline, the officer must decide whether the prisoner should be proceeded against for a major breach or a minor breach.

(7) If the officer decides to treat the breach as a major breach, the officer must notify, in the approved form, a corrective services officer who holds a more senior office than the officer.

(8) A prisoner must not be punished for an act or omission as a breach of discipline if the prisoner has been convicted or acquitted of an offence for the same act or omission.

(9) A prisoner must not be charged with an offence because of an act or omission if the prisoner has been punished for the act or omission as a breach of discipline.

### **87 Considering whether breach of discipline committed**

(1) If a prisoner is alleged to have committed a breach of discipline, a deciding officer must decide whether the breach was committed—

- (a) as soon as practicable after the deciding officer becomes aware of the alleged breach, but within—
  - (i) for a minor breach—24 hours after the officer becomes aware; or
  - (ii) for a major breach—7 days after the officer becomes aware; or
- (b) if the commissioner was advised of the prisoner's act or omission and has advised the chief executive that the act or omission is not to be prosecuted as an offence—as soon as practicable, but within 7 days, after the chief executive is advised.

(2) The deciding officer must—

- (a) inform the prisoner of any evidence that supports the allegation; and
- (b) give the prisoner a reasonable opportunity to make submissions in the prisoner's defence, including for example, by—
  - (i) questioning any witness called by the officer who decided under section 86(6) to start the proceedings; and
  - (ii) calling a person within the facility to give evidence in the prisoner's defence, unless the officer considers the evidence may be given in writing or in another form; and
- (c) give the prisoner a reasonable opportunity to make submissions in mitigation of punishment.

(3) The deciding officer may question the prisoner and anyone else who may be able to provide relevant information.

(4) Neither the officer who alleges the breach nor the prisoner are allowed any legal or other representation before the deciding officer.

(5) The deciding officer is not bound by the rules of evidence but may, subject to any regulation, inform himself or herself about the matter in the way the officer thinks appropriate.

(6) The consideration of a major breach of discipline must be videotaped.

## **88 Consequences of breach of discipline**

(1) This section applies if a deciding officer—

- (a) is satisfied, on the balance of probabilities, that a prisoner has committed a minor breach of discipline; or
- (b) is satisfied, beyond a reasonable doubt, that a prisoner has committed a major breach of discipline.

(2) The officer may—

- (a) reprimand the prisoner without further punishment; or
- (b) order the prisoner to forfeit privileges that the prisoner may have otherwise received—
  - (i) for a minor breach—in the 24 hours starting when the prisoner is advised of the decision; or
  - (ii) for a major breach—in the 7 days starting when the prisoner is advised of the decision; or
- (c) order the prisoner to undergo separate confinement.

(3) However, separate confinement may be ordered for a minor breach of discipline only if the prisoner has habitually committed minor breaches of discipline and, on the occasion of the last breach, was warned that the next breach could result in the prisoner being separately confined.

(4) Immediately after making the decision, the deciding officer must advise the prisoner—

- (a) of the decision; and
- (b) that the prisoner may have the decision reviewed; and
- (c) how the prisoner may have the decision reviewed.

(5) If the prisoner wants to have the decision reviewed, the prisoner must notify the deciding officer immediately after being advised of the decision.

(6) If the prisoner notifies the deciding officer that the prisoner wants to have the decision reviewed, the deciding officer's decision is stayed until the review is finished.

## **89 Review of decision**

(1) A review of a decision that a prisoner has committed a breach of discipline must be—

- (a) by way of rehearing, unaffected by the decision, on the material before the deciding officer and any further evidence allowed by the officer conducting the review; and
- (b) conducted by a corrective services officer who holds a more senior office than the deciding officer; and
- (c) carried out as soon as practicable after the prisoner gives notice that the prisoner wants the decision to be reviewed.

(2) The prisoner may be present at the hearing and make submissions in the prisoner's defence or in mitigation of punishment.

(3) Neither the deciding officer nor the prisoner are allowed any legal or other representation at the hearing of the review.

(4) However, the prisoner may be helped by someone from the corrective services facility if the prisoner is disadvantaged by—

- (a) language barriers; or
- (b) impaired mental capacity.

(5) The hearing of the review of a major breach of discipline must be videotaped.

(6) The officer reviewing the decision may—

- (a) confirm the decision; or
- (b) vary the decision; or
- (c) set the decision aside and substitute another decision for it.

(7) Immediately after making the decision, the officer must advise the prisoner of the decision.

(8) The decision of the officer reviewing the decision is not subject to appeal or further review under this Act.

**90 Disciplinary breach register**

The person in charge must keep a register that contains details of—

- (a) each decision to deal with a prisoner for a breach of discipline and each decision that a prisoner has committed a breach of discipline; and
- (b) each review of a decision that a prisoner has committed a breach of discipline.

**91 Separate confinement**

(1) An order that a prisoner undergo separate confinement may order a prisoner to be separately confined, for a period of no more than 7 days.

(2) The order must—

- (a) take any special needs of the prisoner into account; and
- (b) contain directions about the extent to which the prisoner is to receive privileges.

(3) A doctor must examine the prisoner separately confined as soon as practicable after the order—

- (a) takes effect; and
- (b) ceases to have effect.

**PART 2—OFFENCES BY PRISONERS****92 Unlawful assembly, riot and mutiny**

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

Maximum penalty—3 years imprisonment.

(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 corrective services facility and the security of the facility is endangered by the act—life imprisonment; or

- (b) if during the riot or mutiny the prisoner demands that anything be done or not done with threats of injury or detriment to any person or property—14 years imprisonment; or
- (c) if during the riot or mutiny the prisoner escapes or attempts to escape from lawful custody, or helps another prisoner to escape or attempt to escape from lawful custody—14 years imprisonment; or
- (d) if during the riot or mutiny the prisoner wilfully and unlawfully damages or destroys, or attempts to damage or destroy, any property—10 years imprisonment; or
- (e) otherwise—6 years imprisonment.

(3) An offence against this section is a crime.

(4) For this section, there is an “**unlawful assembly**” when 3 or more prisoners—

- (a) assemble with intent to carry out a common purpose and there are reasonable grounds to believe they will—
  - (i) tumultuously disturb the peace; or
  - (ii) provoke other prisoners to tumultuously disturb the peace; or
- (b) 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 they will—
  - (i) tumultuously disturb the peace; or
  - (ii) provoke other prisoners to tumultuously disturb the peace.

(5) 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 facility is endangered.

“**riot**” means an unlawful assembly that has begun to act in so tumultuous a way as to disturb the peace.

### **93 Prohibited things**

(1) A regulation may prescribe a thing to be a prohibited thing.

(2) A prisoner must not make, attempt to make, possess, conceal or knowingly consume—

- (a) a prohibited thing; or
- (b) something intended to be used by a prisoner to make a prohibited thing.

Maximum penalty—2 years imprisonment.

(3) However, subsection (2) does not apply to—

- (a) making or attempting to make a thing, if the prisoner has the person in charge's written consent to make the thing; or
- (b) possession of a thing, if the prisoner has the person in charge's written consent to possess the thing.

(4) The finding of a prohibited thing in a prisoner's room, or on the person of a prisoner, is evidence that the thing was in the prisoner's possession when it was found.

## **94 Other offences**

A prisoner must not—

- (a) prepare to escape from lawful custody;<sup>12</sup> or
- (b) disobey a lawful direction of the proper officer of a court or a person assisting the proper officer of a court; or
- (c) organise, attempt to organise or take part in any opposition to authority under this Act, whether inside or outside a corrective services facility; or
- (d) threaten to do grievous bodily harm to anyone; or
- (e) unlawfully kill or injure, or attempt to unlawfully kill or injure, a corrective services dog; or
- (f) obstruct a corrective services dog working under the control of a corrective services dog handler performing duties as a corrective services officer; or
- (g) assume another identity, or disguise himself or herself, in order to commit an offence against this Act; or

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12 See the Criminal Code, section 142 (Escape by persons in lawful custody) for the offence of escaping from lawful custody.

- (h) wilfully and unlawfully destroy, damage, remove or otherwise interfere with any part of a corrective services facility or any property in the facility; or
- (i) without lawful authority, abstract information from, destroy information in or make a false entry in a record kept under this Act; or
- (j) without reasonable excuse, be unlawfully at large.

Maximum penalty—2 years imprisonment.

### **PART 3—GENERAL OFFENCES**

#### **95 Obstructing corrective services officer**

(1) A person must not obstruct a corrective services officer, or proper officer of a court, in the performance of a function under this Act unless the person has a reasonable excuse.

Maximum penalty—40 penalty units or 1 year's imprisonment.

(2) A person who obstructs a corrective services dog under the control of a corrective services dog handler performing duties as a corrective services officer is taken to obstruct a corrective services officer.

(3) In this section—

**“obstruct”** includes hinder, resist and attempt to obstruct.

#### **96 Prohibited things**

(1) A person must not—

- (a) take, or attempt to take, a prohibited thing into a corrective services facility; or
- (b) cause, or attempt to cause, a prohibited thing to be taken into a corrective services facility; or
- (c) give, or attempt to give, a prohibited thing to a prisoner or prisoner of a court; or
- (d) cause, or attempt to cause, a prohibited thing to be given to a prisoner or prisoner of a court.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) A person does not commit an offence under subsection (1) if, for the relevant act carried out or attempted, the person has the approval of—

- (a) if the act relates to a corrective services facility or a prisoner—the chief executive; or
- (b) if the act relates to a prisoner of a court—the proper officer of the court.

(3) In this section—

“give” includes send.

“prohibited thing” includes something that the person intends the prisoner or prisoner of a court to use to make a prohibited thing.

## **97 Removing things from facilities**

(1) A person must not, without the chief executive’s approval—

- (a) remove, or attempt to remove, anything from a corrective services facility; or
- (b) cause, or attempt to cause, anything to be removed from a corrective services facility; or
- (c) take, or attempt to take, anything from a prisoner, whether inside or outside a corrective services facility.

Maximum penalty—40 penalty units.

(2) Subsection (1)(c) does not apply to a corrective services officer in the course of his or her duties.

## **98 Unlawful entry**

A person must not—

- (a) enter, or attempt to enter, a corrective services facility, without the person in charge’s approval; or
- (b) assume a false identity for the purposes of entering a corrective services facility.

Maximum penalty—100 penalty units or 2 years imprisonment.

**99 Killing or injuring corrective services dogs**

(1) A person must not, without the chief executive's approval—

- (a) kill or injure a corrective services dog; or
- (b) attempt to kill or injure a corrective services dog.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) If a person is convicted of killing or injuring a corrective services dog, the court may, in addition to a penalty imposed under subsection (1), order the person to pay to the chief executive the reasonable costs of the chief executive for—

- (a) veterinary treatment and care of the dog; or
- (b) retraining the dog; or
- (c) acquiring and training a replacement dog.

**100 Interviewing and photographing prisoners etc.**

(1) A person must not—

- (a) interview a prisoner, or get a written or recorded statement from a prisoner, whether the prisoner is inside or outside a corrective services facility; or
- (b) photograph or attempt to photograph—
  - (i) a prisoner inside a corrective services facility; or
  - (ii) a part of a corrective services facility.

Maximum penalty—100 penalty units or 2 years imprisonment.

(2) A person does not commit an offence if the person is—

- (a) for subsection (1)(a) or (b)(i)—the prisoner's lawyer; or
- (b) an employee of a law enforcement agency; or
- (c) the ombudsman; or
- (d) a person who has the chief executive's approval.

(3) In this section—

**“photograph”** includes record a visual image by another apparatus.

**“prisoner”** includes a person released under a post-prison community based release order.

**101 Interfering with records**

(1) A person must not, without the chief executive's approval—

- (a) take, or attempt to take, information from a record kept under this Act; or
- (b) destroy, or attempt to destroy, information in a record kept under this Act.

(2) A person must not make, or attempt to make, a false entry in a record kept under this Act.

Maximum penalty—100 penalty units or 2 years imprisonment.

**102 False or misleading information**

(1) A person must not give information to an official, including in a document, that the person knows is false or misleading in a material particular.

Maximum penalty—

- (a) if the person is a prisoner—2 years imprisonment; or
- (b) otherwise—100 penalty units or 2 years imprisonment.

(2) Subsection (1) does not apply to a person giving a document, if the person when giving the document—

- (a) informs the official, to the best of the person's ability, how it is false or misleading; and
- (b) if the person has, or can reasonably obtain, the correct information—gives the correct information.

(3) It is enough for a complaint against a person for an offence against subsection (1) to state that the information was, without specifying which, 'false or misleading'.

(4) In this section—

**“official”** means 1 of the following persons while performing a function under this Act—

- (a) the chief executive;
- (b) the person in charge;
- (c) a corrective services officer;

- (d) a corrections board;
- (e) an inspector;
- (f) an official visitor.

### **103 Persons near prisoners**

(1) This section applies if a corrective services officer, or someone else with control of a prisoner, (the “**official**”) reasonably believes a person near the prisoner is acting in a way that poses a risk to—

- (a) the security of the prisoner; or
- (b) the security or good order of the place in which the prisoner is detained.

(2) The official may require the person to leave the vicinity of the prisoner or place of detention.

(3) The person must comply with the requirement, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units or 1 year’s imprisonment.

(4) In this section—

“**prisoner**” includes a prisoner of a court.

### **104 Temporary detention for security offences**

(1) This section applies if a corrective services officer—

- (a) finds a person committing a security offence; or
- (b) finds a person in circumstances that lead, or has information that leads, the officer to reasonably suspect the person has just committed a security offence.

(2) The officer may, using reasonable and necessary force—

- (a) conduct a general or scanning search of the person; and
- (b) search anything in the person’s possession, including a motor vehicle.

(3) The officer may detain the person until the person may be handed over to a police officer.

(4) However, the person must not be detained under subsection (3) for longer than 4 hours.

(5) In this section—

“**person**” does not include a prisoner or a prisoner of a court.

“**security offence**” means an offence against this part, or another offence, that poses a risk to—

- (a) the security or good order of a corrective services facility; or
- (b) the security of a prisoner or a prisoner of a court.

### **105 Power to require name and address**

(1) This section applies if a corrective services officer—

- (a) finds a person committing an offence against this Act; or
- (b) finds a person in circumstances that lead, or has information that leads, the officer to reasonably suspect the person has just committed an offence against this Act.

(2) The officer may require the person to state the person’s name and address.

(3) When making the requirement, the officer must warn the person it is an offence for the person not to state the person’s name or address, unless the person has a reasonable excuse.

(4) The officer may require the person to give evidence of the correctness of the stated name or address if the officer reasonably suspects the stated name or address is false.

(5) A person must comply with a requirement under subsection (2) or (4), unless the person has a reasonable excuse.

Maximum penalty—40 penalty units or 6 months imprisonment.

(6) A person does not commit an offence against subsection (5) if—

- (a) the person was required to state the person’s name and address by a corrective services officer who suspected the person had committed an offence against this Act; and
- (b) the person is not proved to have committed the offence.

## PART 4—SEIZING PROPERTY

### 106 Seizing property

(1) The person in charge may seize something in a prisoner's privileged mail if it—

- (a) may physically harm the person to whom it is addressed; or
- (b) is a prohibited thing.

(2) A corrective services officer may seize other mail of a prisoner, or anything in the mail, to stop—

- (a) anything that poses a risk to the security or good order of the facility entering or leaving the corrective services facility; or
- (b) anything that appears to be intended for the commission of an offence, or a breach of a court order, entering or leaving the facility; or
- (c) threatening or otherwise inappropriate correspondence leaving the facility; or
- (d) a prohibited thing entering or leaving the facility; or
- (e) the prisoner purchasing goods without the consent of the person in charge.

*Example of inappropriate correspondence for paragraph (c)—*

Correspondence by a prisoner who has been convicted of a sexual offence against a child to a child with whom the prisoner had no relationship before being imprisoned.

(3) A corrective services officer may seize—

- (a) anything found in a corrective services facility, whether or not in a person's possession, that the officer reasonably suspects jeopardises or is likely to jeopardise—
  - (i) the security or good order of the facility; or
  - (ii) the safety of persons in the facility; or
- (b) a prohibited thing found on a prisoner or in a prisoner's possession, unless the prisoner has the person in charge's written consent to possess the thing.

(4) A corrective services officer must not seize a document to which legal professional privilege attaches.

(5) A corrective services officer must give a thing seized under this section to the person in charge as soon as practicable after seizing it.

### **107 Receipt for seized property**

(1) As soon as is reasonably practicable after anything is seized from a person under section 106, a corrective services officer must give the person a receipt for the thing.

(2) The receipt must—

- (a) generally describe the thing seized; and
- (b) include any other information required under a regulation.

### **108 Forfeiting seized things**

(1) A thing seized under section 106 is forfeited to the State if the person in charge decides to forfeit the thing because the person in charge—

- (a) can not find its owner after making reasonable inquiries, given the thing's apparent value; or
- (b) is unable, after making reasonable efforts, to return it to its owner; or
- (c) reasonably believes—
  - (i) possession of the thing by a prisoner is an offence or breach of discipline; or
  - (ii) it is necessary to keep the thing to stop it being used to commit an offence; or
  - (iii) the thing is inherently unsafe.

