

Queensland



**JUVENILE JUSTICE
LEGISLATION
AMENDMENT ACT 1998**

Act No. 39 of 1998

Queensland



JUVENILE JUSTICE LEGISLATION AMENDMENT ACT 1998

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Queensland



Juvenile Justice Legislation Amendment Act 1998

Act No. 39 of 1998

**An Act to amend the *Corrective Services (Administration) Act 1988* and
*Juvenile Justice Act 1992***

[Assented to 27 November 1998]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Juvenile Justice Legislation Amendment Act 1998*.

Commencement

2. This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF CORRECTIVE SERVICES (ADMINISTRATION) ACT 1988

Act amended in pt 2

3. This part amends the *Corrective Services (Administration) Act 1988*.

Amendment of s 18 (Functions of Commission)

4. Section 18(2)(e) and (f)—
omit.

Amendment of s 19 (Powers of Commission)

5.(1) Section 19(2)(b), ‘, prisoners and detainees’—
omit, insert—
‘and prisoners’.

(2) Section 19(2)(e) and (f), ‘, the *Juvenile Justice Act 1992*’—

omit.

(3) Section 19(2)(f), ‘subject to section 23B(2),’—

omit.

(4) Section 19(2)(g), ‘, detainees’—

omit.

Amendment of s 20 (Rules)

6. Section 20(7) and (8)—

omit.

Amendment of s 23A (Definitions for div 2A)

7.(1) Section 23A, heading, ‘**Definitions**’—

omit, insert—

‘Definition’.

(2) Section 23A, definition “**juvenile justice operations**”—

omit.

(3) Section 23A, definition “**offenders**”, paragraph (a)—

omit.

(4) Section 23A, definition “**offenders**”, paragraphs (b) and (c)—

renumber as paragraphs (a) and (b).

Amendment of s 23B (Engaging persons or bodies to conduct commission’s operations)

8. Section 23B(2) and (3)—

omit, insert—

‘(2) This section does not limit section 19(2)(f).’.

Omission of s 23D (Directions for detention centres)

9. Section 23D—

omit.

Amendment of s 23E (Commission retains custody and responsibilities)

10.(1) Section 23E(2), ‘, community correction centre or detention centre’—

omit, insert—

‘or community corrections centre’.

(2) Section 23E(3), ‘and the exercise of its power under section 23D’—

omit.

Amendment of s 30 (Custody of seal; authentication of documents)

11. Section 30(5), ‘, the *Juvenile Justice Act 1992*’—

omit.

Amendment of s 32 (Disclosure of interest)

12.(1) Section 32, ‘, detainee’—

omit.

(2) Section 32(1)(c), ‘, detainees’—

omit.

Amendment of s 43 (Discipline)

13. Section 43(1)(c), ‘or a rule’ to ‘*Juvenile Justice Act 1992*, section 203(2)’—

omit.

Amendment of s 45 (Suspension)

14. Section 45(1)(a), ‘or detention centre’—
omit.

Replacement of s 51 (Funds to be maintained)

15. Section 51—
omit, insert—

‘Prisoners trust fund to be kept

‘51.(1) The commission must keep a prisoners trust fund.

‘(2) All amounts received by the commission, or anyone else under an arrangement with the commission, for a prisoner must be paid into the prisoners trust fund.

‘(3) Amounts in the prisoners trust fund to the credit of a prisoner—

- (a) may be spent by the prisoner, with the commission’s consent; and
- (b) must be paid by the commission to the public trustee, if the public trustee is managing the prisoner’s estate and the public trustee requests the payment; and
- (c) must be paid by the commission to the prisoner on being discharged or being released on parole.’.

Amendment of s 63 (Commission deemed to be owner of property)

16.(1) Section 63(1)(a), ‘and detention centre’—
omit.

(2) Section 63(1)(b), ‘detainees’—
omit.

Amendment of s 70 (Annual report)

17. Section 70(1), ‘, the *Corrective Services Act 1988* and the *Juvenile Justice Act 1992*’—

omit, insert—

‘and the *Corrective Services Act 1988*’.

Amendment of s 71 (Regulation-making power)

18. Section 71(2)(d)—

omit.