(2) If the person in charge decides to forfeit a thing because of subsection (1)(c), the person in charge must inform the owner of the thing of the decision by written notice.

(3) Subsection (2) does not apply if the person in charge can not find the owner of the thing after making reasonable inquiries, given the thing's apparent value.

(4) The notice must state—

- (a) the reasons for the decision; and

- (b) that the owner may apply to the chief executive, within 28 days after the notice is given, for the decision to be reviewed; and
  - (c) how the owner may apply for the review.
- (5) On the forfeiture of a thing—
- (a) it becomes the State’s property; and
  - (b) it may be dealt with as the chief executive considers appropriate, including for example, by—
    - (i) keeping the thing and applying it for the benefit of prisoners generally; or
    - (ii) donating the thing to a registered charity; or
    - (iii) if the thing is inherently unsafe—destroying it.
- (6) However, the chief executive must not deal with the thing, unless it is perishable, before the later of the following happens—
- (a) 28 days elapses after the notice was given;
  - (b) if, within the 28 days, an application has been made under the *Justices Act 1886*, section 39<sup>13</sup> in relation to the property—the application, and any appeal against the application, has been decided.

### **109 Review of decision to forfeit**

(1) A person may apply to the chief executive for a review of the person in charge’s decision to forfeit a thing seized to the State only within 28 days after notice of the decision was given to the person.

(2) An application must be written and state in detail the grounds on which the person wants the decision to be reviewed.

(3) After considering the grounds, the chief executive must—

- (a) confirm the decision; or
- (b) cancel the decision and substitute another decision.

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13 *Justices Act 1886*, section 39 (Power of court to order delivery of certain property)

**110 Returning seized things**

(1) If a thing seized under this part has not been forfeited, the person in charge must return it to its owner at the end of—

- (a) 6 months after it is seized; or
- (b) if a proceeding for an offence involving it is started within the 6 months—the proceeding and any appeal from the proceeding.

(2) However, if the thing was being retained as evidence of an offence and the person in charge becomes satisfied its retention as evidence is no longer necessary, the person in charge must return it immediately.

**111 Power of court in relation to seized things**

(1) To remove doubt, it is declared that the *Justices Act 1886*, section 39 applies, in addition to this part, to a seized thing.

(2) When applying the *Justices Act 1886*, section 39, the thing is taken not to have become the property of the State.

**PART 5—USE OF FORCE*****Division 1—Use of reasonable force*****112 Authority to use reasonable force**

(1) A corrective services officer may use the force, other than lethal force, that is reasonably necessary to—

- (a) compel compliance with an order given or applying to a prisoner; or

*Example—*

A corrective services officer could use the force that is reasonably necessary to compel the searching of a prisoner under an order, given by a person in charge under section 26A (Strip searches generally), that applies to the prisoner.

- (b) restrain a prisoner who is attempting or preparing to commit an offence against this or another Act or a breach of discipline; or

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- (c) restrain a prisoner who is committing an offence against this or another Act or a breach of discipline; or
  - (d) compel any person who has been lawfully ordered to leave a corrective services facility and who refuses to do so, to leave the facility.
- (2) The officer may use the force only if the officer—
- (a) reasonably believes the act or omission permitting the use of force can not be stopped in another way; and
  - (b) gives a clear warning of the intention to use force if the act or omission does not stop; and
  - (c) gives sufficient time for the warning to be observed; and
  - (d) attempts to use the force in a way that is unlikely to cause death or grievous bodily harm.
- (3) However, the officer need not comply with subsection (2)(b) or (c) if it would create a risk of injury to—
- (a) the officer using the force; or
  - (b) someone other than the person who is committing the act or omission.
- (4) The use of force may involve the use of—
- (a) only the following weapons—
    - (i) gas guns;
    - (ii) chemical agents;
    - (iii) riot control equipment;
    - (iv) restraining devices; or
  - (b) a corrective services dog under the control of a corrective services dog handler.

*Division 2—Use of lethal force***113 Training for use of lethal force**

The chief executive must ensure that a corrective services officer authorised to use lethal force has been trained to use lethal force in a way

that causes the least possible risk of injury to anyone other than the person against whom lethal force is being used.

### **114 Issue, handling and storage of weapons**

(1) The chief executive may authorise an appropriately trained corrective services officer to be issued with, carry, use and store weapons if it is reasonably necessary for the officer to do so to perform functions under this Act.

(2) The authority may be issued subject to conditions.

### **115 Use of lethal force**

(1) A corrective services officer may use the lethal force that is reasonably necessary—

- (a) to stop a prisoner from escaping or attempting to escape from secure custody, if the officer reasonably suspects the prisoner is likely to cause grievous bodily harm to, or the death of, someone other than the prisoner in the escape or attempted escape; or
- (b) to stop a person from helping, or attempting to help, a prisoner to escape from secure custody, if the officer reasonably suspects the person is likely to cause grievous bodily harm to, or the death of, someone other than the person or prisoner while helping or attempting to help the prisoner escape; or
- (c) to stop a prisoner from assaulting or attempting to assault another person, if the officer reasonably suspects the prisoner is likely to cause grievous bodily harm to, or the death of, the other person; or
- (d) in an immediate response to a prisoner who has escaped from secure custody, if the officer reasonably believes the prisoner is likely to cause grievous bodily harm to, or the death of, someone other than the prisoner in the course of the immediate response.

(2) However, lethal force must not be used if there is a foreseeable risk that the lethal force will cause grievous bodily harm to, or the death of, someone other than the person at whom the lethal force may otherwise be directed.

(3) The use of lethal force may involve the use of—

- (a) weapons, including firearms; or

- (b) a corrective services dog under the control of a corrective services dog handler.

### **116 Requirements for use of lethal force**

(1) A corrective services officer may use lethal force only if the officer—

- (a) reasonably believes the act or omission permitting the use of lethal force can not be stopped in another way; and
- (b) gives a clear warning of the intention to use lethal force if the act or omission does not stop; and
- (c) gives sufficient time for the warning to be observed; and
- (d) attempts to use the force in a way that causes the least injury to anyone.

(2) However, the officer need not comply with subsection (1)(b), (c) or (d) if it would create a risk of injury to—

- (a) the officer using the force; or
- (b) someone other than the person at whom the lethal force is directed.

### **117 Reporting use of lethal force**

(1) The chief executive must keep a record that details any incident in which—

- (a) a corrective services officer uses lethal force; or
- (b) anyone discharges a firearm, other than for training.

(2) The chief executive must immediately advise the Minister of an incident mentioned in subsection (1).

## **CHAPTER 4—CORRECTIVE SERVICES FACILITIES**

### **PART 1—ESTABLISHING FACILITIES**

#### **118 Establishing prisons**

(1) The Governor in Council may, by regulation—

- (a) declare a place to be a prison; or
- (b) assign a name to a prison.

(2) In this section—

“**place**” includes premises and part of premises.

#### **119 Prison amenities**

When establishing a new prison, the chief executive must ensure that appropriate provision is made in the prison for—

- (a) a meeting place for Aboriginal and Torres Strait Islander prisoners that—
  - (i) promotes communication; and
  - (ii) endorses their indigenous cultural heritage; and
- (b) for a prison that accommodates female prisoners—accommodation units that allow the prisoners to care for young children; and
- (c) areas suitable for children visiting their parents; and
- (d) crisis support facilities for prisoners who are experiencing emotional or psychological crises; and
- (e) the accommodation and access requirements of older prisoners and prisoners with disabilities.

#### **120 Establishing community corrective services facilities**

(1) The Minister may, by gazette notice—

- (a) declare a place to be—

- (i) a community corrections centre; or
  - (ii) a WORC site for a WORC program; or
  - (iii) a WCC site for a WCC program; or
- (b) assign a name to—
- (i) a community corrections centre; or
  - (ii) a WORC site; or
  - (iii) a WCC site.

(2) In this section—

“place” includes—

- (a) premises; and
- (b) part of premises; and
- (c) a vehicle.

## **PART 2—VISITING FACILITIES**

### **121 Warning to visitors**

The chief executive must ensure a sign is prominently displayed at the entrance to a secure facility advising visitors that lethal force may be used against them if they help, or attempt to help, a prisoner to escape.

### **122 Entitlement to visits**

(1) A prisoner at a corrective services facility is only entitled to receive a visit from—

- (a) a personal visitor once a week; and
- (b) a legal visitor.

(2) The person in charge may allow the prisoner to receive extra visits, including for example—

- (a) for a prisoner who is the primary caregiver of a child—a visit from the child to maintain the relationship with the child; or

- (b) for an Aboriginal or Torres Strait Islander prisoner—a visit from a relevant elder, respected person or indigenous spiritual healer to ensure appropriate levels of cultural interaction and support.

(3) The person in charge may allow a prisoner to visit another prisoner in another corrective services facility, subject to any conditions the person in charge considers appropriate.

(4) The person in charge may allow more than 1 personal visitor to visit a prisoner at the same time, if it is within the corrective services facility's operational limits.

### **123 Visits by children**

(1) An unaccompanied child may visit a prisoner if the person in charge considers it is in the child's best interests, even if—

- (a) the child was the complainant in the offence leading to the prisoner's imprisonment; or
- (b) the child is not related to the prisoner.

(2) In this section—

“**child**” means a person under the age, or apparent age, of 17 years.

### **124 Contact during personal visits**

(1) A personal visit must be a non-contact visit, unless the person in charge otherwise approves that the visit be a contact visit.

(2) In deciding whether to give the approval, the person in charge must consider any of the following—

- (a) the requirements of any court order relating to the prisoner;
- (b) whether the prisoner has previously escaped or attempted to escape from custody;
- (c) whether the prisoner has previously given a positive test sample;
- (d) any information about the prisoner or visitor that indicates a risk to the security or good order of the corrective services facility.

(3) During a contact visit, a personal visitor must not—

- (a) engage in sexual activity with a prisoner; or

(b) behave in a disorderly, indecent, offensive, riotous or violent manner.

(4) If the personal visitor contravenes subsection (3), a corrective services officer may direct the visitor to leave the facility.

### **125 Requirements before visit**

(1) Before visiting a corrective services facility for the first time, a personal visitor must apply, in the approved form, to the person in charge for approval to access the facility.

(2) The person in charge may grant the personal visitor access to the facility if satisfied the personal visitor does not pose a risk to the security or good order of the facility.<sup>14</sup>

(3) The person in charge may impose conditions on the grant of access.

(4) A person who is refused access to a corrective services facility under this section may apply to the chief executive to review the decision.

(5) A personal visitor must arrange the time of the visit with the person in charge.

### **126 Requirements during visits**

(1) This section applies to a visitor to a corrective services facility.

(2) A corrective services officer must require the visitor to prove his or her identity, in accordance with criteria prescribed under a regulation, when entering the facility.

(3) The visitor must display the visitor's pass given to the visitor while in the facility.

(4) The visitor, other than the following visitors, must sign the visitors' book—

- (a) a corrective services officer who works at the facility;
- (b) an employee of the department, or of an engaged service provider, who works at the facility;
- (c) a child accompanying the visitor.

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14 Also see section 244 (Commissioner to provide criminal history).

(5) A corrective services officer may require the visitor to submit to—

- (a) a scanning search; and
- (b) if the visit is to be a contact visit—a general search.

(6) If the visitor does not submit to a general search when required to do so, the person in charge may revoke the approval for the visit to be a contact visit.

(7) The length of a personal visit is to be decided by the person in charge.

(8) A corrective services officer may give the visitor a direction that the officer considers reasonably necessary for the security or good order of the corrective services facility or a person's safety.

(9) The visitor must comply with the direction, unless the visitor has a reasonable excuse.

Maximum penalty—40 penalty units.

(10) If the visitor fails to comply with a requirement of this section—

- (a) the officer may direct the visitor to leave the facility; and
- (b) if the visitor fails to leave the facility—a corrective services officer may, using reasonable and necessary force, remove the visitor from the facility.

(11) Subsection (10) applies whether or not the person is charged with an offence against subsection (9).

### **127 Proof of identity**

(1) The chief executive may keep a fingerprint, palm print, footprint, toe print, eye print or voiceprint that a visitor to a corrective services facility offers as proof of the visitor's identity.

(2) The chief executive must not give anyone a copy of the fingerprint, palm print, footprint, toe print, eye print or voiceprint, unless required to do so by a court order.

### **128 Suspending visits**

(1) The person in charge may suspend a visitor from entering the facility for a period of up to 3 months if the visitor—

- (a) fails to comply with a corrective services officer's lawful and reasonable direction; or
- (b) breaches a condition imposed on the grant of access by the person in charge; or
- (c) is charged with an offence allegedly committed in a corrective services facility.

(2) A visitor who is suspended from entering a corrective services facility may apply to the chief executive to review the decision.

### **129 Monitoring visits**

A corrective services officer may make audiovisual recordings of, and monitor, a personal visit.

### **130 Accredited visitors**

(1) An accredited visitor may visit a prisoner or any part of a corrective services facility for carrying out the functions of the visitor's office or position.

(2) In this section—

**“accredited visitor”** means—

- (a) the Minister or a member of the Minister's staff; or
- (b) another Minister; or
- (c) a judge or magistrate; or
- (d) a member of a State or federal tribunal; or
- (e) the ombudsman; or
- (f) a member of a corrections board; or
- (g) a member of the advisory council; or
- (h) a corrective services officer, an employee of the department, or an employee of an engaged service provider; or
- (i) a public service employee; or
- (j) a person appointed under this Act; or
- (k) a person authorised by the chief executive to provide services; or
- (l) an employee of a law enforcement agency.

**131 Law enforcement visits**

(1) This section applies if an employee of a law enforcement agency wants to visit a prisoner.

(2) The prisoner may—

- (a) refuse to see the employee; or
- (b) agree to see the employee, but refuse to answer any of the employee's questions.

(3) The employee must be allowed to interview the prisoner out of the hearing, but not out of the sight, of a corrective services officer.

**132 Legal visitors**

A prisoner's legal visitor must be allowed to interview the prisoner out of the hearing, but not out of the sight, of a corrective services officer.

## **CHAPTER 5—POST-PRISON COMMUNITY BASED RELEASE**

### **PART 1—ORDERS**

**133 Who may apply for exceptional circumstances parole order**

A prisoner may apply, in the approved form, for an exceptional circumstances parole order.

**134 Who may apply for other post-prison community based release orders**

(1) A prisoner may apply, in the approved form, for a post-prison community based release order, other than an exceptional circumstances parole order, if—

- (a) the prisoner was sentenced to a period of imprisonment (the “**relevant period**”)—

- (i) of any length, for an offence committed before the commencement of this section; or
- (ii) of more than 2 years, for an offence committed after the commencement of this section; and
- (b) the prisoner—
  - (i) is not being detained on remand for an offence; and
  - (ii) was not imprisoned for an indefinite period for contempt; and
  - (iii) is not subject to an indefinite sentence under the *Penalties and Sentences Act 1992*, part 10;<sup>15</sup> and
  - (iv) if the application is for a release to work or home detention order—is not being detained under a warrant issued under the *Migration Act 1958* (Cwlth).
- (2) However, the prisoner must not apply for the order until—
  - (a) if a previous application made in relation to the relevant period has been refused—the end of the period decided by the corrections board that refused the application, except with the board's consent; or
  - (b) if an appeal has been made to a court against the conviction or sentence to which the relevant period relates—the appeal is decided.

### **135 When order starts**

- (1) An exceptional circumstances parole order may start at any time.
- (2) A post-prison community based release order, other than an exceptional circumstances parole order, may start once the prisoner has—
  - (a) for a prisoner serving a term of life imprisonment to whom the Criminal Code, section 305(2)<sup>16</sup> applies—served 20 years or the longer time ordered under that section; or
  - (b) for a prisoner serving a term of life imprisonment to whom the Criminal Code, section 305(2) does not apply—served 15 years; or

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15 *Penalties and Sentences Act 1992*, part 10 (Indefinite sentences)

16 Criminal Code, section 305 (Punishment of murder)

- (c) for a prisoner serving a period of imprisonment for a serious violent offence—served 80% of the period, or 15 years, whichever is the less; or
- (d) for a prisoner being detained in an institution for a period fixed by a judge under the *Criminal Law Amendment Act 1945*, part 3<sup>17</sup>—been detained for half of the fixed period; or
- (e) otherwise—served half of the period of imprisonment to which the prisoner was sentenced.

(3) Subsection (2) is subject to the *Penalties and Sentences Act 1992*, section 157.<sup>18</sup>

### **136 Which corrections board to hear and decide application**

(1) The Queensland board may hear and decide an application for a post-prison community based release order from a prisoner who—

- (a) is serving a period of imprisonment of 8 years or more; or
- (b) is subject to an order made under the *Criminal Law Amendment Act 1945*, section 19(1);<sup>19</sup> or
- (c) is accommodated at, or lawfully outside, a corrective services facility in an area of the State for which a regional board is not established.

(2) A regional board may hear and decide an application for a post-prison community based release order from another prisoner who is accommodated at, or lawfully outside, a corrective services facility in the area of the State for which the regional board is established.

(3) A default period of imprisonment for the non-payment of a fine or restitution, that is ordered to be served cumulatively with another period of imprisonment, is not to be taken into account for subsection (1)(a).

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17 *Criminal Law Amendment Act 1945*, part 3 (Indeterminate detention of offenders convicted of sexual offences)

18 *Penalties and Sentences Act 1992*, section 157 (Eligibility for post-prison community based release)

19 *Criminal Law Amendment Act 1945*, section 19 (Sexual offender to report name and address)

**137 Appearing before corrections board**

(1) A prisoner or a prisoner's agent may appear before a regional board, with the leave of the board, to make representations in support of the prisoner's application for a post-prison community based release order.

(2) A prisoner's agent may appear before the Queensland board, with the leave of the board, to make representations in support of the prisoner's application for a post-prison community based release order.

(3) However, the Queensland board may require a regional board—

(a) to hear the prisoner's representations; and

(b) to make a recommendation to the Queensland board on the prisoner's suitability for release.

(4) The president of a regional board may require a corrective services officer present at a board meeting to leave and remain out of the hearing of the meeting for the time that the president directs.

(5) If a prisoner appearing before a regional board insults a member of the board or disrupts the board's proceedings the prisoner may be removed from the board's meeting.

(6) This section does not stop a corrections board deciding an application if the prisoner or the prisoner's agent fails to appear before it.

(7) A prisoner's agent under subsection (1) or (2) must not be a lawyer.

**138 When application for release lapses**

A prisoner's application for a post-prison community based release order lapses if, before the application is decided, the prisoner is sentenced to another term of imprisonment.

**139 Corrections board not bound by sentencing court's recommendation**

When deciding whether to grant a post-prison community based release order, a corrections board is not bound by the recommendation of the court that sentenced the prisoner if the board—

(a) receives information about the prisoner that was not before the court at the time of sentencing; and

- (b) after considering the information, considers that the prisoner is not suitable for release at the time recommended by the court.

### **140 Decision of corrections board**

(1) A corrections board required to consider a prisoner's application for a post-prison community based release order must decide either—

- (a) to grant the application; or
- (b) to refuse to grant the application.

(2) However, the board may defer making a decision until the board obtains any additional information that it considers is necessary to make the decision.

(3) The board may grant the prisoner's application even though another post-prison community based release order for the same period of imprisonment was previously cancelled.

(4) If the board refuses the application, the board must—

- (a) decide a period of time, of not more than 6 months after the refusal, within which a further application for a post-prison community based release order by the applicant must not be considered; and
- (b) give the applicant written reasons for the refusal.

(5) If the board fails to decide the application within 120 days after its receipt, the board is taken to have decided to refuse to grant the application.

### **141 Types of post-prison community based release orders**

(1) A corrections board may release a prisoner—

- (a) to seek and obtain employment by a release to work order; or
- (b) on home detention by a home detention order; or
- (c) on parole—
  - (i) if the board is satisfied that exceptional circumstances exist in relation to the prisoner—by an exceptional circumstances parole order; or
  - (ii) otherwise—by a parole order.

(2) The board must give a copy of the order to the prisoner.

- (3) A prisoner who is on release to work or home detention must—
- (a) keep the copy of the order in the prisoner's possession while on release; and
  - (b) produce the copy of the order for inspection by a police officer or a corrective services officer if the officer asks the prisoner to do so.

#### **142 Conditions for release to work orders**

- (1) A release to work order may include—
- (a) a condition that the corrections board considers reasonably necessary to—
    - (i) ensure the prisoner's good conduct; or
    - (ii) stop the prisoner committing an offence; or
    - (iii) help the prisoner's reintegration into the community; or
  - (b) a condition that the prisoner perform community service.
- (2) The prisoner must comply with the conditions included in the order.

#### **143 Conditions for home detention orders**

- (1) A home detention order may include—
- (a) a condition that the corrections board considers reasonably necessary to—
    - (i) ensure the prisoner's good conduct; or
    - (ii) stop the prisoner committing an offence; and
  - (b) a condition that the prisoner carry out a corrective services officer's lawful instructions.
- (2) However, a home detention order must not contain a condition that the prisoner perform community service.
- (3) The prisoner must comply with the conditions included in the order.

#### **144 Conditions for parole orders**

- (1) A parole order must include conditions requiring that the prisoner—

- (a) be under the supervision of a corrective services officer—
  - (i) for the period decided by the corrections board, not extending past the end of the prisoner's period of imprisonment; or
  - (ii) if the prisoner is being detained in an institution for a period fixed by a judge under the *Criminal Law Amendment Act 1945*, part 3—for the period that the prisoner was directed to be detained; and
- (b) carry out the corrective services officer's lawful instructions; and
- (c) report, and receive visits, as directed by the corrective services officer; and
- (d) notify the corrective services officer within 48 hours of any change of address, or employment, during the parole period; and
- (e) not commit an offence.

(2) Also, a parole order may contain conditions that the corrections board considers reasonably necessary to—

- (a) ensure the prisoner's good conduct; or
- (b) stop the prisoner committing an offence.

(3) However, a parole order must not contain a condition that the prisoner perform community service.

(4) The prisoner must comply with the conditions included in the order.

### **145 Expenses of prisoner on release to work or home detention**

(1) This section applies to a prisoner who is the subject of a release to work or home detention order.

(2) The chief executive may authorise that the prisoner be given money or something else that the chief executive considers necessary to meet the prisoner's requirements while on release to work or home detention.

(3) The prisoner must return any unused money to the chief executive.

### **146 Travelling from home while on home detention**

(1) A prisoner released on home detention may leave the prisoner's home only for one of the following purposes—

- (a) to comply with the conditions of—
  - (i) the home detention order; or
  - (ii) an existing court order;
- (b) to attend to the necessities of life, including for example—
  - (i) to buy food; or
  - (ii) to collect a social security benefit;
- (c) to seek, or engage in, employment approved by the chief executive;
- (d) to engage in an activity approved by a corrections board, or a corrective services officer, including for example, to attend a rehabilitative program;
- (e) to prevent or minimise a serious risk of death or injury to the prisoner or another person;
- (f) to receive medical or health treatment;
- (g) for another purpose approved by the chief executive.

(2) However, the prisoner must get a corrective services officer's approval before leaving home.

(3) Except in an emergency, the approval must be in writing and state the conditions of the approval.

### **147 Travelling interstate while on home detention**

(1) The chief executive may, by written order, grant leave to a prisoner on home detention to travel interstate for a period of not more than 7 days.

(2) The leave is subject to the conditions the chief executive decides.

### **148 Travelling interstate or overseas while on parole**

(1) This section applies to a prisoner who is released on parole.

(2) The chief executive may, by written order, grant leave to the prisoner to travel interstate for a period of not more than 7 days.

(3) The corrections board that released the prisoner on parole may, by written order, grant leave to the prisoner to travel interstate for a period of more than 7 days.

(4) The Queensland board may, by written order, grant leave to the prisoner to travel overseas for a stated period for compassionate purposes in exceptional circumstances.

(5) A regional board can not grant leave for the prisoner to travel overseas even if it released the prisoner on parole.

(6) Leave granted under this section is subject to the conditions the entity granting the leave decides.

### **149 Suspension of order by chief executive**

(1) The chief executive may, by written order, suspend a post-prison community based release order for up to 28 days if the chief executive reasonably believes the prisoner—

- (a) has failed to comply with the order; or
- (b) poses a serious and immediate risk of harm either to themselves or someone else.

(2) If the chief executive suspends the order, the chief executive may issue a warrant for the prisoner's arrest.

(3) The warrant may be issued to all corrective services officers and may be executed by any of them.

(4) When arrested, the prisoner must be taken to a prison to be kept there for the suspension period.

(5) Immediately on suspending a post-prison community based release order, the chief executive must give written notice of the grounds of suspension to the secretary of the corrections board that made the order.

(6) The chief executive must give the board any further information about the suspension that the board requires.

(7) The board may at any time—

- (a) cancel the chief executive's order; and
- (b) if a warrant has been issued and not executed—require the chief executive to withdraw the warrant.

### **150 Amendment, suspension or cancellation of order by corrections board**

(1) A corrections board may, by written order—

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- (a) amend, suspend or cancel a post-prison community based release order if the board reasonably believes the prisoner subject to the order—
    - (i) has contravened the order; or
    - (ii) poses a serious risk of harm either to themselves or someone else; or
  - (b) amend or cancel a post-prison community based release order if the board receives information that, had it been received before the order was made, would have resulted in the board making a different order or no order.
- (2) If the order is suspended or cancelled—
- (a) the board may issue a warrant, signed by a member or the secretary of the board, for the prisoner’s arrest; or
  - (b) a magistrate, on the application of the board or a member of the board, may issue a warrant for the prisoner’s arrest.
- (3) The warrant may be issued to all corrective services officers and may be executed by any of them.
- (4) When arrested, the prisoner must be taken to a prison—
- (a) if the order was suspended—to be kept there for the suspension period; or
  - (b) if the order was cancelled—to serve the unexpired portion of the period of imprisonment to which the prisoner was sentenced.
- (5) The board must give the prisoner an information notice—
- (a) if the order is amended—immediately after amending it; or
  - (b) if the order is suspended or cancelled—on the prisoner’s return to prison.
- (6) The board must, as soon as practicable, consider all written submissions given to the board by the prisoner within the 21 days mentioned in the information notice and inform the prisoner, by written notice, whether the board has changed its decision, and if so, how.
- (7) If the board changes its decision, the changed decision has effect.
- (8) In this section—
- “corrections board”** means—

- (a) for a post-prison community based release order made by the Queensland board—the Queensland board; or
- (b) for a post-prison community based release order made by a regional board—the regional board that made the order or another regional board.

**“information notice”** means a notice—

- (a) stating that the board has decided to amend, suspend or cancel the order; and
- (b) outlining the reason for the decision; and
- (c) inviting the prisoner to show cause, by written submissions given to the board within 21 days after the notice is given, why the board should change its decision.

**“suspend”** means suspend for a fixed or indeterminate period.

### **151 Cancellation of parole order by further imprisonment**

(1) A prisoner’s parole order is automatically cancelled if the prisoner is sentenced to another term of imprisonment for an offence committed, in Queensland or elsewhere, during the parole period.

(2) The prisoner’s parole order is cancelled even if the parole period has expired.

(3) However, the prisoner’s parole order is not cancelled if—

- (a) the prisoner is required to serve another term of imprisonment in default of—
  - (i) paying a fine or another amount required to be paid under a court order; or
  - (ii) making restitution required to be made under a court order; or
- (b) the prisoner is sentenced to another term of imprisonment, but the period of imprisonment—
  - (i) is required to be served under an intensive correction order; or

(ii) is wholly suspended under the *Penalties and Sentences Act 1992*, part 8.<sup>20</sup>

(4) If the prisoner's parole order is cancelled—

- (a) a corrections board may issue a warrant, signed by a member or the secretary of the board, for the prisoner's arrest; or
- (b) a magistrate, on the application of a corrections board or a member of the board, may issue a warrant for the prisoner's arrest.

(5) The warrant may be issued to all corrective services officers and may be executed by any of them.

(6) When arrested, the prisoner must be taken to a prison to serve the unexpired portion of the period of imprisonment to which the prisoner was sentenced.

(7) In this section—

**“corrections board”** means—

- (a) if the prisoner was released on parole by the Queensland board—the Queensland board; or
- (b) if the prisoner was released on parole by a regional board—the regional board that released the prisoner on parole or another regional board.

## **152 Effect of cancellation of parole order**

(1) This section applies if a prisoner's parole order is cancelled—

- (a) under section 150(1)(a)(i) because the prisoner contravened a condition of the parole order; or
- (b) under section 150(1)(a)(ii) because the prisoner posed a serious risk of harm either to themselves or someone else; or
- (c) under section 150(1)(b) because the board received information that, had it been received before the order was made, would have resulted in the board not making the order; or

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20 *Penalties and Sentences Act 1992*, part 8 (Orders of suspended imprisonment)

- (d) under section 151 because the prisoner was sentenced to another term of imprisonment for an offence committed during the parole period.

(2) The time for which the prisoner was released on parole before—

- (a) the prisoner contravened the condition; or
- (b) the order was cancelled for the reason mentioned in subsection (1)(b) or (c); or
- (c) the prisoner committed the offence;

counts as time served for the prisoner's period of imprisonment.

(3) The Queensland board may, by written order, direct that the prisoner serve only part of the unexpired portion of the period of imprisonment imposed on the prisoner.

(4) A regional board can not make an order mentioned in subsection (3), even if it released the prisoner on parole.

### **153 Prisoner on release taken to be still serving sentence**

A prisoner on post-prison community based release is taken to be still serving the sentence imposed on the prisoner.

### **154 Discharge after parole**

A prisoner is taken to have served the prisoner's period of imprisonment if the prisoner's parole period has expired without the prisoner's parole order or parole being cancelled—

- (a) by a corrections board; or
- (b) under section 151.

### **155 Reviewing regional board's decision to refuse application**

(1) This section applies if—

- (a) a prisoner has applied, on 3 or more occasions, for a post-prison community based release order of the same type in relation to the same period of imprisonment; and
- (b) a regional board has refused all the prisoner's applications.

(2) The prisoner may apply, in the approved form, to have the last refusal reviewed by the Queensland board.

(3) The application must be received by the secretary of the regional board that refused the application within 7 days after the applicant receives written notice of the refusal.

(4) The secretary must send the following to the secretary of the Queensland board—

- (a) the application for review;
- (b) the application for a post-prison community based release order;
- (c) notes of any representations made to the regional board by or for the applicant in relation to the application for a post-prison community based release order;
- (d) the reasons why the regional board refused the application for a post-prison community based release order;
- (e) any other material the regional board considers appropriate.

(5) After considering the material mentioned in subsection (4), the Queensland board may—

- (a) confirm the decision of the regional board to refuse the application for a post-prison community based release order; or
- (b) set aside the decision and make any decision that the regional board could have made.

## **PART 2—CORRECTIONS BOARDS**

### *Division 1—Queensland Community Corrections Board*

#### **156 Establishment of Queensland board**

The Queensland Community Corrections Board established under the *Corrective Services Act 1988* is continued in existence.

**157 Functions of Queensland board**

The functions of the Queensland board are—

- (a) to decide applications for post-prison community based release orders; and
- (b) to perform other functions given to it under this or another Act.

**158 Membership of Queensland board**

(1) The Queensland board must consist of the following members—

- (a) a president and deputy president, appointed by the Governor in Council by gazette notice, each of whom is—
  - (i) a retired judge of a State court, the High Court or a court constituted under a Commonwealth Act; or
  - (ii) a lawyer who has been in practice for at least 5 years; and
- (b) 5 other members, appointed by the Governor in Council by gazette notice, of whom—
  - (i) at least 1 is an Aboriginal or Torres Strait Islander person; and
  - (ii) at least 1 is a doctor or psychologist; and
  - (iii) at least 2 are women; and
- (c) the chief executive.

(2) The chief executive may appoint a public service officer employed in the department to represent the chief executive as a member if the chief executive is unable to act for any reason.

(3) The Governor in Council may end an appointed member's appointment at any time.

(4) It is unnecessary for any reasons to be given for ending the appointment.

**159 Disqualification from membership of Queensland board**

The following persons are not qualified to be, or to continue as, an appointed member of the Queensland board—

- (a) a doctor appointed for a prison, a volunteer or an official visitor;

- (b) a public service officer;
- (c) an engaged service provider or the provider's employees;
- (d) a full-time member, officer or employee of a State entity, including for example an entity, established under an Act, that—
  - (i) is generally subject to a Minister's control or direction; or
  - (ii) consists of persons who are, or has a governing body of persons a majority of whom are, appointed or employed by the Governor in Council, a Minister or another State entity.

### **160 Term of member's appointment**

(1) An appointed member of the Queensland board may be appointed for a term of up to 3 years.

(2) If a successor has not been appointed by the end of the member's term, the member continues to hold office until a successor is appointed.

(3) An appointed member may be reappointed.

### **161 Remuneration of members**

An appointed member of the Queensland board is entitled to be paid the fees, allowances and expenses decided by the Governor in Council.

### **162 Vacation of member's office**

The office of an appointed member of the Queensland board becomes vacant if—

- (a) the member resigns office by signed notice given to the Minister;  
or
- (b) the member is not qualified to continue as a member; or
- (c) the Governor in Council ends the member's appointment.

### **163 Secretary of Queensland board**

The chief executive must appoint a public service officer to be secretary of the Queensland board.

**164 Meetings of Queensland board**

(1) The Queensland board must meet as often as is necessary to discharge its functions.

(2) A meeting may be called by—

- (a) the president; or
- (b) in the absence of the president—the deputy president.

(3) In the absence of the president and deputy president, the secretary may call a meeting to consider whether a post-prison community based release order should be amended, suspended or cancelled.

(4) The board may hold meetings, or allow members to take part in meetings, using technology that allows reasonably contemporaneous and continuous communication between the members.