Insertion of new pt 6, div 4

19. Part 6—

insert—

‘Division 4—*Transitional provisions for Juvenile Justice Legislation Amendment Act 1998*

‘Authentication of documents

‘78. The following documents are taken to be, or to have been, sufficiently authenticated if signed by a commissioner or the secretary—

- (a) a document made or issued by the commission before the commencement of this section for the purposes of the *Juvenile Justice Act 1992*;
- (b) a document made or issued by the commission after the commencement of this section for the purposes of its functions in relation to the *Juvenile Justice Act 1992* before that commencement.

‘Proceedings for offences relating to property

‘79.(1) This section applies for a proceeding for an offence relating to property that happened between the commencement of the *Juvenile Justice Legislation Amendment Act 1996*, section 101 and the commencement of this section.

‘(2) Section 63, as in force during that period, applies for the purpose of alleging the ownership of property.’.

Amendment of schedule (Dictionary)

20.(1) Schedule, definitions “**detainee**”, “**detention centre**” and “**detention centre officer**”—

omit.

(2) Schedule, definition “**custodial corrections**”, paragraphs (b) and (d)—

omit.

(3) Schedule, definition “**custodial corrections**”, paragraph (c)—

renumber as paragraph (b).

(4) Schedule, definition “**prisoner**”, ‘, other than a detainee,’—

omit.

PART 3—AMENDMENT OF JUVENILE JUSTICE ACT 1992

Act amended in pt 3

21. This part amends the *Juvenile Justice Act 1992*.

Amendment of s 5 (Definitions)

22.(1) Section 5, definitions “**detainee**” and “**officer**”—

omit.

(2) Section 5—

insert—

‘ “**detention centre**” means a detention centre established under section 201.’.

Omission of pt 1A (Administration)

23. Part 1A—

omit.

Amendment of s 10 (Application by police officer for permission to take child's identifying particular)

24. Section 10(3)(d)—

omit.

Amendment of s 41 (Custody of child pending court appearance)

25. Section 41, 'commission'—

omit, insert—

'chief executive'.

Amendment of s 43 (Custody of child if not released by court)

26.(1) Section 43, 'commission'—

omit, insert—

'chief executive'.

(2) Section 43(5), 'commission's'—

omit, insert—

'chief executive's'.

Amendment of s 48 (Application of Mental Health Act 1974, pt 4)

27.(1) Section 48(2)(c), 'commission'—

omit, insert—

'chief executive'.

(2) Section 48(2)—

insert—

‘(d) mention of the Queensland Corrective Services Commission is taken to be a reference to the chief executive.’.

Amendment of s 60 (Chief executive’s and commission’s rights of audience generally)

28.(1) Section 60, heading—

omit, insert—

‘Chief executive’s right of audience generally’.

(2) Section 60(2), ‘or, if the child is a detainee, the commission,’—

omit.

(3) Section 60, ‘or commission’—

omit.

Amendment of s 89 (Application for review)

29. Section 89(1)(b)—

omit, insert—

‘(b) the chief executive acting in the child’s interests; or’.

Amendment of s 94 (Interrelation with other types of appeal)

30. Section 94(1), definition “**application**”, ‘or the commission’—

omit.

Amendment of s 98 (Correction of error by court making order)

31. Section 98(2)(b), from ‘, or’ to ‘either case’—

omit, insert—

‘acting’.

Amendment of s 98A (Court may reopen sentencing proceedings)

32. Section 98A(2), ‘or the commission’—

omit.

Amendment of s 101 (Lack of jurisdiction discovered after proceeding ends)

33. Section 101(3)(b), from ‘, or’—

omit, insert—

‘acting in the child’s interests; or’.

Amendment of s 102 (Extension of Act for detainee offender)

34. Section 102(3)(c), ‘commission’—

omit, insert—

‘chief executive’.

Insertion of new s 107C

35. Part 4, division 9—

insert—

‘Commission to be notified if offender sentenced as adult

‘**107C.(1)** This section applies if, under this division, an order is made by a court sentencing an offender as an adult.

‘**(2)** The chief executive must immediately give the commission notice of the order.’.

Amendment of s 119 (Copy of court order to be given to child, parent etc.)

36. Section 119(1)(b)(iii)—

omit, insert—

‘(iii) the chief executive.’.

Amendment of s 167 (Detention to be served in detention centre)

37. Section 167(2), ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 172A (Application for variation of detention order in interests of justice)

38. Section 172A(3) and (4), ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 173 (Multiple orders of detention and imprisonment against person as adult and child)

39. Section 173(4), ‘commission may arrange’—

omit, insert—

‘chief executive may arrange with the commission’.