(5) A member who takes part in a meeting under subsection (4) is taken to be present at the meeting.

(6) The quorum for a meeting is 4 members.

(7) The president or, in the president's absence, the deputy president, is the chairperson of a meeting.

(8) The chairperson must identify and decide all questions of law that need to be decided at a meeting.

(9) All other questions must be decided by a majority of votes of the members present.

(10) If there is an equality of votes, the chairperson has a casting vote.

(11) The board may otherwise conduct its meetings in the way it considers appropriate.

**165 Attendance of corrective services officers or employees at Queensland board meetings**

If asked to do so by the secretary, a corrective services officer, or an employee of the department or an engaged service provider, must—

- (a) attend a meeting of the Queensland board; and
- (b) give the information the board asks for to help it decide a matter relating to a post-prison community based release order.

**166 Attendance of board member at regional board meetings**

(1) A member of the Queensland board nominated by the board may attend, and participate in the consideration of any business before, a meeting of a regional board.

(2) However, the member can not vote.

**167 Guidelines**

(1) The Minister may make guidelines about the policy to be followed by the Queensland board when performing its functions.

(2) The Queensland board may, in consultation with the chief executive, make guidelines about—

- (a) the policy to be followed by a regional board when—
  - (i) performing its functions; or
  - (ii) conducting its business, including for example, the procedure at its meetings; and
- (b) the matters to be dealt with, and the information to be contained, in reports given under section 180.

**168 Annual report of Queensland board**

(1) The Queensland board must give the Minister a report, for each financial year, about—

- (a) the operation of this Act in relation to post-prison community based release orders; and
- (b) the activities of the Queensland board and each regional board; and
- (c) the effectiveness of each regional board.

(2) The report must state the number of persons who in that year—

- (a) were released on each of release to work, home detention and parole; and
- (b) returned to prison after release to work, home detention or parole was suspended or cancelled.

(3) The report must be given to the Minister on or before the next 30 September after the financial year it relates to.

**169 Special reports**

If asked by the Minister, the Queensland board must give the Minister a written report about the operation of this Act in relation to—

- (a) post-prison community based release orders; or
- (b) the performance of a function by the Queensland board or a regional board.

***Division 2—Regional community corrections boards*****170 Establishment of regional boards**

The Governor in Council may, by regulation—

- (a) establish a regional community corrections board for the area of the State specified in the regulation; and
- (b) assign a name to the board.

**171 Functions of regional boards**

The functions of a regional board are—

- (a) to decide applications for post-prison community based release orders; and
- (b) to perform other functions given to it under this or another Act.

**172 Membership of regional boards**

(1) A regional board must consist of the following members appointed by the Governor in Council by gazette notice—

- (a) a president and deputy president, each of whom is—
  - (i) a retired judge of a State court, the High Court or a court constituted under a Commonwealth Act; or
  - (ii) a retired magistrate; or
  - (iii) a lawyer who has been in practice for at least 5 years;
- (b) a public service officer employed in the department, nominated by the chief executive;

- (c) 4 other members, of whom—
  - (i) at least 1 is an Aboriginal or Torres Strait Islander person; and
  - (ii) at least 1 is a doctor or psychologist; and
  - (iii) at least 1 is a woman.

(2) The Governor in Council may end a member's appointment at any time.

(3) It is unnecessary for any reasons to be given for ending the appointment.

### **173 Disqualification from membership of regional boards**

The following persons are not qualified to be, or to continue as, a member of a regional board—

- (a) a doctor appointed for a prison, a volunteer or an official visitor;
- (b) a public service officer, other than—
  - (i) a doctor; or
  - (ii) the member mentioned in section 172(1)(b);
- (c) a person appointed or employed under the *Police Service Administration Act 1990*, *Crime and Misconduct Act 2001* or *Director of Public Prosecutions Act 1984*;
- (d) an engaged service provider or the provider's employees.

### **174 Term of member's appointment**

(1) A member of a regional board may be appointed for a term of up to 3 years.

(2) If a successor has not been appointed by the end of the member's term, the member continues to hold office until a successor is appointed.

(3) A member may be reappointed.

### **175 Remuneration of members**

A member of a regional board is entitled to be paid the fees, allowances and expenses decided by the Governor in Council.

**176 Vacation of member's office**

The office of a member of a regional board becomes vacant if—

- (a) the member resigns office by signed notice given to the Minister;  
or
- (b) the member is not qualified to continue as a member; or
- (c) the Governor in Council ends the member's appointment.

**177 Secretaries of regional boards**

For each regional board, the chief executive must appoint a public service officer to be secretary of the board.

**178 Meetings of regional boards**

(1) A regional board must meet as often as is necessary to discharge its functions.

(2) A meeting may be called by—

- (a) the president; or
- (b) in the absence of the president—the deputy president.

(3) In the absence of the president and deputy president, the secretary may call a meeting to consider whether a post-prison community based release order should be amended, suspended or cancelled.

(4) A regional board must meet only in the area of the State for which it is established.

(5) However, the board may hold meetings, or allow members to take part in meetings, using technology that allows reasonably contemporaneous and continuous communication between the members.

(6) A member who takes part in a meeting under subsection (5) is taken to be present at the meeting.

(7) The quorum for a meeting is 4 members.

(8) The president or, in the president's absence, the deputy president, is the chairperson of a meeting.

(9) The chairperson must identify and decide all questions of law that need to be decided at a meeting.

(10) All other questions must be decided by a majority of votes of the members present.

(11) If there is an equality of votes, the chairperson has a casting vote.

(12) The board may otherwise conduct its meetings in the way it considers appropriate.

### **179 Attendance of corrective services officers or employees at regional board meetings**

If asked to do so by the secretary, a corrective services officer, or an employee of the department or an engaged service provider, must—

- (a) attend a meeting of a regional board; and
- (b) give the information the board asks for to help it decide a matter relating to a post-prison community based release order.

### **180 Annual reports of regional boards**

(1) A regional board must give the Queensland board a report, for each financial year, about the matters required under the Queensland board's guidelines.

(2) The report must be given to the Queensland board within 14 days after the end of the financial year.

(3) A regional board must give the Queensland board the information that the Queensland board asks for to help it prepare a report under section 169.

## ***Division 3—Powers of corrections boards***

### **181 General powers of corrections boards**

A corrections board has power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

**182 Powers of corrections board to require attendance**

(1) A corrections board may, by written notice (an “**attendance notice**”), require a person to attend a board meeting at a stated time and place—

- (a) to give the board relevant information; or
- (b) to produce a stated document containing relevant information.

(2) If a document is produced to the board at the meeting, the board may—

- (a) inspect the document; or
- (b) make copies of the document.

(3) A person served with an attendance notice must—

- (a) attend as required by the notice, unless the person has a reasonable excuse; and
- (b) give the board the relevant information that a board member requires the person to give, unless the person has a reasonable excuse; and
- (c) produce a document containing relevant information that the person is required to produce by the notice, unless the person has a reasonable excuse.

Maximum penalty—10 penalty units.

(4) It is a reasonable excuse for a person to fail to give relevant information or produce a document if giving the information or producing the document might tend to incriminate the person.

(5) If a person is required by an attendance notice to attend a corrections board meeting, the secretary of the board must pay the person’s reasonable expenses of attending the meeting as certified by the board member presiding over the meeting.

(6) In this section—

“**relevant information**” means information relating to—

- (a) a prisoner’s application for a post-prison community based release order; or
- (b) a prisoner’s post-prison community based release order.

## **PART 3—GENERAL**

### **183 Legal proceedings**

A legal proceeding based on an act, omission or decision of a board must be commenced against the members of the board under the name of the board.

### **184 Corrective services officers subject to direction of corrections board**

In relation to a post-prison community based release order applying to a prisoner, a corrective services officer is subject to the directions of the corrections board that made the order.

### **185 Chief executive must prepare and give reports to board**

If asked to do so by a corrections board, the chief executive must give to the board a report on, or information relating to—

- (a) a prisoner's application for a post-prison community based release order; or
- (b) a prisoner; or
- (c) a post-prison community based release order.

### **186 Invalidity of acts**

An act, proceeding or decision of a corrections board is not invalidated or in any way prejudiced merely because of a vacancy in the membership of the board at the time of the act, proceeding or decision.

### **187 Authentication of document**

A document made by a corrections board for this Act is sufficiently authenticated if it is signed by the president of the board, or by the secretary of the board at the president's direction.

## CHAPTER 6—ADMINISTRATION

### PART 1—THE CHIEF EXECUTIVE

#### **188 Functions and powers of chief executive**

(1) Subject to any direction of the Minister, the chief executive is responsible for—

- (a) the security and management of all corrective service facilities; and
- (b) the safe custody and welfare of all prisoners; and
- (c) the supervision of offenders in the community.

(2) The chief executive has—

- (a) the power to do all things necessary or convenient to be done for, or in connection with, the performance of the chief executive's functions whether under this or another Act; and
- (b) the powers of—
  - (i) a person in charge of a corrective services facility; and
  - (ii) a corrective services officer.

#### **189 Policies and procedures**

(1) The chief executive must make administrative policies and procedures to facilitate the effective and efficient management of corrective services.

(2) The policies and procedures must take into account the special needs of offenders.

(3) The chief executive must allow anyone to inspect the policies and procedures free of charge at the department's Brisbane office.<sup>21</sup>

(4) However, the chief executive need not allow a policy or procedure to be inspected if it might pose a risk to the security or good order of a corrective services facility.

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<sup>21</sup> The policies and procedures may be inspected at the department's office at 50 Ann St, Brisbane.

**190 Services and programs to help offenders**

(1) The chief executive must establish services or programs—

- (a) for the medical welfare of prisoners; and
- (b) to help prisoners to be integrated into the community after their release from custody, including by acquiring skills; and
- (c) to initiate, maintain and strengthen ties between offenders and members of their families and the community; and
- (d) to help counsel offenders who are subject to community based orders.

(2) The services and programs must take into account the special needs of offenders.

*Example—*

Whenever possible, female doctors must be appointed to corrective services facilities for female prisoners.

**191 Monitoring devices**

The chief executive may require an offender to wear a device that monitors the offender's location.

*Examples—*

1. The chief executive may require a prisoner to wear a monitoring device as a condition of resettlement leave.
2. The chief executive, at the request of a corrections board, may require an offender who is the subject of a post-prison community based release order to wear a monitoring device.

**192 Declaration of emergency**

(1) The chief executive may, with the Minister's approval, declare that an emergency exists in relation to a prison for a stated period, of not more than 3 days, if the chief executive reasonably believes a situation exists at the prison that threatens or is likely to threaten—

- (a) the security or good order of the prison; or
- (b) the safety of a prisoner or another person in the prison.

(2) The declaration lapses at the end of the stated period unless—

- (a) it is sooner revoked by the chief executive; or

(b) another declaration is made to take effect.

(3) While the declaration is in force, the chief executive may—

(a) restrict any activity in, or access to, the prison; or

(b) order that the prisoner's privileges be withheld; or

(c) authorise police officers to perform a function or exercise a power of a corrective services officer, under the direction of the senior police officer present.

(4) In this section—

“**prison**” includes part of a prison.

### **193 Commissioner to provide police**

(1) To help the chief executive in the discharge of the chief executive's functions, the chief executive may ask the commissioner to provide police officers.

(2) The commissioner must comply with the request.

### **194 Community service**

(1) The chief executive may, in writing, declare an activity to be community service for this Act or the *Penalties and Sentences Act 1992*.

(2) The chief executive may appoint an appropriately qualified person (a “**community service supervisor**”) to supervise offenders performing community service.

(3) A community service supervisor—

(a) ceases to be appointed at the end of the term stated in the instrument of appointment; and

(b) may resign by signed notice given to the chief executive.

### **195 Approved forms**

(1) The chief executive may approve forms for use under this Act.

(2) An order or instrument made or granted under this Act must be in the approved form if there is one.

## PART 2—ENGAGED SERVICE PROVIDERS

### 196 Engaging service providers

(1) The chief executive may, in writing, authorise an entity (an “engaged service provider”) to perform an office holder’s functions.

(2) When performing authorised functions, an engaged service provider has the same powers as the office holder, including a power of delegation, but not including the power to authorise an engaged service provider under this section.

(3) The chief executive may give the authority subject to stated conditions, including for example, a condition—

- (a) that a particular power only be exercised subject to a decision of the chief executive; or

*Example—*

A condition may require the engaged service provider to get the chief executive’s consent before delegating a particular power.

- (b) imposing particular duties on the engaged service provider’s employees.

*Examples—*

1. A condition may require the engaged service provider to ensure the provider’s employees receive the training required by the chief executive.
2. A condition may require the engaged service provider to ensure the provider’s employees are subject to a code of conduct equivalent to the code of conduct, approved under the *Public Sector Ethics Act 1994*, for the department.

(4) The authorisation of an engaged service provider to perform an office holder’s function does not relieve the chief executive of the chief executive’s obligation to ensure the function is properly performed.

(5) Laws applying to an office holder apply to the engaged service provider in connection with the performance of an authorised function, or the exercise of a power for an authorised function, as if the engaged service provider were the officer holder.

(6) In this section—

“entity” does not include a public service employee.

**“function”** of an office holder means a function of the office holder under—

- (a) this Act, other than the chief executive’s functions relating to the appointment of—
  - (i) inspectors; or
  - (ii) official visitors; or
  - (iii) chaplains; or
- (b) another Act that relates to corrective services.

**“office holder”** means—

- (a) the chief executive; or
- (b) a person in charge; or
- (c) a corrective services officer; or
- (d) a doctor appointed for a corrective services facility.

### **197 Acts applying to engaged service providers**

**(1)** The *Freedom of Information Act 1992* applies to an engaged service provider, prescribed under a regulation, as if—

- (a) the provider were an agency; and
- (b) the holder of a specified office, prescribed under a regulation, of the provider were the principal officer; and
- (c) the Minister were the responsible Minister.

**(2)** The *Crime and Misconduct Act 2001* applies to an engaged service provider, prescribed under a regulation, as if—

- (a) the provider were a unit of public administration; and
- (b) the holder of a specified office, prescribed under a regulation, of the provider were the principal officer; and
- (c) a person employed by the provider were a person holding an appointment in a unit of public administration.

**(3)** The *Judicial Review Act 1991* applies to an engaged service provider, prescribed under a regulation, as if—

- (a) the provider were a State Authority; and

- (b) a decision of an administrative character made, proposed to be made, or required to be made, by the provider or a person employed by the provider, whether or not in the exercise of a discretion, were a decision to which that Act applies.

(4) The *Ombudsman Act 2001* applies to an engaged service provider, prescribed under a regulation, as if—

- (a) the provider were an agency; and
- (b) the holder of a specified office, prescribed under a regulation, of the provider were the principal officer; and
- (c) a person employed by the provider were an officer of an agency; and
- (d) the Minister were the responsible Minister.

### **198 Review of engaged service provider**

(1) The chief executive may appoint an appropriately qualified person to review an engaged service provider's performance of authorised functions.

(2) The engaged service provider must allow the person unlimited access to—

- (a) records relating to the performance of the functions; or
- (b) persons employed or engaged by the engaged service provider; or
- (c) if the functions relate to the management of prisoners—the relevant corrective services facility; or
- (d) anything else stated in the appointment.

(3) The person must prepare a report on the review for the chief executive.

## **PART 3—PERSONS IN CHARGE**

### **199 Appointing persons in charge**

The chief executive may appoint an appropriately qualified public service officer, or another appropriately qualified person, to be the person in charge of a corrective services facility.

### **200 Functions and powers of persons in charge**

(1) Subject to any direction of the chief executive, the person in charge of a corrective services facility is responsible for—

- (a) the security and management of the facility; and
- (b) the safe custody and welfare of prisoners in the facility.

(2) The person in charge has—

- (a) the power to do all things necessary or convenient to be done for, or in connection with, the performance of the person's functions whether under this or another Act; and
- (b) the powers of a corrective services officer.

(3) The person in charge may delegate the person's powers to an appropriately qualified person.

## **PART 4—CORRECTIVE SERVICES OFFICERS**

### **201 Appointing corrective services officers**

The chief executive may appoint an appropriately qualified public service officer, or another appropriately qualified person, to be a corrective services officer and perform the functions of a corrective services officer.

### **202 Powers of corrective services officers**

(1) A corrective services officer—

- (a) has the powers given under this or another Act; and

- (b) is subject to the directions of the chief executive in exercising the powers.
- (2) The powers may be limited—
  - (a) under a regulation; or
  - (b) under a condition of appointment; or
  - (c) by written notice given by the chief executive to the officer.

### **203 Identity cards for corrective services officers**

- (1) The chief executive must give each corrective services officer an identity card.
- (2) The identity card must—
  - (a) contain a recent photo of the officer; and
  - (b) be signed by the officer; and
  - (c) identify the person as a corrective services officer; and
  - (d) state an expiry date.
- (3) This section does not prevent the giving of a single identity card to a person for this and other Acts.