Amendment of s 191 (Cancellation of release order)

40. Section 191(5), after ‘commissioner’—

insert—

‘of the police service’.

Amendment of s 198 (Show cause hearing)

41. Section 198(12), ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 203 (Management of detention centres)

42. Section 203, ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 204 (Official visitors appointment)

43. Section 204(4)(a), (b) and (c)—

omit, insert—

(a) a public service employee; or

(b) a member of the Queensland Police Service; or

(c) an officer of the Queensland Corrective Services Commission as defined under the *Corrective Services (Administration) Act 1988*; or

(d) a person, or an officer or employee of a person, engaged by the Queensland Corrective Services Commission under the *Corrective Services (Administration) Act 1988*, section 19(2)(f);’.

Amendment of s 205 (Functions, powers and duties of official visitor)

44. Section 205, ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 206 (Directions to official visitor on security)

45. Section 206, ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 207 (Where children to be detained)

46. Section 207, ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 208 (Authority for admission to detention centre)

47. Section 208(1), ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 210 (Leave of absence)

48. Section 210, ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 211 (Childrens Court may order transfer to prison)

49.(1) Section 211(1), ‘commission’—

omit, insert—

‘chief executive’.

(2) Section 211—

insert—

‘**(4A)** The chief executive must immediately give the commission notice of the order.’.

Amendment of s 212 (Commission may authorise treatment)

50.(1) Section 212, heading, ‘**Commission**’—

omit, insert—

‘**Chief executive**’.

(2) Section 212, ‘commission’—

omit, insert—

‘chief executive’.

(3) Section 212, ‘commission’s’—

omit, insert—

‘chief executive’s’.

Amendment of s 213 (Ordinary visitor)

51.(1) Section 213, ‘commission’—

omit, insert—

‘chief executive’.

(2) Section 213(3)(a), ‘commission’s’—

omit, insert—

‘chief executive’s’.

Amendment of s 215 (Complaints generally)

52. Section 215, ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 216 (Official visitor to hear and investigate complaints)

53. Section 216, ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 220 (Search warrant)

54. Section 220(1), ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 221 (Warrants may be granted by telephone, facsimile, radio etc.)

55.(1) Section 221(1), ‘commission’—

omit, insert—

‘chief executive’.

(2) Section 221(8), ‘police officer’—

omit, insert—

‘applicant’.

Amendment of s 222 (Offences relating to detention centres)

56. Section 222(1), ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 223 (Child of detainee may be accommodated in detention centre)

57. Section 223, ‘commission’—

omit, insert—

‘chief executive’.

Insertion of new pt 6, div 6

58. Part 6—

insert—

‘Division 6—Trust fund

‘Detainees trust fund to be kept

‘224AA.(1) The chief executive must keep a detainees trust fund.

‘(2) All amounts received by the chief executive, or anyone else under an arrangement with the chief executive, for a detainee must be paid into the

detainees trust fund.

‘(3) Amounts in the detainees trust fund to the credit of a detainee—

- (a) may be spent by the detainee, with the chief executive’s consent; and
- (b) must be paid by the chief executive to the public trustee, if the public trustee is managing the detainee’s estate and the public trustee requests the payment; and
- (c) must be paid by the chief executive to the detainee on being discharged or being released on parole or under a fixed release order under this Act; and
- (d) must be paid by the chief executive to the commission if the detainee is transferred from the chief executive’s custody to the custody of the commission.

‘(4) In this section—

“**detainee**” means a person in the custody of the chief executive under this Act.’.

Amendment of s 224A (Programs and services for children)

59.(1) Section 224A(2)—

omit.

(2) Section 224A(3) and (4)—

renumber as section 224A(2) and (3).

Amendment of s 224B (Police may help in keeping child in custody)

60. Section 224B, ‘commission’—

omit, insert—

‘chief executive’.

Amendment of s 225 (Parent entitled to know of whereabouts of child in custody)

61.(1) Section 225, ‘commission’—

omit, insert—

‘chief executive’.

(2) Section 225(2), ‘commission’s’—

omit, insert—

‘chief executive’s’.

Amendment of s 226 (Preservation of confidentiality)

62.(1) Section 226(1)(a), ‘a prescribed Act’—

omit, insert—

‘this Act’.

(2) Section 226(5), definition “**prescribed Act**”—

omit.

Replacement of s 227 (Approved form)

63. Section 227—

omit, insert—

‘Approved forms

‘**227.** The chief executive may approve forms for use under this Act.’.

Amendment of s 228 (Evidence)

64. Section 228(2), ‘an officer of the public service, an officer of the commission,’—

omit, insert—

‘a public service officer,’.

Amendment of s 229 (Proceeding for offence)

65. Section 229(2), ‘, an officer of the public service or an officer of the commission’—

omit, insert—

‘or a public service officer’.

Insertion of new ss 232A and 232B

66. After section 232—

insert—

‘Delegation

‘**232A.(1)** The chief executive may delegate the chief executive’s powers under this Act to an appropriately qualified public service officer.

‘(2) In this section—

“**appropriately qualified**” includes having the qualifications, experience or standing appropriate to exercise the power.

Example of ‘standing’—

The officer’s seniority level in the public service.

‘Delegation of powers by proper officer

‘**232B.(1)** A proper officer may delegate the proper officer’s powers under this Act to a public service officer mentioned in subsection (2) if the public service officer is a justice.

‘(2) If the proper officer is—

- (a) the registrar, sheriff, deputy sheriff or under sheriff—the powers may be delegated to a public service officer employed in the registry of the court concerned; or
- (b) the clerk of the court—the powers may be delegated to a public service officer employed in the registry of the court concerned.’.

Insertion of new pt 8 hdg

67. Before section 236—

insert—

‘PART 8—TRANSITIONAL PROVISIONS

‘Division 1—Transitional provision for Juvenile Justice Legislation Amendment Act 1996’.

Insertion of new pt 8, div 2

68. After section 236—

insert—

‘Division 2—Transitional provisions for Juvenile Justice Legislation Amendment Act 1998

‘Transfer of staff

‘237.(1) The purpose of this section is to transfer officers and employees of Queensland Corrections to the public service because of the change to the chief executive’s functions under the *Juvenile Justice Legislation Amendment Act 1998*.

‘(2) On the commencement of this section, the following persons become public service employees employed in the department—

- (a) persons who, immediately before the commencement, were officers or employees of Queensland Corrections employed as members of the staff of detention centres;
- (b) persons decided by the Governor in Council who, immediately before the commencement, were employed by Queensland Corrections.

‘(3) Appointments for subsection (2) are to be made under the *Public Service Act 1996*.

‘(4) The remuneration under the *Public Service Act 1996* of a person under an appointment under subsection (3) must not be less than the

remuneration to which the person would have been entitled if the person's employment as an officer or employee of Queensland Corrections had continued.

'(5) The person may claim against the department all entitlements accrued as an officer or employee of Queensland Corrections.

'(6) The person's leave entitlements are to be calculated as if previous service as an officer of the public service and service as an officer or employee of the Queensland Corrective Services Commission or Queensland Corrections and service as a public service employee were continuous service as a public service employee.

'(7) To remove any doubt, it is declared that for this section an officer or employee of Queensland Corrections includes a person appointed under a fixed-term contract of employment.

'(8) In this section—

“remuneration” means total remuneration including entitlements.

'Disciplinary proceedings

'238.(1) This section applies to a person who becomes a public service employee under section 237(2).

'(2) Disciplinary proceedings may be taken against the person after the commencement of this section for a disciplinary matter that happened while the person was an officer or employee of Queensland Corrections as if the person were a public service employee at the time the matter happened.

'Transfer of amounts held on trust for detainees

'239.(1) This section applies to all amounts that, immediately before the commencement of this section, were credited to the detainees trust fund kept by the Queensland Corrective Services Commission under the *Corrective Services (Administration) Act 1988*, section 51.¹

'(2) The commission must, on the commencement of this section,

¹ Section 51 (Funds to be maintained)

transfer the amounts to the detainees trust fund kept by the chief executive under this Act.

‘Termination of contracts

‘**240.(1)** The detention centre contracts are terminated.

‘**(2)** The State does not incur liability because of the termination.

‘**(3)** In this section—

“**detention centre contracts**” means the following contracts entered into between the Queensland Corrective Services Commission and Queensland Corrections—

- (a) a contract dated 29 August 1997 for the operation and management of the John Oxley Youth Detention Centre;
- (b) a contract dated 29 August 1997 for the operation and management of the Sir Leslie Wilson Youth Detention Centre;
- (c) a contract dated 29 August 1997 for the operation and management of the Cleveland Youth Detention Centre.’.