### **204 Surrender of equipment**

(1) If a person stops being a corrective services officer, the person must return a firearm or other weapon issued to the person in the person's capacity as a corrective services officer to the chief executive immediately after the person stops being a corrective services officer, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

- (2) If a person stops being a corrective services officer, the person must return the following to the chief executive as soon as practicable, but within 7 days, after the person stops being a corrective services officer, unless the person has a reasonable excuse—
  - (a) the person's identity card;

- (b) anything else issued to the person in the person's capacity as a corrective services officer that the chief executive requires to be returned.

Maximum penalty—10 penalty units.

## **205 Corrective services dogs and dog handlers**

The chief executive may, in the approved form, certify—

- (a) a corrective services officer as a corrective services dog handler; or
- (b) a dog as a corrective services dog.

## **206 Use of corrective services dogs**

(1) A corrective services dog may be used—

- (a) to search for prohibited things; or
- (b) to search for prisoners; or
- (c) to restrain a prisoner; or
- (d) for the security or good order of a corrective services facility; or
- (e) if it is reasonably necessary to help a corrective services officer to perform functions under this Act.

*Example for paragraph (a)—*

A corrective services dog may be used to do a scanning search of persons for drugs in a corrective service facility.

(2) Subsection (1)(c) to (e) apply subject to the requirements of chapter 3, part 5.<sup>22</sup>

## **207 Corrective services dog may accompany officer**

(1) A corrective services dog under the control of a corrective services dog handler may enter, and remain on, any place that the corrective services dog handler may lawfully enter or remain on.

(2) Subsection (1) applies despite the provisions of any other Act or law.

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22 Chapter 3 (Breaches and offences), part 5 (Use of force)

**208 Application of local laws**

The provisions of a local law do not apply to—

- (a) a corrective services dog; or
- (b) a corrective services dog handler in relation to anything done by the handler in the execution of the handler's duty as a corrective services officer.

**PART 5—DOCTORS****209 Doctors**

(1) The chief executive—

- (a) must appoint at least 1 doctor for each prison; and
- (b) may appoint a doctor for a community corrective services facility.

(2) A doctor who is not employed under the *Public Service Act 1996* is entitled to the remuneration, allowances and expenses approved by the chief executive.

**210 Doctor's functions**

A doctor for a corrective services facility must—

- (a) examine and treat prisoners at the facility; and
- (b) establish a record of the examinations carried out and treatment given by the doctor or at the doctor's direction; and
- (c) report and make recommendations to the chief executive, or person in charge, about a prisoner's medical condition when required to do so by the chief executive or person in charge; and
- (d) perform any other functions the doctor is required by the chief executive or the person in charge to perform.

## **PART 6—OFFICIAL VISITORS**

### **211 Appointing official visitors**

(1) The chief executive may appoint an appropriately qualified person as an official visitor for a corrective services facility, for a period of up to 3 years.

(2) The chief executive must ensure that—

- (a) if 2 or more official visitors are appointed for a corrective services facility, at least 1 of the official visitors is a lawyer; and
- (b) if a significant proportion of prisoners in custody at a facility are Aboriginal or Torres Strait Islander prisoners, at least 1 of the official visitors appointed for the facility is an Aboriginal or Torres Strait Islander person; and
- (c) at least 1 of the official visitors at a women's corrective services facility is a woman.

(3) The chief executive must not appoint as an official visitor—

- (a) a public service employee; or
- (b) an employee of an engaged service provider.

(4) An official visitor is entitled to the remuneration, allowances and expenses approved by the chief executive.

(5) The chief executive may dismiss an official visitor who—

- (a) is convicted of an indictable offence; or
- (b) fails to perform the functions of an official visitor under this Act; or
- (c) while acting as an official visitor, solicits business or otherwise fails to act properly in a matter in which the official visitor's personal interest conflicts with the public interest; or
- (d) does anything else that the chief executive reasonably considers is adequate justification for the dismissal.

### **212 Frequency of official visits**

(1) An official visitor must visit the corrective services facility for which the official visitor has been appointed—

- (a) once each month, unless otherwise directed by the chief executive; and
- (b) when asked to do so by the person in charge.

(2) If an official visitor is unable to visit as required by subsection (1), the official visitor must immediately notify the person in charge.

### **213 Asking to see official visitor**

(1) If a prisoner indicates to the person in charge that the prisoner wants to see an official visitor, the person in charge must—

- (a) record that fact in an official visitor's register; and
- (b) advise the official visitor when the official visitor next visits the corrective services facility.

(2) A prisoner is not required, and must not be asked, to tell the person in charge why the prisoner wants to see an official visitor.

### **214 Official visitor's function**

(1) An official visitor must investigate a complaint made by a prisoner, but only if—

- (a) the complaint is made by a prisoner at the corrective services facility to which the visitor is appointed; and
- (b) the complaint is about an act or omission relating to the prisoner that is an act or omission of—
  - (i) the chief executive; or
  - (ii) the person in charge; or
  - (iii) a corrective services officer.

(2) However, an official visitor must not investigate a complaint if—

- (a) it involves a matter that is currently before a court or tribunal; or
- (b) it can be more appropriately dealt with by another person or agency; or
- (c) it is made by a prisoner with whom the official visitor had a prior professional or personal relationship; or
- (d) the official visitor's personal interest in the prisoner conflicts with the public interest; or

- (e) the official visitor reasonably suspects the complaint involves, or may involve, official misconduct, unless the chief executive has advised the official visitor that—
  - (i) the complaint has been referred to the Crime and Misconduct Commission; and
  - (ii) the Crime and Misconduct Commission’s chairperson has advised the chief executive that the commission does not intend to investigate the complaint; or
- (f) the official visitor believes the complaint to be frivolous or vexatious.

(3) An official visitor must act impartially when investigating a complaint.

(4) An official visitor may arrange for another official visitor appointed to the same corrective services facility to investigate a complaint if—

- (a) the other official visitor agrees; and
- (b) the prisoner is not significantly prejudiced by delay.

(5) After investigating a complaint, an official visitor may make a recommendation to the person in charge.

(6) After investigating a complaint, an official visitor must immediately advise the prisoner—

- (a) whether the official visitor has made a recommendation; and
- (b) if a recommendation has been made—the terms of the recommendation, but without disclosing confidential information.

(7) To remove doubt, it is declared that—

- (a) the person in charge is not bound by an official visitor’s recommendation; and
- (b) an official visitor can not overrule a decision about which a complaint has been made.

## **215 Official visitor’s powers**

(1) An official visitor appointed to a corrective services facility may—

- (a) enter the facility at any time, except when a declaration of emergency is in force for the facility under section 192;<sup>23</sup> and
- (b) on request, have access to a place where the official visitor may interview a prisoner out of the hearing of other persons; and
- (c) inspect and copy, at the facility, any document kept under the Act that relates to a complaint the official visitor is investigating, other than a document to which legal professional privilege applies.

(2) A corrective services officer must give the official visitor reasonable help to exercise a power given to the official visitor under this Act.

### **216 Official visitor's reports**

An official visitor must give the chief executive—

- (a) if asked by the chief executive, a written report about an investigation; and
- (b) at least every 3 months, a written report summarising the number and types of complaints the official visitor has investigated.

## **PART 7—CHAPLAINS, ELDERS, RESPECTED PERSONS AND SPIRITUAL HEALERS**

### **217 Appointing chaplains**

(1) The chief executive may appoint a person, nominated by a religious group as its representative, as a chaplain for a corrective services facility.

(2) A chaplain has the functions prescribed under a regulation.

### **218 Appointing elders, respected persons and spiritual healers**

The chief executive may appoint an Aboriginal or Torres Strait Islander elder, respected person or indigenous spiritual healer for a corrective services facility.

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23 Section 192 (Declaration of emergency)

## **PART 8—INSPECTORS**

### **219 Appointing inspectors**

(1) The chief executive may appoint an appropriately qualified person as an inspector.

(2) The function of an inspector is to investigate an incident.

(3) For each incident, the chief executive must appoint at least 2 inspectors.

(4) At least 1 of the inspectors must be—

(a) a person who is not an employee of—

(i) the department; or

(ii) an engaged service provider that administers the corrective services facility at which the incident happened; and

(b) if the incident involves a Aboriginal or Torres Strait Islander prisoner—an Aboriginal or Torres Strait Islander person.

### **220 Appointment conditions**

(1) An inspector holds the appointment on the conditions stated in the instrument of appointment.

(2) An inspector who is not a public service officer is entitled to the remuneration, allowances and expenses approved by the chief executive.

(3) An inspector—

(a) ceases to hold an appointment at the end of the term stated in the instrument of appointment; and

(b) if the instrument of appointment so provides—ceases to hold an appointment on ceasing to hold another appointment stated in the instrument; and

(c) may resign by signed notice given to the chief executive.

(4) The instrument of appointment must state—

(a) the incident the inspector is to investigate; and

(b) any limitations applying to the exercise of the inspector's powers under this Act.

**221 Inspector's powers generally**

(1) For an investigation of an incident, an inspector may—

- (a) enter a corrective services facility at any time, except when a declaration of emergency is in force for the facility under section 192;<sup>24</sup> or
- (b) interview any prisoner; or
- (c) on request, have access to a place where the inspector may interview a prisoner out of the hearing of other persons; or
- (d) inspect and copy any document kept at the facility for the Act that relates to the incident the inspector is investigating, other than a document to which legal professional privilege applies.

(2) A corrective services officer must give the inspector reasonable help to exercise a power given to the inspector under this Act.

**222 Inspector's power to require information**

(1) This section applies if an inspector investigating an incident reasonably believes a person performing a function under this Act may be able to give information about the incident.

(2) The inspector may require the person to give information about the incident.

(3) When making the requirement, the inspector must warn the person it is an offence for the person not to give the information, unless the person has a reasonable excuse.

(4) The person must give the information, unless the person has a reasonable excuse.

Maximum penalty—40 penalty units or 6 months imprisonment.

(5) It is a reasonable excuse for an individual to fail to give the information if giving the information might tend to incriminate the individual.

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24 Section 192 (Declaration of emergency)

**223 Inspector's reports**

The inspectors appointed to investigate an incident must give a written report to the chief executive containing their results and any recommendations.

**PART 9—VOLUNTEERS****224 Authorising volunteers**

(1) The chief executive may authorise a person (a “volunteer”) in writing to perform—

- (a) unpaid work for the welfare of prisoners; or
- (b) unpaid supervision of offenders who are subject to community based orders.

(2) A volunteer must comply with any condition stated in the authorisation and with any direction given by a corrective services officer for the security or good order of the corrective services facility.

(3) A volunteer is entitled to the expenses approved by the chief executive.

**PART 10—CORRECTIVE SERVICES ADVISORY COUNCIL****225 Establishment of advisory council**

- (1) The Corrective Services Advisory Council is established.
- (2) The advisory council reports directly to the Minister.

**226 Functions and powers of advisory council**

- (1) The functions of the advisory council are—
  - (a) to advise the Minister of community views about—

- (i) corrective services generally; and
  - (ii) the department's policies and procedures for corrective services; and
- (b) to examine, and make recommendations on, issues the Minister refers to the advisory council.

(2) In performing its functions, the advisory council should seek to contribute to a culture of openness and transparency in the department's management of corrective services.

(3) The advisory council has the power to do all things necessary or convenient to be done for, or in connection with, the performance of its functions.

## **227 Composition**

(1) The advisory council consists of the following members—

- (a) the chief executive;
- (b) not more than 9 other persons appointed by the Minister.

(2) The appointed members should, but need not, include—

- (a) persons with expertise in 1 or more of the following—
  - (i) business;
  - (ii) legal and advocacy issues;
  - (iii) employee relations; and
- (b) persons who represent Aboriginal and Torres Strait Islander groups; and
- (c) persons who represent corrective services officers.

(3) The Minister must appoint a member as the chairperson of the advisory council.

## **228 Term of appointment**

(1) Half, or as close as practicable to half, of the first persons to be appointed as members of the advisory council are to be appointed for a term of 18 months.

(2) All other appointments of appointed members are to be for a term of not more than 3 years.

(3) An appointed member of the advisory council must not be appointed to more than 2 terms, whether or not consecutive, as a member.

(4) The Minister may end the appointment of an appointed member of the advisory council at any time.

(5) It is unnecessary for any reasons to be given for ending the appointment.

### **229 Conditions of appointment**

(1) An appointed member of the advisory council holds the member's appointment on the conditions that are decided by the Minister from time to time.

(2) An appointed member of the advisory council is entitled to the remuneration, allowances and expenses approved by the Minister.

### **230 Meetings**

(1) The advisory council must meet at least 4, and not more than 6, times each year at times and places chosen by the Minister.

(2) However, the advisory council may hold extra meetings if the Minister asks the advisory council to meet more frequently to deal with particular issues.

## **PART 11—PRISONERS OF THE COURT**

### **231 Prisoners in proper officer of the court's custody**

(1) A person who is required by law to surrender himself or herself into the custody of a court must do so by surrendering himself or herself into the custody of the proper officer of the court.

(2) A prisoner of a court is in the custody of the proper officer of the court until—

- (a) released on bail; or
- (b) discharged from lawful custody; or
- (c) otherwise dealt with as the court directs.

(3) The proper officer has, in relation to a prisoner of the court, all the powers of a person in charge of a secure facility under this Act, in relation to a prisoner, that are necessary for the discharge of the proper officer's functions.

(4) To help the proper officer to perform the proper officer's functions, the proper officer may ask—

- (a) the chief executive to provide corrective services officers; and
- (b) the commissioner to provide police officers.

(5) The chief executive or commissioner must comply with the request.

(6) The proper officer may delegate the proper officer's powers to an appropriately qualified person.

### **232 Court cells**

(1) A person who is not a prisoner of a court may be detained in a court cell if the person is lawfully in custody to attend before a court or another entity.

(2) While detained in the court cell, the person is in the custody of the proper officer of the court where the court cell is located.

(3) The proper officer of a court is responsible for the management, security and good order of the court cell, despite anything in the *State Buildings Protective Security Act 1983*.

(4) In this section—

**“court cell”** means a place attached to or near a court that—

- (a) is not a corrective services facility; and
- (b) is used for detaining prisoners of the court.

## **PART 12—PROPERTY**

### *Division 1—Prisoner's money*

#### **233 Prisoners trust fund to be kept**

(1) The chief executive must keep a prisoners trust fund.

(2) All amounts received for a prisoner by the chief executive, including an amount received from an employer during a period of release to work, must be paid into the prisoner's account in the fund.

(3) If the public trustee is managing the prisoner's estate and the public trustee asks for the payment, the chief executive must pay the amount in the prisoner's account to the public trustee.

(4) A prisoner may, with the chief executive's consent, spend an amount that is in the prisoner's account.

(5) The chief executive may limit the amount to be spent.

(6) When a prisoner is discharged or released, the chief executive must pay the prisoner the amount in the prisoner's account.

#### **234 Trust account records**

The chief executive must keep records of the administration of each prisoner's account, noting each payment to the account and each deduction from the account.

#### **235 Payments to prisoner's account**

The chief executive may pay an amount into a prisoner's account for the following purposes—

- (a) allowances for basic amenities;
- (b) another purpose prescribed under a regulation.

#### **236 Deductions from prisoner's account**

The chief executive may deduct an amount from a prisoner's account for the following purposes—

- (a) if the prisoner asks—to help the prisoner to attend an approved course or program, to take part in employment or for a leave of absence;
- (b) to reimburse the chief executive for any payments made to help the prisoner to attend an approved course or program, to take part in employment or for a leave of absence;
- (c) to reimburse the chief executive for the cost of replacing or repairing any property that the prisoner wilfully damaged or destroyed during the commission of—
  - (i) a breach of discipline, or an offence, under this Act; or
  - (ii) an offence for which the prisoner is convicted, in accordance with a court order under the *Penalties and Sentences Act 1992*;
- (d) to buy goods for the prisoner, at the prisoner's request;
- (e) to contribute to the costs of board in a corrective services facility if the prisoner is employed under a release to work order;
- (f) another purpose prescribed under a regulation.

### **237 Investment of prisoners trust fund**

(1) The chief executive may invest amounts held in the prisoners trust fund in a financial institution.

(2) The chief executive must apply any interest earned on the investment for the general benefit of prisoners and report annually to the Minister on the application of the interest.

### **238 Remuneration for prisoners**

(1) The chief executive may approve an activity or program to be an activity or program for which remuneration, at rates set by the chief executive, may be paid to a prisoner.

(2) The chief executive must review the remuneration rates at least once every year.

(3) The chief executive may withhold remuneration from a prisoner who—

- (a) has not diligently undertaken the activity or program; or
- (b) refuses to participate in an activity.

### *Division 2—Other property of prisoner*

#### **239 Bringing property into facility**

(1) The person in charge may allow a prisoner's property to be brought into the corrective services facility.

(2) However, the person in charge may impose conditions about the property, including for example—

- (a) a condition limiting the property's use; or
- (b) a condition that the property be safe for use.

(3) The prisoner must pay any costs incurred in deciding whether property is safe for use.

(4) If the prisoner fails to pay the costs, the person in charge may refuse to allow the property to enter the facility.

(5) A regulation may be made about the property that a prisoner may keep in a corrective services facility, including for example the amount of property that a prisoner may keep.

(6) The person in charge must keep a record that describes the property each prisoner has in the facility.

#### **240 Effect of escape on property**

(1) If a prisoner escapes, the property of the prisoner in a corrective services facility is taken to have been abandoned, and is forfeited to the State.

(2) The person in charge, with the chief executive's consent, may dispose of, or destroy, the property.

## **PART 13—COMPENSATION**

### **241 Compensation for loss or damage of property**

(1) A person may claim compensation from the State if, when the person was in the chief executive's custody, the person's property was lost or damaged while—

- (a) stored by the chief executive; or
- (b) being transported, by the chief executive, between corrective services facilities.

(2) The person may apply to the chief executive for payment of an amount by the State for the loss or damage.

(3) The application is to be decided by the chief executive.

(4) The chief executive may approve the payment of an amount only if satisfied that payment is justified in all the circumstances.

(5) In this section—

“**property**” means property recorded under section 239(6).

## **PART 14—INFORMATION**

### **242 Concerned persons**

(1) The chief executive must establish a register of concerned persons.

(2) The following persons may apply, in the approved form, to be registered as a concerned person—

- (a) the actual victim of an offence of violence;
- (b) an immediate family member or partner of an actual victim of an offence of violence, including a deceased victim;
- (c) the guardian of a child victim, or of another victim with a legal incapacity, of an offence of violence.

(3) A concerned person may, by written notice given to the chief executive, nominate a victims support agency or another person to receive information on the person's behalf.

(4) To the extent that the chief executive considers appropriate in the circumstances, the chief executive may release information about a prisoner to a concerned person, including, for example—

- (a) the prisoner's current location; and
- (b) the prisoner's classification; and
- (c) the prisoner's transfer between corrective services facilities; and
- (d) the prisoner's eligibility dates for discharge or release; and
- (e) the prisoner's date of discharge or release; and
- (f) the results of the prisoner's application for post-prison community based release orders; and
- (g) the death or escape of, or other exceptional events relating to, the prisoner.

(5) If the concerned person has nominated an agency or person under subsection (3), the chief executive may give the information to the agency or person.

### **243 Confidential information**

(1) This section applies to a person (the “**informed person**”) if the informed person is—

- (a) a person who is performing or has performed a function under this Act or the repealed Acts, or is or was otherwise engaged in the administration of this Act or the repealed Acts; or
- (b) a person who has obtained access to confidential information, whether directly or indirectly, from a person mentioned in paragraph (a).

(2) The informed person must not disclose confidential information acquired by the informed person to anyone else other than under subsection (3).

Maximum penalty—100 penalty units or 2 years imprisonment.

(3) The informed person may disclose confidential information—

- (a) for the purposes of this Act; or
- (b) to discharge a function under another law or if it is otherwise authorised under another law; or

- (c) for a proceeding in a court, if the informed person is required to do so by order of the court or otherwise by law; or
- (d) if authorised by the person to whom the information relates; or
- (e) if authorised by the chief executive because—
  - (i) a person's life or physical safety could otherwise reasonably be expected to be endangered; or
  - (ii) it is otherwise in the public interest.

### **244 Commissioner to provide criminal history**

(1) The chief executive may ask the commissioner to give the chief executive, for use under this Act and the *Penalties and Sentences Act 1992*, a report about the criminal history of—

- (a) an offender; or
- (b) a person performing a function under this Act; or
- (c) a visitor to a corrective services facility.

(2) The commissioner must give the chief executive a written report about the criminal history that—

- (a) is in the commissioner's possession; or
- (b) the commissioner can access through arrangements with the police service of another State.

(3) The chief executive may give information in the report to—

- (a) the person in charge of an institution (including in another State) to which a prisoner is, or is to be, transferred under this Act or another Act; or
- (b) a designated authority under the *Parole Orders (Transfer) Act 1984*, section 7(1)(e);<sup>25</sup> or
- (c) a proper authority under the *Penalties and Sentences Act 1992*, section 136(2)(b);<sup>26</sup> or
- (d) a corrections board.

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25 *Parole Orders (Transfer) Act 1984*, section 7 (Documents to accompany requests)

26 *Penalties and Sentences Act 1992*, section 136 (Notifications following making of order)

(4) The information in the report may include a reference to, or a disclosure of, a conviction referred to in the *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6.<sup>27</sup>

(5) In this section—

“**criminal history**” of a person means—

- (a) the offences of which the person has been convicted; or
- (b) the court briefs for the offences.

### **245 Pre-sentence reports**

(1) When required to do so by a court, the chief executive must arrange for a corrective services officer to prepare a pre-sentence report for the court about a stated person convicted of an offence.

(2) If the court proposes to grant bail to the person, the court must order the person to report to the corrective services officer within a stated time.

(3) The pre-sentence report must be—

- (a) given to the court within 28 days; and
- (b) if the report is in writing—given in triplicate.

(4) A court must give a copy of a pre-sentence report to—

- (a) the prosecution; and
- (b) the convicted person’s legal representatives.

(5) The court must ensure the prosecution and legal representatives have sufficient time before the proceedings to consider and respond to the report.

(6) The court may order that the report, or part of the report, not be shown to the convicted person.

(7) The copy of the report must be returned to the court before the end of the proceedings.

(8) A report purporting to be a pre-sentence report made by a corrective services officer is evidence of the matters contained in it.

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<sup>27</sup> *Criminal Law (Rehabilitation of Offenders) Act 1986*, section 6 (Non-disclosure of convictions upon expiration of rehabilitation period)

(9) An objection must not be taken or allowed to the evidence on the ground that it is hearsay.

## **PART 15—LEGAL PROVISIONS**

### **246 Royal prerogative of mercy etc. not affected**

(1) This Act does not affect the royal prerogative of mercy.

(2) Subject to the express provisions of this Act, nothing in this Act must be read as limiting or changing any authority or jurisdiction that a court, judge or justice has under another Act or law.

### **247 Interpretation of warrant**

(1) If a question arises about the construction or effect of a warrant committing a person into custody, the chief executive may apply to a Supreme Court judge to interpret the warrant.

(2) The interpretation is sufficient authority for the chief executive to deal with the person in accordance with the interpretation.

(3) An appeal does not lie against the interpretation.

### **248 Execution of warrant by corrective services officer**

If a court issues a warrant requiring police officers to convey a person before the court to a corrective services facility, a corrective services officer may execute the warrant.

### **249 Protection from liability**

(1) An official does not incur civil liability for an act done, or omission made, honestly and without negligence under this Act.

(2) If subsection (1) prevents a civil liability attaching to an official, the liability attaches instead to the State.

(3) In this section—

**“official”—**

- (a) means—
  - (i) the Minister; or
  - (ii) the chief executive; or
  - (iii) a person appointed for this Act; or
  - (iv) a volunteer; but
- (b) does not include an engaged service provider, or person appointed by an engaged service provider, performing a function of a person mentioned in paragraph (a).

**250 Proceedings for offences**

(1) A proceeding for an offence against this Act, other than an offence under section 92,<sup>28</sup> is a summary proceeding under the *Justices Act 1886*.

(2) The proceeding must start—

- (a) within 1 year after the offence was committed; or
- (b) within 6 months after the offence comes to the complainant’s knowledge, but within 2 years after the offence was committed.

**251 Evidentiary aids**

(1) This section applies to a proceeding under this or another Act.

(2) It is not necessary to prove the appointment of an appointed person or the power of an appointed person to do something, unless a party to the proceeding, by reasonable notice of at least 7 days, requires proof.

(3) A certificate purporting to be signed by the chief executive stating any of the following matters is evidence of the matter—

- (a) a person’s appointment as an appointed person was, or was not, in force on a stated day or during a stated period;
- (b) a person is, or was on a stated day or during a stated period, a prisoner;

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28 Section 92 (Unlawful assembly, riot and mutiny)

*Corrective Services Act 2000*

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- (c) a dog is, or was on a stated day or during a stated period, a corrective services dog;
- (d) a stated place is, or was on a stated day or during a stated period, a corrective services facility;
- (e) a stated approval or exemption is, or was on a stated day or during a stated period, in force;
- (f) a stated document is a copy of a document made under this Act;
- (g) the contents of a stated substance that was tested by a stated analyst within the meaning of the *Health Act 1937*;
- (h) a stated thing is, or was on a stated day or during a stated period—
  - (i) property that is part of a corrective services facility; or
  - (ii) other property of the State;
- (i) consent was not given for a stated act or omission that is alleged to have happened.

(4) A certificate signed by the secretary of a corrections board recording a decision of the board is evidence of the matter.

(5) A signature purporting to be the signature of an appointed person is evidence of the person's signature.

(6) In a complaint starting the proceeding, a statement that the offence in the complaint came to the complainant's knowledge on a stated day is evidence of the matter.

(7) In this section—

**“appointed person”** means—

- (a) the chief executive; or
- (b) a person in charge of a corrective services facility; or
- (c) a corrective services officer; or
- (d) an official visitor; or
- (e) an inspector; or
- (f) a doctor; or
- (g) a police officer; or
- (h) a community service supervisor.

## **PART 16—MISCELLANEOUS**

### **252 Review of Act**

The Minister must review the efficacy and efficiency of this Act within 5 years of its commencement.

### **253 Exemption from tolls**

A vehicle being used to transport prisoners is exempt from payment of a toll for the use of a road, bridge or ferry.

### **254 Regulation-making power**

(1) The Governor in Council may make regulations under the Act.

(2) A regulation may—

- (a) prescribe offences for a contravention of a regulation and fix a maximum penalty of not more than 20 penalty units for a contravention; or
- (b) prescribe what is a privilege; or
- (c) prescribe fees payable under this Act.

## **CHAPTER 7—TRANSITIONAL PROVISIONS**

### **PART 1—CONTINUATION OF REGIONAL BOARDS**

#### **255 Continuation of regional community corrections boards**

A regional community corrections board, established under the *Corrective Services Act 1988* for an area and in existence immediately before the repeal of that Act, is taken to have been established under this Act for the area.

## **PART 2—CONTINUING APPOINTMENTS**

### **256 Conditions of continuing appointments**

An appointment that is continued under this part continues—

- (a) until the end of the term of appointment, if any; and
- (b) on the conditions of the appointment that are not inconsistent with this Act.

### **257 General manager of a prison**

A person who immediately before the commencement of this section was a general manager of a prison under a provision of the repealed Acts is taken to be the person in charge of the prison.

### **258 Manager of a community corrections centre**

A person who immediately before the commencement of this section was a manager of a community corrections centre under a provision of the repealed Acts is taken to be the person in charge of the centre.

### **259 Correctional officers**

A person who immediately before the commencement of this section was one of the following persons under a provision of the repealed Acts is taken to be a corrective services officer—

- (a) a custodial correctional officer;
- (b) a community correctional officer;
- (c) a special correctional officer;
- (d) a corrective services officer.

### **260 Doctors**

A person who immediately before the commencement of this section was a medical officer to a prison under a provision of the repealed Acts is taken to be a doctor to the prison.

**261 Chaplains**

A person who immediately before the commencement of this section was a chaplain to a prison or community corrections centre under a provision of the repealed Acts continues to be a chaplain to the prison or centre.

**262 Official visitors**

A person who immediately before the commencement of this section was an official visitor to a prison or community corrections centre under a provision of the repealed Acts continues to be an official visitor to the prison or centre.

**263 Inspectors**

A person who immediately before the commencement of this section was an inspector under a provision of the repealed Acts continues to be an inspector.

**264 Corrective Services Advisory Council members**

A person who immediately before the commencement of this section was a member of the Corrective Services Advisory Council under a provision of the repealed Acts continues to be a member of the advisory council.

**265 Board members**

(1) A person who immediately before the commencement of this section was a member of the Queensland Community Corrections Board under a provision of the repealed Acts continues to be a member of the Queensland board.

(2) A person who immediately before the commencement of this section was the president or deputy president of the Queensland Community Corrections Board under a provision of the repealed Acts continues to be the president or deputy president of the Queensland board.

(3) A person who immediately before the commencement of this section was the secretary to the Queensland Community Corrections Board under a

provision of the repealed Acts continues to be the secretary of the Queensland board.

(4) A person who immediately before the commencement of this section was a member of a regional community corrections board under a provision of the repealed Acts continues to be a member of the board.

(5) A person who immediately before the commencement of this section was the president or deputy president of a regional community corrections board under a provision of the repealed Acts continues to be the president or deputy president of the board.

(6) A person who immediately before the commencement of this section was the secretary to a regional community corrections board under a provision of the repealed Acts continues to be the secretary of the board.

## **266 Volunteers**

A person who immediately before the commencement of this section was a volunteer under a provision of the repealed Acts continues to be a volunteer.

## **PART 3—OTHER TRANSITIONAL PROVISIONS**

### **267 References in Acts or documents**

In an Act or document—

- (a) a reference to the *Corrective Services Act 1988*, or the *Corrective Services (Administration) Act 1988* may, if the context permits, be taken to be a reference to this Act; and
- (b) a reference to the general manager of a prison is taken to be a reference to the person in charge of the prison; and
- (c) a reference to a manager of a community corrections centre is taken to be a reference to the person in charge of the centre; and
- (d) a reference to a general manager of the WORC program is taken to be a reference to the person in charge of WORC sites; and
- (e) a reference to one of the following persons is taken to be a reference to a corrective services officer—

- (i) a custodial correctional officer;
- (ii) a community correctional officer;
- (iii) a special correctional officer;
- (iv) a supervisor.

## **268 Authorities**

(1) This section applies to an authority—

- (a) that was made under a provision of the repealed Acts; and
- (b) in relation to which there is a corresponding provision under this Act; and
- (c) that was in force immediately before the commencement of this section.

(2) The authority continues in force according to its terms, as if it had been made under the corresponding provision of this Act, with the changes necessary—

- (a) to make it consistent with this Act; and
- (b) to adapt its operation to the provisions of this Act.

(3) In this section—

**“authority”** means an approval, authorisation, certificate, classification, decision, declaration, determination, direction, delegation, guideline, home detention instrument, leave of absence instrument, parole or other order, permit, policy, procedure, register, transfer instrument or other authority.

## **268A All release to be dealt with under this Act**

(1) This section applies to a prisoner sentenced for an offence committed before 1 July 2001, whether or not the prisoner was sentenced for the offence before 1 July 2001.

(2) On and from 1 July 2001—

- (a) chapters 2 and 5 are the only provisions under which the prisoner may be released before the end of the period of imprisonment to which the prisoner was sentenced; and

*Corrective Services Act 2000*

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(b) the only requirements for the granting of the release are the requirements that apply under this Act.

(3) If, before 1 July 2001, the prisoner had any expectation to be able, after 1 July 2001, to be released before, or to be considered for a release taking effect before, the end of the period of imprisonment to which the prisoner was sentenced, the expectation is extinguished to the extent that the release is not provided for under subsection (2).

*Examples of operation of subsections (2) and (3)—*

1. Suppose before 1 July 2001 a prisoner had an expectation to be released on home detention on 1 August 2001 under section 86 of the repealed *Corrective Services Act 1988*. However, by applying subsection (2), the prisoner could only expect to be released under chapter 5<sup>29</sup> on 1 December 2001, having regard to the requirements of section 135(2).<sup>30</sup> Subsection (3) extinguishes the prisoner's expectation to be released on 1 August 2001 without affecting any expectation the prisoner may have to be released on 1 December 2001 under chapter 5.
2. Suppose before 1 July 2001 a prisoner had an expectation to be considered for release on home detention under section 86 of the repealed *Corrective Services Act 1988*, the release to take effect on 1 August 2001. However, by applying subsection (2), the prisoner could only expect to be considered for release under chapter 5, with, having regard to the requirements of section 135(2), the release to take effect on 1 December 2001. Subsection (3) extinguishes the prisoner's expectation to be considered for release to take effect on 1 August 2001 without affecting any expectation the prisoner may have to be considered for release under chapter 5, with the release to take effect on 1 December 2001.

(4) Subsections (2) and (3) apply in relation to an application made by the prisoner and dealt with on or after 1 July 2001 even if the application was made before 1 July 2001.

(5) If a form of release for which the prisoner made an application before 1 July 2001 corresponds to a form of release that, after 1 July 2001, is available under chapter 5, the application must be dealt with, to the greatest practicable extent, as an application for the form of release under chapter 5, but this subsection does not authorise release before a date prescribed by section 135.

(6) This section prevails to the extent it is inconsistent with section 268 or 273.

(7) In this section—

**“expectation”** includes right, privilege, entitlement and eligibility.

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29 Chapter 5 (Post-prison community based release)

30 Section 135 (When order starts)

**268B Further provisions about transitional release circumstances**

(1) Section 268A has no effect in relation to—

- (a) a post-prison community based release order granted on or after 1 July 2001 but before 30 October 2001 on the basis of an application made before 1 July 2001 for a form of release that corresponds to a form of release available under chapter 5; or
- (b) a decision made by a court before 30 October 2001 upholding, in action brought by a particular prisoner, that prisoner's expectation to be released, or to be considered for release; or
- (c) the terms of a release instrument made before 1 July 2001, or any decision relating to the making of the release instrument, giving a prisoner an expectation to be further released after, or to be considered for a further release taking effect after, 1 July 2001.

*Example for subsection (1)(c)—*

Suppose on 1 June 2001 a prisoner was released on leave of absence to engage in employment (commonly known as 'leave of absence (release to work)'). The terms of the release instrument included a statement that the prisoner would be considered for release on home detention after the prisoner had successfully completed 3 months release to work. Section 268A has no effect on the statement's operation.

(2) For giving effect to terms mentioned in subsection (1)(c), a prisoner may be released at any time the prisoner may have been released under the terms if the repealed *Corrective Services Act 1988* had not been repealed.

(3) Subject to subsections (1) and (2) and without limiting section 268A, any requirement that may have existed after the repeal of the repealed *Corrective Services Act 1988* and before the commencement of this section that a person be dealt with in a way inconsistent with section 135(2) is extinguished.

(4) Section 268A and subsection (3) prevail to the extent they are inconsistent with the *Acts Interpretation Act 1954*, sections 20 and 20C(3),<sup>31</sup> the Criminal Code, section 11(2),<sup>32</sup> the *Penalties and Sentences Act 1992*, section 180(1)<sup>33</sup> or any other law of similar effect.

(5) In this section—

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31 *Acts Interpretation Act 1954*, section 20 (Saving of operation of repealed Act etc.) and 20C (Creation of offences and changes in penalties)

32 Criminal Code, section 11 (Effect of changes in law)

33 *Penalties and Sentences Act 1992*, section 180 (Effect of alterations in sentences)

“**expectation**” includes right, privilege, entitlement and eligibility.

“**release instrument**” means an instrument under which a prisoner was released.

## **269 Custody of prisoners**

A prisoner in a person’s custody under the *Corrective Services Act 1988* immediately before the commencement of this section remains a prisoner in the person’s custody under this Act.

## **270 Corrective services facilities**

(1) The declaration of a place as a prison or community corrections centre made under the *Corrective Services Act 1988*, that was in force immediately before the commencement of this section, continues in force as if it had been made under this Act.

(2) The assignment of a name to a prison or community corrections centre made under the *Corrective Services Act 1988*, that was in force immediately before the commencement of this section, continues in force as if it had been made under this Act.

(3) The definition of the limits of a prison or community corrections centre made under the *Corrective Services Act 1988*, that was in force immediately before the commencement of this section, continues in force as if it had been made under this Act.

## **271 WORC and WCC programs**

(1) An approved compulsory program in existence under the *Corrective Services Act 1988* immediately before the commencement of this section, and known as the Work Outreach Camp Program, continues in existence under this Act as a WORC program.

(2) An approved compulsory program in existence under the *Corrective Services Act 1988* immediately before the commencement of this section, and known as the Women’s Community Custody Program, continues in existence under this Act as a WCC program.

**272 Regulations and rules**

(1) The following instruments continue in force, and may be amended or repealed, as if they had been made under this Act—

- (a) the *Corrective Services Regulation 1989*;
- (b) the *Corrective Services (Establishment of Prisons) Regulation 1992*.

(2) The corrective services rules under the *Corrective Services (Administration) Act 1988* continue in force as regulations, and may be amended or repealed, as if they had been made under this Act.

(3) An instrument mentioned in subsection (1) or (2) is to be read with the changes necessary—

- (a) to make it consistent with this Act; and
- (b) to adapt its operation to the provisions of this Act.

(4) This section expires 1 year after it commences.

**273 Proceedings**

A proceeding, including a proceeding for a breach of discipline, started before the commencement of this section under a provision of the repealed Acts, and pending at the date of the repeal, may be continued as if it had been started under this Act.

**274 Prisoners trust fund**

(1) The prisoners trust fund established under the *Corrective Services (Administration) Act 1988* is continued in existence as the prisoners trust fund required to be kept by the chief executive under section 233(1).

(2) An amount in the prisoners trust fund to the credit of a prisoner becomes the amount in the prisoner's account in the fund.

## **CHAPTER 8—REPEALS**

### **275 Repeals**

The following Acts are repealed—

- Corrective Services Act 1988 (1988 Act No. 89)
- Corrective Services (Administration) Act 1988 (1988 Act No. 87).

**SCHEDULE 1****INELIGIBILITY OFFENCES**

section 57(1)

**Criminal Code**

Section 62 (Punishment of unlawful assembly)

Section 63 (Punishment of riot)

Section 75 (Threatening violence)

Section 142 (Escape by persons in lawful custody)

Section 208 (Unlawful sodomy)

Section 209 (Attempted sodomy)

Section 210 (Indecent treatment of children under 16)

Section 213 (Owner etc. permitting abuse of children on premises)

Section 215 (Carnal knowledge with or of children under 16)

Section 216 (Abuse of intellectually impaired persons)

Section 217 (Procuring young person etc. for carnal knowledge)

Section 218 (Procuring sexual acts by coercion etc.)

Section 222 (Incest)

Section 229B (Maintaining a sexual relationship with a child)

Section 300 (Unlawful homicide)

Section 306 (Attempt to murder)

Section 313 (Killing unborn child)

Section 315 (Disabling in order to commit indictable offence)

Section 316 (Stupefying in order to commit indictable offence)

Section 317 (Acts intended to cause grievous bodily harm and other malicious acts)

Section 317A (Carrying or sending dangerous goods in a vehicle)

## SCHEDULE 1 (continued)

- Section 318 (Obstructing rescue or escape from unsafe premises)
- Section 319 (Intentionally endangering safety of persons travelling by railway)
- Section 319A (Endangering safety of persons travelling by aircraft)
- Section 320 (Grievous bodily harm)
- Section 320A (Torture)
- Section 321 (Attempting to injure by explosive or noxious substances)
- Section 321A (Bomb hoaxes)
- Section 322 (Maliciously administering poison with intent to harm)
- Section 323 (Wounding and similar acts)
- Section 323A (Female genital mutilation)
- Section 323B (Removal of child from State for female genital mutilation)
- Section 326 (Endangering life of children by exposure)
- Section 339 (Assaults occasioning bodily harm)
- Section 340 (Serious assaults)
- Section 349 (Rape)
- Section 350 (Attempt to commit rape)
- Section 351 (Assault with intent to commit rape)
- Section 352 (Sexual assaults)
- Section 354 (Kidnapping)
- Section 354A (Kidnapping for ransom)
- Section 409 (Definition of robbery)
- Section 411(2) (Punishment of robbery)
- Section 412 (Attempted robbery)
- Section 419(1) (Burglary) if the circumstances mentioned in section 419(3)(b)(i) or (ii) applied

SCHEDULE 1 (continued)

**Criminal Code provisions repealed by Criminal Law Amendment Act 1997**

Section 208 (Unlawful anal intercourse)

Section 221 (Conspiracy to defile)

Section 222 (Incest by man)

Section 318 (Preventing escape from wreck)

## SCHEDULE 3

### DICTIONARY

section 4

**“advisory council”** means the Corrective Services Advisory Council established under section 225.

**“appointed member”** of the advisory council means a member of the council other than the chief executive.

**“appointed member”** of the Queensland board means a member of the board other than the chief executive.

**“appropriately qualified”**, for a person appointed to a position or to whom powers are delegated, includes having the qualifications, experience or standing appropriate—

- (a) to perform the functions or exercise the powers of the position; or
- (b) to exercise the delegated powers.

*Example of ‘standing’—*

A person’s classification level in the public service.

**“approved activity”**, for a corrective services facility, means an activity approved by the chief executive or person in charge.

**“approved course”**, for a corrective services facility, means a course approved by the chief executive or person in charge.

**“approved form”** means a form approved under section 195.

**“approved program”**, for a corrective services facility, means a program approved by the chief executive or person in charge.

**“body search”** of a prisoner—

- (a) means a search of the prisoner’s body; and
- (b) includes an examination of an orifice or cavity of the prisoner’s body.

**“breach of discipline”** means an act or omission prescribed under section 86(1) as a breach of discipline.

## SCHEDULE 3 (continued)

**“chaplain”** means a person who holds an appointment as a chaplain under section 217.

**“commissioner”** means the commissioner of the police service.

**“commission of inquiry”** means a commission of inquiry under the *Commissions of Inquiry Act 1950*.

**“community based order”** means—

- (a) a community service order; or
- (b) a fine option order; or
- (c) an intensive correction order; or
- (d) a probation order.

**“community corrections centre”** means a place declared to be a community corrections centre under section 120(1)(a)(i).

**“community corrective services”** means services—

- (a) about offenders who are not prisoners; or
- (b) provided at a community corrective services facility.

**“community corrective services facility”** means—

- (a) a community corrections centre; or
- (b) a WORC site; or
- (c) a WCC site.

**“community service”** means an activity declared to be community service under section 194(1).

**“community service leave”** see section 58(1)(a).

**“community service order”** means a community service order under the *Penalties and Sentences Act 1992*.

**“community service supervisor”** see section 194(2).

**“community work order”** see section 56(2).

**“compassionate leave”** see section 58(1)(b).

**“conditional release order”** see section 76(3).

## SCHEDULE 3 (continued)

**“confidential information”**—

- (a) includes information—
  - (i) about a person’s private details, including for example a person’s identity, location or contact details; or
  - (ii) that could reasonably be expected to pose a risk to the security or good order of a corrective services facility; or
  - (iii) that could reasonably be expected to endanger anyone’s life or health, including psychological health; or
  - (iv) that could reasonably be expected to prejudice the effectiveness of a test or audit; or
  - (v) that could reasonably be expected to divulge the identity of an informant or a confidential source of information; or
  - (vi) that could reasonably be expected to disclose an expert’s advice or recommendation about an offender; or
  - (vii) that could reasonably be expected to prejudice a law enforcement agency’s investigation; or
  - (viii) that could have a serious adverse effect on the commercial interests, or reveal commercial-in-confidence interests, of an engaged service provider; but
- (b) does not include—
  - (i) information already disclosed to the general public, unless further disclosure of the information is prohibited by law; or
  - (ii) statistical or other information that could not reasonably be expected to result in the identification of the person to whom the information relates.

**“contact visit”** means a personal visit during which there is direct contact between the prisoner and visitor.

**“corrections board”** means—

- (a) the Queensland board; or
- (b) a regional board.

**“corrective services”** means—

- (a) community corrective services; and

## SCHEDULE 3 (continued)

(b) custodial corrective services.

**“corrective services dog”** means a dog certified under section 205 as a corrective services dog.

**“corrective services dog handler”** means a person certified under section 205 as a corrective services dog handler.

**“corrective services facility”** means—

(a) a prison; or

(b) a community corrective services facility.

**“corrective services officer”** means a person who holds an appointment as a corrective services officer under section 201.

**“corresponding chief executive”**, in relation to a participating State, means the officer responsible for the administration of corrective services in that State.

**“corresponding interstate leave permit”** means a permit corresponding to an interstate leave permit issued under this Act that is issued under a corresponding law.

**“corresponding law”** means a law declared under section 74 to be a corresponding law.

**“court”** includes—

(a) a court exercising appellate jurisdiction; and

(b) any justice or justices of the peace examining witnesses in relation to an indictable offence.

**“court order”** includes the order of a tribunal.

**“crisis support order”** see section 42(1).

**“crisis support unit”** means a part of a corrective services facility designated to house, protect and promote the health of prisoners who are identified as intending to harm themselves, including by suicide.

**“custodial corrective services”** means services for prisoners in a prison.

**“deciding officer”** means—

(a) for a minor breach of discipline—a corrective services officer, whether or not the officer is the same officer who decided under section 86(6) to start proceedings; or

## SCHEDULE 3 (continued)

- (b) for a major breach of discipline—the corrective services officer who is notified under section 86(7).

**“detained”** means detained in custody.

**“discharge”** a prisoner means unconditionally release the prisoner from lawful custody.

**“educational leave”** see section 58(1)(c).

**“engaged service provider”** see section 196(1).

**“escape”** includes being unlawfully at large.

**“exceptional circumstances parole order”** means an exceptional circumstances parole order under section 141(1)(c)(i).

**“fine option order”** means a fine option order under the *Penalties and Sentences Act 1992*.

**“general clothes”** means clothes that are not an inner or outer garment, including for example a dress, shirt, skirt or trousers.

**“general search”** of a person means a search—

- (a) to reveal the contents of the person’s outer garments, general clothes or hand luggage without touching the person or the luggage; or
- (b) in which the person may be required to—
- (i) open his or her hands or mouth for visual inspection; or
- (ii) shake his or her hair vigorously.

**“grievous bodily harm”** see Criminal Code, section 1.<sup>34</sup>

**“health centre”** means a part of a corrective services facility where prisoners are treated and medications are dispensed.

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34 Criminal Code, section 1—

**“grievous bodily harm”** means—

- (a) the loss of a distinct part or an organ of the body; or
- (b) serious disfigurement; or
- (c) any bodily injury of such a nature that, if left untreated, would endanger or be likely to endanger life, or cause or be likely to cause permanent injury to health;

whether or not treatment is or could have been available.

## SCHEDULE 3 (continued)

**“health leave”** see section 58(1)(d).

**“home detention order”** means a home detention order under section 141(1)(b).

**“in”** a corrective services facility includes on the facility.

**“incident”** means—

- (a) the death (other than by natural causes), or the serious injury, of someone who is—
  - (i) within a corrective services facility; or
  - (ii) subject to a community based order or post-prison community based release order; and
- (b) an escape or attempted escape; and
- (c) a riot or mutiny; and
- (d) another event that the chief executive considers requires being investigated by inspectors.

**“inner garment”** means a garment worn underneath an outer garment, including for example underwear.

**“inspector”** means a person who holds an appointment as an inspector under section 219.

**“intensive correction order”** means an intensive correction order under the *Penalties and Sentences Act 1992*.

**“interstate escort”** see section 71(1).

**“interstate leave permit”** see section 67(1).

**“interstate prisoner”** means a person who is a prisoner under a corresponding law.

**“law enforcement agency”** means—

- (a) the Crime and Misconduct Commission, a commission of inquiry or the police service; or
- (b) the Australian Federal Police; or
- (c) a police force or service of another State; or
- (d) the National Crime Authority; or

## SCHEDULE 3 (continued)

- (e) another entity declared under a regulation to be a law enforcement agency.

**“leave of absence”** means leave granted under section 58(1).

**“legal visitor”** of a prisoner means a visitor of the prisoner who is—

- (a) the prisoner’s lawyer; or
- (b) a person authorised in writing by the prisoner’s lawyer to act on the lawyer’s behalf.

**“lethal force”** means force that is likely to cause death or grievous bodily harm.

**“mail”** includes documents received at or sent from a corrective services facility, including by fax or another apparatus.

**“major breach of discipline”** means a breach of discipline decided under section 86 to be proceeded with as a major breach.

**“maximum security facility”** means a facility for the accommodation of prisoners at a prison that is designed and constructed so that—

- (a) prisoners accommodated in the facility are totally separated from all other prisoners at the prison; and
- (b) some or all of the prisoners accommodated in the facility can, when necessary, be totally separated from all other prisoners accommodated in the facility.

**“maximum security order”** see section 47(1).

**“medical examination or treatment”** includes psychiatric examination or treatment.

**“minor breach of discipline”** means a breach of discipline decided under section 86 to be proceeded with as a minor breach.

**“non-contact visit”** means a personal visit during which there is no direct contact between the prisoner and visitor.

**“nurse”** means a registered nurse under the *Nursing Act 1992*.

**“offender”** means—

- (a) a prisoner; or
- (b) a person who is subject to—

## SCHEDULE 3 (continued)

- (i) a community based order; or
- (ii) a conditional release order; or
- (iii) a post-prison community based release order.

**“official misconduct”** has the meaning given by the *Crime and Misconduct Act 2001*.

**“official visitor”** means a person who holds an appointment as an official visitor under section 211.

**“outer garment”** means an overcoat, jacket, jumper, hat or other item that can be removed without exposing an inner garment.

**“owner”** of a seized thing includes a person who had lawful possession of the thing.

**“parole order”** means a parole order under section 141(1)(c)(ii).

**“parole period”** means the period during which a prisoner is released on parole.

**“participating State”** means a State in which a corresponding law is in force.

**“period of imprisonment”** see the *Penalties and Sentences Act 1992*, section 4.<sup>35</sup>

**“personal search”** of a prisoner means a search in which light pressure is momentarily applied to the prisoner over his or her general clothes without direct contact being made with—

- (a) the prisoner’s genital or anal areas; or
- (b) for a female prisoner—the prisoner’s breasts.

**“personal visit”** means a visit of a prisoner by a personal visitor of the prisoner.

**“personal visitor”** of a prisoner means a visitor of the prisoner who is—

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35 *Penalties and Sentences Act 1992*, section 4—

**“period of imprisonment”** means the unbroken duration of imprisonment that an offender is to serve for 2 or more terms of imprisonment, whether—

- (a) ordered to be served concurrently or cumulatively; or
  - (b) imposed at the same time or different times;
- and includes a term of imprisonment.

## SCHEDULE 3 (continued)

- (a) a relative of the prisoner; or
- (b) a person who has a personal relationship with the prisoner.

**“person in charge”** of a corrective services facility means the person appointed for the facility under section 199.

**“positive test sample”** means a test sample that shows a prisoner has used a substance that is a prohibited thing.

**“post-prison community based release”** means release under a post-prison community based release order.

**“post-prison community based release order”** means—

- (a) a release to work order; or
- (b) a home detention order; or
- (c) an exceptional circumstances parole order; or
- (d) a parole order.

**“prison”** means a place declared to be a prison under section 118(1).

**“prisoner”** means—

- (a) a person who is in the chief executive’s custody, including a person who is subject to a post-prison community based release order; and
- (b) for chapter 5, part 1—a prisoner admitted to a hospital under the *Mental Health Act 1974*,<sup>36</sup> section 43.

**“prisoner of a court”** means a person who is in the custody of a court.

**“prisoner’s mail”** means mail sent to, or by, a prisoner.

**“privileged mail”** means mail sent to, or by, a person who is prescribed under a regulation.

**“privileges”** means privileges prescribed under a regulation.

**“probation order”** means a probation order the *Penalties and Sentences Act 1992*.

**“prohibited thing”** means something prescribed to be a prohibited thing under section 93(1).

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<sup>36</sup> Now see *Acts Interpretation Act 1954*, section 14H and *Mental Health Act 2000*.

## SCHEDULE 3 (continued)

**“proper officer”** of a court means—

- (a) for the Supreme Court sitting at Brisbane or the Court of Appeal—the sheriff; or
- (b) for the Supreme Court sitting somewhere else—the person performing the duties of sheriff at the place where the court is sitting; or
- (c) for the District Court—the registrar of the court; or
- (d) for a court constituted by a magistrate or justice of the peace—the clerk of the court at the place where the court is sitting.

**“psychologist”** means a person registered under the *Psychologists Registration Act 2001*.

**“Queensland board”** means the Queensland Community Corrections Board established under section 156.

**“Queensland board’s guidelines”** means the guidelines made by the Queensland board under section 167(2).

**“regional board”** means a regional community corrections board established under section 170.

**“released”** means released from a corrective services facility subject to the conditions of—

- (a) a post-prison community based release order; or
- (b) a conditional release order.

**“release to work order”** means a release to work order under section 141(1)(a).

**“repealed Acts”** means—

- (a) the *Corrective Services Act 1988*; and
- (b) the *Corrective Services (Administration) Act 1988*.

**“resettlement leave”** see section 58(1)(e).

**“scanning search”** means a search of a person by electronic or other means that does not require a person to remove his or her general clothes or to be touched by another person.

## SCHEDULE 3 (continued)

*Examples of a scanning search—*

1. Using a portable electronic apparatus that can be passed over the person.
2. Using an electronic apparatus through which the person is required to pass.
3. Using a corrective services dog trained to detect the scent of a substance that is a prohibited thing.

**“secure custody”** means—

- (a) a secure facility; or
- (b) a vehicle being used to transport offenders; or
- (c) a court.

**“secure facility”** means a prison with a perimeter fence that is designed to stop the escape of a prisoner.

**“separate confinement”** of a prisoner means the segregation of the prisoner from other prisoners.

**“serious violent offence”** means a serious violent offence under the *Penalties and Sentences Act 1992*.

**“special need”** of an offender means a need the offender has, compared to the general offender population, because of the offender’s—

- (a) age; or
- (b) disability; or
- (c) gender; or
- (d) race.

*Example of a special need—*

The culturally specific needs of Aboriginal and Torres Strait Islander offenders.

**“special treatment order”** see section 38(1).

**“strip search”** means a search in which a prisoner removes all garments during the course of the search, but in which direct contact is not made with the prisoner.

## SCHEDULE 3 (continued)

**“term of imprisonment”** see the *Penalties and Sentences Act 1992*, section 4.<sup>37</sup>

**“test sample”** means a sample of blood, breath, hair, saliva or urine.

**“unlawfully at large”**, in relation to a prisoner, means the prisoner remains in the community after any of the following orders has been suspended or cancelled or, other than for a conditional release order, parole order or exceptional circumstances parole order, has expired or is otherwise no longer in force—

- (a) a leave of absence order;
- (b) an interstate leave permit;
- (c) a community work order;
- (d) a conditional release order;
- (e) a release to work order;
- (f) a home detention order;
- (g) a parole order;
- (h) an exceptional circumstances parole order.

**“volunteer”** see section 224(1).

**“warrant”** includes—

- (a) a warrant issued by the chief executive and
- (b) an order committing a person into custody.

*Example of an order—*

An order under the *Migration Act 1958* (Cwlth).

**“WCC program”** means a program approved as a WCC program under section 56(1).

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37 *Penalties and Sentences Act 1992*, section 4—

**“term of imprisonment”** means the duration of imprisonment imposed for a single offence, and includes the imprisonment an offender is serving, or is liable to serve—

- (a) for default in payment of a single fine; or
- (b) for failing to comply with a single order of a court.

## SCHEDULE 3 (continued)

**“WCC site”** means a place declared to be a WCC site under section 120(1)(a).

**“WORC program”** means a program approved as a WORC program under section 56(1).

**“WORC site”** means a place declared to be a WORC site under section 120(1)(a).

## ENDNOTES

### 1 Index to endnotes

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### 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 29 August 2002. Future amendments of the Corrective Services Act 2000 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

### 3 Key

#### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	prev	= previous
amd	= amended	(prev)	= previously
amdt	= amendment	proc	= proclamation
ch	= chapter	prov	= provision
def	= definition	pt	= part
div	= division	pubd	= published
exp	= expires/expired	R[X]	= Reprint No.[X]
gaz	= gazette	RA	= Reprints Act 1992
hdg	= heading	reloc	= relocated
ins	= inserted	renum	= renumbered
lap	= lapsed	rep	= repealed
notfd	= notified	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 1992
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered

## 4 Table of earlier reprints

### TABLE OF EARLIER REPRINTS

[If a reprint number includes a roman letter, the reprint was released in unauthorised, electronic form only.]

Reprint No.	Amendments included	Reprint date
1	to Act No. 24 of 2001	2 July 2001
1A	to Act No. 74 of 2001	23 November 2001
1B	to Act No. 74 of 2001	7 December 2001
1C	to Act No. 81 of 2001	15 January 2002
1D	to Act No. 81 of 2001	8 March 2002
1E	to Act No. 81 of 2001	3 May 2002
1F	to Act No. 81 of 2001	14 June 2002

## 5 List of legislation

### **Corrective Services Act 2000 No. 63**

date of assent 24 November 2000

ss 1–2 ch 10 commenced on date of assent

remaining provisions commenced 1 July 2001 (2001 SL No. 88) (remaining provisions were to commence 2 April 2001 but the commencing proclamation (2000 SL No. 335) was repealed (2001 SL No. 23))

amending legislation—

### **Psychologists Registration Act 2001 No. 15 ss 1–2, 255 sch 2**

date of assent 11 May 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 May 2002 (2002 SL No. 77)

### **Corrective Services Amendment Act 2001 No. 24**

date of assent 25 May 2001

commenced on date of assent

### **Animal Care and Protection Act 2001 No. 64 pt 1 s 230**

date of assent 25 October 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 March 2002 (2002 SL No. 33)

### **Crime and Misconduct Act 2001 No. 69 ss 1–2, 378 sch 1**

date of assent 8 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 1 January 2002 (2001 SL No. 221)

### **Ombudsman Act 2001 No. 73 ss 1–2, 96 sch 1**

date of assent 13 November 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 3 December 2001 (2001 SL No. 224)

**Corrective Services Amendment Act (No. 2) 2001 No. 74**

date of assent 13 November 2001

s 5 (to the extent it ins new s 268A) commenced 1 July 2001 (see s 2)

remaining provisions commenced on date of assent

**Parliament of Queensland Act 2001 No. 81 ss 1–2, ch 9 pt 3**

date of assent 3 December 2001

ss 1–2 commenced on date of assent

remaining provisions commenced 6 June 2002 (see s 2)

**Corrective Services Amendment Act 2002 No. 40**

date of assent 29 August 2002

commenced on date of assent

**6 List of annotations****Where persons to be detained**

s 6 amd 2001 No. 81 s 129

**Directions to prisoners**

s 14 amd 2001 No. 24 s 3

**Power to search**

s 25 amd 2001 No. 24 s 4

**Personal searches**

s 26 amd 2001 No. 24 s 5

**Strip searches generally**

s 26A ins 2001 No. 24 s 6

**Strip searches on reasonable suspicion**

prov hdg sub 2001 No. 24 s 7(1)

s 27 amd 2001 No. 24 s 7(2)

**Strip search requirements**

s 27A ins 2001 No. 24 s 8

**Recording or monitoring phone calls and electronic communications**

s 37 amd 2001 No. 73 s 96 sch 1

**Eligibility for WORC and WCC programs**

s 57 amd 2002 No. 40 s 3

**Other offences**

s 94 amd 2001 No. 74 s 4

**Interviewing and photographing prisoners etc.**

s 100 amd 2001 No. 73 s 96 sch 1

**Authority to use reasonable force**

s 112 amd 2001 No. 24 s 9

**Accredited visitors**

s 130 amd 2001 No. 73 s 96 sch 1

**Disqualification from membership of regional boards**

s 173 amd 2001 No. 69 s 378 sch 1

**Acts applying to engaged service providers**

s 197 amd 2001 No. 69 s 378 sch 1; 2001 No. 73 s 96 sch 1

**Application of local laws**

prov hdg amd 2001 No. 64 s 230(2)

s 208 amd 2001 No. 64 s 230(3)

**Official visitor's function**

s 214 amd 2001 No. 69 s 378 sch 1

**All release to be dealt with under this Act**

s 268A ins 2001 No. 74 s 5

**Further provisions about transitional release circumstances**

s 268B ins 2001 No. 74 s 5

**Regulations and rules**

s 272 exp 1 July 2002 (see s 272(4))

**CHAPTER 9—CONSEQUENTIAL AMENDMENTS**

ch 9 (s 276) om R1 (see RA s 40)

**CHAPTER 10—AMENDMENT OF CORRECTIVE SERVICES ACT 1988**

ch 10 (ss 277–278) om R1 (see RA s 40)

**SCHEDULE 1—INELIGIBILITY OFFENCES**

amd 2002 No. 40 s 4

**SCHEDULE 2—CONSEQUENTIAL AMENDMENTS**

om R1 (see RA s 40)

**SCHEDULE 3—DICTIONARY**

def “CJC” om 2001 No. 69 s 378 sch 1

def “law enforcement agency” amd 2001 No. 69 s 378 sch 1

def “official misconduct” amd 2001 No. 69 s 378 sch 1

def “psychologist” sub 2001 No. 15 s 255 sch 2

def “unlawfully at large” amd 2001 No. 74 s 6

**7 List of forms****Form 1 Version 1 s 9—Authority to Admit Sentenced Person to a Corrective Services Facility**

pubd gaz 29 June 2001 pp 780–2

**Form 2 Version 1 s 20—Application by Prisoner to Have Child Accommodated in a Corrective Services Facility**

pubd gaz 29 June 2001 pp 780–2

**Form 3 Version 1 s 23—Notice of Intent to Marry**

pubd gaz 29 June 2001 pp 780–2

- Form 4 Version 1 s 24—Notice of Intent to Change Name by Deed Poll**  
pubd gaz 29 June 2001 pp 780–2
- Form 5 Version 2—Special Treatment Order**  
pubd gaz 15 February 2002 p 616
- Form 6 Version 1 s 42—Crisis Support Order**  
pubd gaz 29 June 2001 pp 780–2
- Form 7 Version 2—Maximum Security Order**  
pubd gaz 15 February 2002 p 616
- Form 8 Version 2—Order for Amendment/Cancellation of Maximum Security Order**  
pubd gaz 15 February 2002 p 616
- Form 9 Version 1 s 53—Order for Transfer of a Prisoner**  
pubd gaz 29 June 2001 pp 780–2
- Form 10 Version 1 s 54(1)—Instrument Ordering Chief Executive to Produce Prisoner**  
pubd gaz 29 June 2001 pp 780–2
- Form 11 Version 1 s 54(3)—Order for Transfer of Prisoner to Attend Court**  
pubd gaz 29 June 2001 pp 780–2
- Form 12 Version 1 s 55—Application for Removal of a Prisoner from a Corrective Services Facility for Law Enforcement Purposes**  
pubd gaz 29 June 2001 pp 780–2
- Form 12(a) Version 2—Approval for Removal of a Prisoner from a Corrective Services Facility for Law Enforcement Purposes**  
pubd gaz 15 February 2002 p 616
- Form 13 Version 2—Community Work Order**  
pubd gaz 15 February 2002 p 616
- Form 14 Version 1 s 56—Order for \*Amendment/ \*Repeal of Community Work Order**  
pubd gaz 29 June 2001 pp 780–2
- Form 15 Version 1 ss 56, 142—Instrument Extending Grant of \*Community Work Order/ \*Release to Work Order**  
pubd gaz 29 June 2001 pp 780–2
- Form 15(a) Version 1—Notice of Amendment of Instrument Extending Grant of Community Work Order/Release to Work/Home Detention Order**  
pubd gaz 15 February 2002 p 616
- Form 16 Version 1 s 58—Leave of Absence Order**  
pubd gaz 29 June 2001 pp 780–2
- Form 17 Version 1 ss 58, 64—Notice to Prisoner of \*Amendment/ \*Repeal/ \*Suspension of Leave of Absence Order**  
pubd gaz 29 June 2001 pp 780–2
- Form 18 Version 1 s 67—Interstate Leave Permit**  
pubd gaz 29 June 2001 pp 780–2

- Form 19 Version 1 s 69—Repeal/Amendment of Interstate Leave Permit**  
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- Form 20 Version 1 s 76—Conditional Release Order**  
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- Form 20A Version 1 s 76—\*Amendment/Cancellation of Conditional Release Order**  
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- Form 21 Version 1 s 83—Early Discharge Order**  
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- Form 22 Version 2—Warrant by Authorised Person for Arrest of Prisoner Unlawfully at Large**  
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- Form 23 Version 1 ss 86, 87, 89—Breach of Discipline**  
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- Form 24 Version 1 ss 88, 91—Separate Confinement Order**  
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- Form 25 Version 1 s 107—Receipt for Seized Property**  
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- Form 26 Version 1 s 108—Notice of Forfeit of Seized Thing**  
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- Form 27 Version 1 s 125—Application to Visit a Prisoner**  
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- Form 28 Version 1 s 133—Application by Prisoner for Exceptional Circumstances Parole Order**  
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- Form 29 Version 1 s 134—Application by Prisoner for Post Prison Community-Based Release Order**  
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- Form 30 Version 2—Release to Work Order**  
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- Form 31 Version 2—Home Detention Order**  
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- Form 32 Version 2—Exceptional Circumstances Parole Order**  
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- Form 33 Version 2—Parole Order**  
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- Form 34 Version 2—Permit to Leave and Remain Out of Queensland**  
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- Form 35 Version 1 s 148—Permit for Prisoner on Parole to Travel Overseas for Compassionate Purposes**  
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- Form 36 Version 1 s 149(1)—Order by Chief Executive for Suspension of Post–Prison Community Based Release Order**  
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- Form 36A Version 1 s 149(5)—Notice of Order for Suspension of Post–Prison Community Based Release Order**  
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- Form 37 Version 1 s 149(2)—Warrant by Chief Executive for Arrest and Conveyance of Prisoner to Prison**  
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- Form 38 Version 1 s 150(1)—Order by Board for \*Amendment/ \*Suspension/ \*Cancellation of Post-Prison Community Based Release Order**  
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- Form 39 Version 1 ss 150(2)(A), 151(4)(A)—Warrant by Board for Arrest and Conveyance of Prisoner to Prison**  
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- Form 40 Version 1 ss 150(2)(B), 151(4)(B)—Warrant for Arrest and Conveyance of Prisoner to Prison**  
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- Form 41 Version 1 ss 150(5)—Information Notice**  
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- Form 42 Version 1 s 152—Order by Queensland Community Corrections Board for Prisoner to Serve Part of Unexpired Portion of Period of Imprisonment**  
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- Form 43 Version 1 s 155—Application by Prisoner for Review of Third Refusal of Application by Regional Community Corrections Board**  
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- Form 44 Version 1 s 192—Declaration of Emergency**  
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- Form 45 Version 1 s 205(A)—Certification of a Corrective Services Officer as a Corrective Services Dog Handler**  
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- Form 46 Version 1 s 205(B)—Certification of a Dog as a Corrective Services Dog**  
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- Form 47 Version 1 s 219—Instrument of Appointment of Inspector**  
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- Form 48 Version 1 s 224—Instrument of Authorisation of Volunteer**  
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- Form 49 Version 2—Application to be Registered as a Concerned Person**  
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- Form 50 Version 1 s 245—Request by Court for Pre–Sentence Report by Corrective Services Officer**  
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**Form 51 Version 1 ss 137, 24 (Csr)—Application by Prisoner for Leave to Appear or  
Be Represented by an Agent before a Corrections Board**  
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